AMERICAN STATE PAPERS.

CLASS I.

FOREIGN RELATIONS.

VOLUME VI.

AMERICAN STATE PAPERS.

DOCUMENTS,

LEGISLATIVE AND EXECUTIVE,

OF THE

CONGRESS OF THE UNITED STATES,

FROM THE

FIRST SESSION OF THE FIRST CONGRESS TO THE THIRTY-FIFTH CONGRESS, INCLUSIVE:

COMMENCING MARCH 4, 1789, AND ENDING MARCH 3, 1859.

SELECTED AND EDITED, UNDER THE AUTHORITY OF CONGRESS,

BY

ASBURY DICKINS, SECRETARY OF THE SENATE,

AND

JAMES C. ALLEN, CLERK OF THE HOUSE OF REPRESENTATIVES.

SECOND SERIES.

VOLUME VI.

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AMERICAN STATE PAPERS.

FOREIGN RELATIONS.

19TH CONGRESS.] No. 432. [1ST SESSION.

CLAIM OF R. W. MEADE ON THE SPANISH GOVERNMENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES APRIL 22, 1826.

Mr. FORSYTH, from the Committee on Foreign Affairs, to whom was referred the petition of Richard W. Meade, reported:

That the petitioner was a claimant to a portion of the five million fund provided by the treaty of February 22, 1819, between the United States and Spain. That the Commissioners appointed to carry into effect the 11th article of that treaty rejected his claim on the last day of their session.

The committee consider that the decision of the Commissioners, forming a tribunal of limited and specified jurisdiction under a treaty, ought to be considered conclusive, and would recommend that the whole subject of claims of citizens of the United States on Spain prior to 1819 should be deemed settled; but the petitioner alleges that his claim has not been, and could not be, fairly examined by the Commissioners, for the want of sundry papers in the hands of the Spanish Government which they were bound to furnish; which were at his instance duly demanded, were not furnished prior to the day fixed by the treaty for the termination of the commission and the final decision on all claims presented to it; indeed, not yet furnished by the Government of Spain. The evidence laid before the committee shows that the Commissioners deemed the claim of Richard W. Meade embraced by the treaty; that at his instance a demand was made on Spain for the evidences deemed by them necessary to a fair examination of it; that this demand was not made on Spain, owing to unforeseen occurrences, until a short time previous to the termination of the commission, although the application for them by Meade had been made fourteen months prior to that time.

Under these circumstances, the committee believe that provision ought to be made for the petitioner; that he should not suffer by the delay to furnish evidence in the hands of Spain that we have demanded and they were bound to furnish. They therefore report a bill to give him the means of establishing his claim in the same manner as if the Board of Commissioners still existed.

As it is known to the committee that there are several other claimants in the same situation as the petitioner, they present a bill embracing all cases of a similar kind. They deem it, however, proper to state to the House that, as the five million fund provided by the treaty has been distributed among the claimants whose claims were allowed by the Commissioners, the amount now proposed to be paid will be in addition to that sum. In all cases where the delay to furnish evidence can be attributed to Spain there has been a violation on her part of the provisions of the treaty, for which she is, and should be, held answerable to the United States. The committee think that this question of liability and its extent should not be further touched until the facts are clearly ascertained and the money paid by the United States.

19TH CONGRESS.] No. 433. [1ST SESSION.

RELATIVE TO THE AMOUNT OF INDEMNITY TO SATISFY THE CLAIMS OF CITIZENS OF THE UNITED STATES ON SPAIN, UNDER TREATY OF FEBRUARY 22, 1819.

COMMUNICATED TO THE SENATE MAY 10, 1826.

Mr. WHITE, from the Committee on Foreign Relations, to whom were referred the memorials of certain underwriters and others, of Philadelphia and Baltimore, stating that the amount provided by treaty with Spain for indemnity to claimants against the Government of Spain was insufficient, and praying that the balance and interest be paid, &c., having had the same under consideration, reported:

That the memorialists represent, in substance, that sundry citizens of the United States, while engaged in lawful commerce, sustained losses by such acts as made the Spanish Government responsible

for them. That the United States, by a treaty with Spain, dated the 22d day of February, 1819, renounced to Spain all those claims, and thus became liable themselves for the payment of the full amount of the principal and interest justly due upon them. That in and by the same treaty it was provided that a Board of Commissioners should be established, whose duty it should be to ascertain the amount and validity of said claims, and also a fund, not exceeding five millions of dollars, for their payment. That such Board was established and organized, who proceeded in the discharge of their duty, and ascertained that the principal *alone*, of valid claims, exceeded the sum aforesaid so much as to make it necessary that each claim should abate, at the rate of eight and one-third per centum, to reduce the amount which they might award to the sum specified in the treaty; that such abatement was accordingly made; and thus it has happened that, instead of receiving the full amount of principal and interest, to which the claimants were fairly entitled, no one of them has received one cent for interest, and each has been compelled to abate, at the rate of eight and one-third per centum of the principal due to him; and pray that provision may now be made for paying them, not only the principal, which they have been compelled to abate, but likewise interest upon the *whole* principal, from the time the injuries were sustained by them up to the time of payment, &c.

Your committee have attentively considered the matters embraced in and connected with the said memorials, and are of opinion that the United States are not bound, upon any principle whatever, to make any provision, in addition to that provided in the treaty, for the payment of either the principal or interest now claimed, and therefore recommend the adoption of the following resolution:

Resolved, That Congress ought not to appropriate any additional sum for the payment of either the principal or interest claimed by the memorialists.

(For the memorial on this subject, see antecedent No. 419.)

19TH CONGRESS.] No. 434. [1ST SESSION.

CLAIM OF WILLIAM HUNT, ADMINISTRATOR OF IRA ALLEN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MAY 16, 1826.

Mr. FORSYTH, from the Committee on Foreign Affairs, to whom had been referred the petition of William Hunt, administrator of Ira Allen, deceased, reported:

The petitioner claims indemnity from the United States for injuries done to him in Great Britain by the unlawful seizure and detention of his property by British subjects. The ground of his claim on the United States is, that the exertions of Government have not procured him redress, and he therefore claims it out of the public Treasury. The committee cannot perceive on what principle the United States are expected to be answerable for the injustice of foreign Governments, foreign subjects, or foreign tribunals. Every citizen has a right to ask for, and should receive, the aid of his Government in the prosecution of his just demands on foreign powers; but this imposes no obligation of ultimate responsibility if that aid should be given in vain. The committee recommend the following resolution:

Resolved, That the claim of William Hunt, administrator of Ira Allen, be rejected.

19TH CONGRESS.] No. 435. [1ST SESSION.

CLAIM OF THE HEIRS OF CARON DE BEAUMARCHAIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MAY 16, 1826.

Mr. FORSYTH, from the Committee on Foreign Affairs, to whom was referred a resolution of the House to inquire into the expediency of authorizing the liquidation of the claim of the heirs of Caron de Beaumarchais in any future adjustment of the claims of citizens of the United States against the French Government, reported:

That the claim of Beaumarchais has been liquidated at the Treasury Department, but the balance demanded by him was not paid, because the officers of the Treasury were under the impression that it had been paid in France out of the funds given by France to the United States. On the application of the heirs of Beaumarchais, and in consequence of a correspondence with the French Government, the last three Presidents of the United States have, in succession, recommended an appropriation to pay the balance claimed under the former settlement at the Treasury. This appropriation has not been made, it is presumed, because Congress were not satisfied of the justice of the demand. On this difference of opinion between the Executive and the Legislature the committee deem it unnecessary to remark. The President

has power to authorize, in any future adjustment of our claims on France, a stipulation for the pay ment of the claim of the heirs of Beaumarchais, or of any other person, whenever either justice to the party or the policy of the United States may require it; and it is not to be doubted that Congress would not refuse the appropriation to meet such stipulation if sanctioned by the Senate of the United States. But as no expression of opinion by the House can enlarge or diminish the power of the President to be obligatory on Congress hereafter, the committee do not deem it proper to do more than to bring to the notice of the House the general instructions given to Mr. Gallatin, while minister in France, which were communicated to the House by the President on the 2d of February, 1824, and published by its order. By these instructions Mr. Gallatin was expressly authorized to enter into the examination and adjustment of all claims of French subjects upon the United States.

Without ascertaining the fact, the committee take it for granted that the instructions to our present minister are not less extensive than those to his predecessor. The whole subject, in the judgment of the committee, stands where it ought to rest, unless Congress are of opinion that the claim ought to be at once paid. Believing that such an opinion is not entertained, they ask to be discharged from the further consideration of the resolution referred to them by the House.

19TH CONGRESS.] No. 436. [1ST SESSION.

RELATIVE TO NEGOTIATION WITH GREAT BRITAIN FOR THE ERECTION OF A LIGHT-HOUSE ON THE BAHAMA BANKS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MAY 19, 1826.

To the House of Representatives of the United States:

In compliance with a resolution of the House of the 16th instant, I transmit a report from the Secretary of State containing the information thereby requested.

JOHN QUINCY ADAMS.

WASHINGTON, *May* 19, 1826.

DEPARTMENT OF STATE, *May* 18, 1826.

The Secretary of State, in compliance with a resolution of the House of Representatives of the 16th instant, which has been referred to him, requesting information whether any arrangement has been made with the Government of Great Britain in consequence of the resolution of the same House of the 23d of December, 1823, recommending that a negotiation should be opened for the cession of certain keys on the Bahama Bank, has the honor to state to the President that, after the unsuccessful negotiation opened by Mr. Rush in relation to the proposed cession, information of which has been heretofore communicated to the House, instructions were transmitted to his successor to renew the negotiation, so far, at least, as to effect the object of causing the needful lights and other helps of navigation to be erected and provided; but no intelligence has been yet received at this Department of the renewal of the negotiation. That duty will be now confided to Mr. Gallatin, if, on his arrival in England, it remains to be performed.

Respectfully submitted.

H. CLAY.

19TH CONGRESS.] No. 437. [1ST SESSION.

SPOLIATIONS BY FRANCE ON THE COMMERCE OF THE UNITED STATES.

COMMUNICATED TO THE SENATE MAY 20, 1826.

To the Senate of the United States:

In compliance with a resolution of the Senate of the 5th of March, 1824, requesting copies of the several instructions to the ministers of the United States to the Government of France, and of the correspondence between the said ministers and Government having reference to the spoliations committed by that power on the commerce of the United States anterior to the 30th of September, 1800, or so much thereof as can be communicated without prejudice to the public interest; also, how far, if at all, the claim of indemnity from the Government of France for the spoliations aforesaid was affected by the convention entered into between the United States and France on the said 30th of September, 1800, I transmit herewith a report from the Secretary of State, with the documents desired by the resolution.

JOHN QUINCY ADAMS.

WASHINGTON, *May* 20, 1826.

DEPARTMENT OF STATE, *Washington, May* 20, 1826.

The Secretary of State, in compliance with a resolution of the Senate of the 5th March, 1824, which was referred to this Department, requesting the President to "cause to be laid before the Senate copies of the several instructions to the ministers of the United States to the Government of France, and of the correspondence between the said ministers and Government having reference to the spoliations committed by that power on the commerce of the United States anterior to the 30th September, 1800, or so much thereof as can be communicated without prejudice to the public interest; also, how far, if at all, the claim of indemnity from the Government of France for the spoliations aforesaid was affected by the convention entered into between the United States and France on the said 30th September, 1800," has the honor to report to the President copies of so much of the instructions and correspondence in question as is supposed to be embraced in the call of the Senate; to which are added copies of other papers and documents to a great extent, which are believed to be within the intention, if not comprehended in the terms, of the resolution of the Senate. By a reference to former messages to Congress and to the public documents, the publication of which had been authorized from time to time by Government, it will be perceived that many of the papers now reported have been already communicated to Congress, or spread before the public through the medium of the press; but it has been thought, nevertheless, expedient to submit them in their present collected form, that a full and connected view might be presented at the same time. There may be even yet remaining in the archives of the Department others having a bearing on the subject which have escaped our diligence and researches.

My predecessor was unable to command, from the other important duties which he had to perform, sufficient time to have this collection completed during his continuance in office, after the passage of the resolution of the Senate. The same cause, not less sensibly felt by his successor, has delayed this report until the present period, and he feels himself required to state that, without material injury to the public service, he was himself unable to examine the many volumes containing the very extensive correspondence, from which the copies and extracts now submitted have been taken, or even attentively to peruse the whole of those copies and extracts which have been just finished. The desire to present them to the Senate, in conformity to the anxious wish of the claimants, before the close of its present session, renders these explanations necessary, and it is hoped that they may prove satisfactory.

The closing paragraph of the resolution of the Senate enjoins another duty, which, from the ambiguous manner in which it is expressed, the Secretary feels some difficulty in clearly comprehending. The Senate resolved "that the President of the United States be requested to cause to be laid before the Senate copies," &c., and concludes by requesting to cause also to be laid before the Senate "how far, if at all, the claim of indemnity from the Government of France for the spoliations aforesaid was affected by the convention entered into between the United States and France on the said 30th of September, 1800."

The Secretary can hardly suppose it to have been the intention of the resolution to require the expression of an argumentative opinion as to the degree of responsibility to the American sufferers from French spoliations, which the convention of 1800 extinguished, on the part of France, or devolved on the United States, the Senate itself being most competent to decide that question. Under this impression, he hopes that he will have sufficiently conformed to the purposes of the Senate by a brief statement, prepared in a hurried moment, of what he understands to be the question.

The second article of the convention of 1800 was in the following words: "The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of 6th February, 1778, the treaty of amity and commerce of the same date, and the convention of 14th November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time, and, until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows."

When that convention was laid before the Senate it gave its consent and advice that it should be ratified, provided that the second article be expunged, and that the following article be added or inserted: "It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of the ratifications;" and it was accordingly so ratified by the President of the United States on the 18th day of February, 1801. On the 31st of July, of the same year, it was ratified by Bonaparte, First Consul of the French Republic, who incorporated in the instrument of his ratification the following clause, as a part of it: "The Government of the United States having added to its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided, That by this retrenchment the two States renounce the respective pretensions which are the object of the said article.*

The French ratification being thus conditional, was, nevertheless, exchanged against that of the United States, at Paris, on the same 31st of July. The President of the United States considering it necessary again to submit the convention in this state to the Senate, on the 19th day of December, 1801, it was resolved by the Senate that they considered the said convention as fully ratified, and returned it to the President for the usual promulgation. It was accordingly promulgated, and thereafter regarded as a valid and binding compact. The two contracting parties thus agreed, by the retrenchment of the second article, mutually to renounce the respective pretensions which were the object of that article. The *pretensions* of the United States, to which allusion is thus made, arose out of the spoliations, under color of French authority, in contravention to law and existing treaties. Those of France sprung from the treaty of alliance of the 6th February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788. Whatever obligations or indemnities from those sources either party had a right to demand were respectively waived and abandoned, and the consideration which induced one party to renounce his pretensions was that of the renunciation by the other party of his pretensions. What was the value of the obligations and indemnities so reciprocally renounced can only be matter of speculation. The amount of the indemnities due to citizens of the United States was very large, and, on the other hand, the obligation was great (to specify no other French pretensions) under which the United States were placed in the eleventh article of the treaty of alliance of 6th February, 1778, by which they were bound forever to guarantee, from that time, the then possessions of the crown of France in America, as well as those which it might acquire by the future treaty of peace with Great Britain; all

these possessions having been, it is believed, conquered at, or not long after, the exchange of the ratifications of the convention of September, 1800, by the arms of Great Britain, from France.

The fifth article of the amendments to the Constitution provides: "Nor shall private property be taken for public use without just compensation." If the indemnities to which citizens of the United States were entitled for French spoliations prior to the 30th September, 1800, have been appropriated to absolve the United States from the fulfilment of an obligation which they had contracted, or from the payment of indemnities which they were bound to make to France, the Senate is most competent to determine how far such an appropriation is a public use of private property within the spirit of the Constitution, and whether equitable considerations do not require some compensation to be made to the claimants. The Senate is also best able to estimate the probability which existed of an ultimate recovery from France of the amount due for those indemnities if they had not been renounced; in making which estimate it will, no doubt, give just weight to the painful consideration that repeated and urgent appeals have been in vain made to the justice of France for satisfaction of flagrant wrongs committed upon property of other citizens of the United States subsequent to the period of 30th September, 1800.

All which is respectfully submitted.

H. CLAY.

List of papers accompanying the report of the Secretary of State to the President of the United States, dated May 20, 1826.

No. 1. Mr. Morris, Envoy Extraordinary and Minister Plenipotentiary of the United States to France, to Mr. Jefferson, Secretary of State, July 10, 1792. (Extract.)
No. 2. Same to same, August 22, 1792. (Extract.)
No. 3. Same to same, December 21, 1792. (Extract.)
No. 4. Same to same, January 25, 1793. (Extract.)
No. 5. Same to same, February 13, 1793. (Extract.)
No. 6. Same to Mr. Pinckney, Minister of the United States to Great Britain, February 18, 1793.
No. 7. French Decree, February 19, 1793. (Translation.)
No. 8. Same, March 26, 1793. (Translation.)
No. 9. Mr. Morris to Mr. Le Brun, French Minister of Foreign Affairs, March 24, 1793.
No. 10. Same to same, March 28, 1793.
No. 11. Mr. Le Brun to Mr. Morris, March 29, 1793.
No. 12. French Minister of Marine to French Minister of Foreign Affairs, April 7, 1793. (Translation.)
No. 13. Mr. Morris to the Secretary of State, April 4, 1793. (Extract.)
No. 14. French Minister of Marine to the Civil Ordonnateurs, March 30, 1793. (Translation.)
No. 15. Mr. Le Brun to Mr. Morris, April 8, 1793. (Extract.)
No. 16. Same to same, April 8, 1793. (Translation.)
No. 17. Mr. Morris to Mr. Le Brun, May 14, 1793.
No. 18. French Decree, May 9, 1793. (Translation.)
No. 19. Extract from Registers of Deliberations of French Provisory Executive Council, May 16, 1793. (Translation.)
No. 20. Mr. Le Brun to Mr. Morris, May 17, 1793. (Translation.)
No. 21. Mr. Morris to Mr. Le Brun, June 12, 1793. (Translation.)
No. 22. Mr. Le Brun to Mr. Morris, May 26, 1793.
No. 23. French Decree, May 23, 1793.
No. 24. Mr. Morris to Mr. Le Brun, June 19, 1793. (Extract.)
No. 25. Same to the Secretary of State, June 25, 1793. (Extract.)
No. 26. Same to the French Minister of Foreign Affairs, June 27, 1793.
No. 27. Same to same, June 28, 1793. (Extract.)
No. 28. French Minister of Foreign Affairs to Mr. Morris, July 3, 1793. (Extract.)
No. 29. French Decree, July 1, 1793.
No. 30. Extract from Register of Deliberations of French Provisory Executive Council, July 14, 1793. (Extract.)
No. 31. Mr. Morris to the French Minister of Foreign Affairs, July 24, 1793.
No. 32. Same to Secretary of State, August 13, 1793. (Extracts.)
No. 33. Secretary of State to Mr. Morris, August 16, 1793.
No. 34. Mr. Morris to Secretary of State, October 10, 1793. (Extracts.)
No. 35. French Minister of Foreign Affairs to Mr. Morris, October 14, 1793. (Extracts.)
No. 36. Copy of an address of Jean Bon St. Andre to the National Convention of France, enclosed by Mr. Morris to the Secretary of State; without date.
No. 37. Mr. Morris to the Secretary of State, October 19, 1793. (Extract.)
No. 38. Same to same, November 26, 1793. (Extract.)
No. 39. Same to same, January 21, 1794. (Extract.)
No. 40. Same to the French Minister of Foreign Affairs, February 27, 1794.
No. 41. French Minister of Foreign Affairs to Mr. Morris, March 5, 1794. (Translation.)
No. 42. Mr. Morris to the Secretary of State, March 6, 1794. (Extract.)
No. 43. French Commissioner of Foreign Relations to Mr. Morris, July 5, 1794. (Extract.)
No. 44. Secretary of State to Mr. Monroe, Minister to France, June 10, 1794. (Extracts.)
No. 45. Same to same, July 30, 1794. (Extracts.)
No. 46. Mr. Monroe to the Secretary of State, August 25, 1794. (Extracts.)
No. 47. Same to same, September 15, 1794. (Extracts.)
No. 48. Secretary of State to Mr. Monroe, September 25, 1794. (Extracts.)
No. 51. Mr. Monroe to the Secretary of State, November 7, 1794. (Extracts.)
No. 52. Secretary of State to Mr. Monroe, December 2, 1794. (Extracts.)
No. 53. Mr. Monroe to the Secretary of State, January 13, 1795. (Extracts.)

No. 54. Mr. Monroe to the Secretary of State, February 12, 1795. (Extracts.)
No. 55. Mr. Jay, Minister to London, to Mr. Monroe, February 19, 1795.
No. 56. Mr. Monroe to the Secretary of State, March 6, 1795. (Extract.)
No. 57. Secretary of State to Mr. Monroe, March 8, 1795. (Extract.)
No. 58. Mr. Monroe to the Secretary of State, April 14, 1795. (Extract.)
No. 59. Secretary of State to Mr. Monroe, June 1, 1795.
No. 60. Mr. Monroe to the Secretary of State, June 26, 1795. (Extract.)
No. 61. Secretary of State to Mr. Monroe, July 14, 1795. (Extract.)
No. 62. Same to same, July 21, 1795.
No. 63. Same to John Jay, May 6, 1794. (Instructions.)
No. 64. Same to same, November 12, 1794. (Extract.)
No. 65. Mr. Monroe to the Secretary of State, August 17, 1795. (Extract.)
No. 66. Mr. Skipwith, Consul General of the United States at Paris, to Mr. Monroe, September 25, 1795. (Extract.)
No. 67. Mr. Monroe to the Secretary of State, February 20, 1796.
No. 68. Exposition of the complaints of the French Government against the United States, March 9, 1796.
No. 69. Mr. Redon, Commissioner of the Marine of the Colonies of France, to Mr. Monroe, August 24, 1795.
No. 70. Mr. Monroe to the French Minister of Foreign Affairs, March 15, 1796.
No. 71. The French Minister of Foreign Affairs to Mr. Monroe, June 25, 1796.
No. 72. Same to same, July 7, 1796.
No. 73. Mr. Monroe to the French Minister of Foreign Affairs, July 14, 1796.
No. 74. Secretary of State to Mr. Monroe, September 9, 1796.
No. 75. Extract from the Register of Resolves of the French Executive Directory, September 11, 1796.
No. 76. French Minister of Foreign Affairs to Mr. Monroe, October 7, 1796.
No. 77. Extract from the Register of the Resolves of the French Executive Directory, July 2, 1796.
No. 78. French Minister of Foreign Affairs to Mr. Monroe, December 11, 1796.
No. 79. Answer of the President of the French Directory to Mr. Monroe's address on presenting his letter of recall.
No. 80. Report of Major Mountflorence to Mr. C. C. Pinckney, Minister to France, December 18, 1796.
No. 81. Secretary of State to Mr. C. C. Pinckney, January 21, 1797. (Extract.)
No. 82. Same to same, February 11, 1797. (Extract.)
No. 83. Consul General of the United States at Paris to the French Minister of Foreign Affairs, February 23, 1797. (Translation.)
No. 84. French Minister of Foreign Affairs to the Consul General of the United States at Paris, February 23, 1797. (Translation.)
No. 85. Postscript of a letter from Mr. Pinckney to the Secretary of State, March 23, 1797.
No. 86. Extract from the circular of the Minister of Justice to the Tribunals of Commerce, March 11.
No. 87. Mr. C. C. Pinckney to the Secretary of State, March 18, 1797.
No. 88. French Decree, March 2, 1797.
No. 89. Mr. C. C. Pinckney to the Secretary of State, March 19, 1797. (Extract.)
No. 90. Secretary of State to Mr. C. C. Pinckney, April 4, 1797. (Extract.)
No. 91. Mr. C. C. Pinckney to the Secretary of State, April 5, 1797. (Extract.)
No. 92. Secretary of State to Mr. C. C. Pinckney, April 8, 1797. (Extract.)
No. 93. Letter of Captain Scott to the Consul General of the United States at Paris, April 9, 1797.
No. 94. Mr. C. C. Pinckney to the Secretary of State, April 28, 1797. (Extract.)
No. 95. French Minister of the Marine and of the Colonies to Citizen Boyerfonfrede, April 30, 1797.
No. 96. Mr. C. C. Pinckney to the Secretary of State, May 6, 1797. (Extract.)
No. 97. Same to same, May 9, 1797. (Extract.)
No. 98. Letter from various masters of vessels condemned by France to Mr. Pinckney, May 15, 1797.
No. 99. Mr. Montgomery, American Consul at Alicant, to the French Consul at Carthagena, May 24, 1797.
No. 100. French Consul at Carthagena to the American Consul at Alicant, May 24, 1797.
No. 101. Letter from various masters of vessels condemned by France to Mr. Pinckney, May 24, 1797.
No. 102. Secretary of State to Mr. C. C. Pinckney, June 12, 1797. (Extract.)
No. 103. Mr. C. C. Pinckney to the Secretary of State, June 28, 1797. (Extracts.)
No. 104. Same to same, July 15, 1797. (Extracts.)
No. 105. Secretary of State to Mr. C. C. Pinckney, October 24, 1797. (Extracts.)
No. 106. Report of the French Minister of Justice to the Executive Directory, November 3, 1797. (Translation.)
No. 107. Secretary of State to Mr. Thomas Pinckney, Minister to Great Britain, April 20, 1793. (Extract.)
No. 108. Same to same, May 7, 1793. (Extract.)
No. 109. Same to same, June 14, 1793. (Extract.)
No. 110. Same to same, September 7, 1793. (Extract.)
No. 111. Mr. Genet, Minister from France, to the Secretary of State, May 27, 1793.
No. 112. Secretary of State to Mr. Genet, June 5, 1793.
No. 113. Same to the Minister of Great Britain in the United States, June 5, 1793. (Extract.)
No. 114. Mr. Genet, Minister from France, to the Secretary of State, June 8, 1793.
No. 115. Circular letter from the Governor of Virginia to the Commandants of Counties in which are ports of navigation, June 8, 1793.
No. 116. Secretary of State to Mr. Genet, June 17, 1793.
No. 117. Mr. Genet to the Secretary of State, June 22, 1793.
No. 118. Protest of the French Consul at New York against the seizure of the Catherine, June 21, 1793.
No. 119. Protest of the French Consul at Philadelphia against the seizure of the ship William, June 22, 1793.
No. 120. Secretary of State to R. Harrison, Attorney of the United States for the district of New York, June 26, 1794.
No. 121. Report on a project of an act of navigation presented to the French National Convention in the name of the Committees of Marine, of Commerce, and of Public Safety, July 3, 1793.
No. 122. Copy of the act of navigation of the French Republic, referred to in the foregoing.
No. 123. Mr. T. Pinckney, Minister to Great Britain, to the Secretary of State, July 5, 1793.

No. 124. Mr. Genet to the Secretary of State, July 9, 1793.
No. 125. Secretary of State to Mr. Genet, July 12, 1793.
No. 126. Same to same, July 24, 1793.
No. 127. Mr. Genet to the Secretary of State, July 25, 1793.
No. 128. Secretary of State to Mr. Genet, August 7, 1793.
No. 129. Circular of the Lieutenant Governor of Virginia to the Commandants of Counties in which are ports of navigation, August 22, 1793.
No. 130. Circular from the Secretary of State to the merchants of the United States, August 27, 1793.
No. 131. Secretary of State to the British Minister in the United States, September 5, 1793.
No. 132. Mr. Genet to the Secretary of State, September 18, 1793. (Extract.)
No. 133. Secretary of State to the British Minister in the United States, September 9, 1793.
No. 134. Same to same, September 12, 1793.
No. 135. British Minister to the Secretary of State, September 12, 1793.
No. 136. Additional instructions to the commanders of his Majesty's ships-of-war, &c., that may have letters of marque against France, June 8, 1793.
No. 137. Mr. Genet to the Secretary of State, September 14, 1793.
No. 138. Secretary of State to the British Minister in the United States, September 22, 1793.
No. 139. Mr. Genet to the Secretary of State, September 24, 1793.
No. 140. Same to same, September 27, 1793.
No. 141. Same to same.
No. 142. Same to same, November 14, 1793.
No. 143. Same to the Governor of New York, November 23, 1793.
No. 144. Same to the Secretary of State, November 25, 1793. (Extract.)
No. 145. Mr. Genet to the Secretary of State, November 29, 1793.
No. 146. Report of the Committee of Public Safety to the National Convention upon the Navigation Act.
No. 147. French Navigation Act.
No. 148. Decree relative to the licenses of vessels under the French flag, September 21, 1794.
No. 149. Extract of the speech of the President of the United States to Congress, December 3, 1793.
No. 150. Proclamation of neutrality by the President of the United States, December 3, 1793.
No. 151. Instructions to the Collectors of the Customs, August 4, 1793.
No. 152. Extract of the message of the President to Congress, December 5, 1793. (Extract.)
No. 153. Extract from the report of the Secretary of State on the privileges and restrictions on the commerce of the United States in foreign countries, December 16, 1793.
No. 154. Secretary of State to the French Minister, January 28, 1794.
No. 155. The French Minister to the Secretary of State, February 4, 1794.
No. 156. The President and Secretaries of the General and Extraordinary Commission of Guadaloupe to the Congress of the United States, November 6, 1793.
No. 157. Secretary of State to the French Minister, February 7, 1794.
No. 158. Same to Mr. Mullowney, February 13, 1794.
No. 159. Same to the British Minister, February 13, 1794.
No. 160. Report from the Secretary of State to the President of the United States, March 2, 1794. (Extract.)
No. 161. Report from same to same, March 14, 1794. (Extract.)
No. 162. French Minister to the Secretary of State, March 27, 1794. (Translation.)
No. 163. Report from the Secretary of State to the President, March 31, 1794.
No. 164. Secretary of State to the British Minister, May 1, 1794.
No. 165. Same to the French Minister, May 15, 1794.
No. 166. Report of the Secretary of State to the Vice President of the United States, May 20, 1794.
No. 167. Secretary of State to Christopher Gore, Attorney of the United States, Massachusetts district, May 21, 1794.
No. 168. Same to the British Minister, June 2, 1794.
No. 169. Same to the Ministers of the United States at France, Holland, and Great Britain, and the Commissioner of Spain, June 18, 1794.
No. 170. Same to the British Minister, June 21, 1794.
No. 171. Report of the Secretary of State to the President, June 22, 1794.
No. 172. Secretary of State to the Secretaries of the Treasury and War and the Attorney General of the United States, June 30, 1794.
No. 173. Secretary of State to the French Minister, July 31, 1794.
No. 174. Same to same, August 20, 1794.
No. 175. French Minister to the Secretary of State, August 26, 1794.
No. 176. Instructions to Mr. Adet, French Minister to the United States, August 26, 1794. (Extract.)
No. 177. The Governor of Virginia to the French Minister, September 12, 1794.
No. 178. French Minister to the Secretary of State, September 18, 1794.
No. 179. Secretary of State to the British Minister, September 23, 1794.
No. 180. Same to the French Minister, September 27, 1794.
No. 181. French Minister to the Secretary of State, October 1, 1794.
No. 182. Secretary of State to the French Minister, October 2, 1794.
No. 183. Same to the Lieutenant Governor of Virginia, October 3, 1794.
No. 184. French Minister to the Secretary of State, October 6, 1794.
No. 185. Lieutenant Governor of Virginia to the Commandant of the Militia at Norfolk, October 9, 1794.
No. 186. French Minister to the Secretary of State, October 17, 1794.
No. 187. Secretary of State to the Governors of the several States, October 22, 1794. (Circular.)
No. 188. Same to the British Minister, October 23, 1794.
No. 189. Same to Mr. T. Pinckney, Minister to Great Britain, December 23, 1794.
No. 190. Same to Mr. Hollingsworth, Attorney of the United States, December 24, 1794.
No. 191. Same to Mr. Reed, Attorney of the United States for the district of Delaware, December 24, 1794.
No. 192. Same to the Secretary of War, December, 24, 1794.
No. 193. Same to the British Minister, December 24, 1794.
No. 194. Lieutenant Colonel Wilson to the Governor of Virginia, January 3, 1795.

No. 195. French Minister to the Secretary of State, January 31, 1795.
No. 196. Secretary of State to the Governor of Virginia, February 1, 1795.
No. 197. French Minister to the Secretary of State, May 2, 1795.
No. 198. Same to same, May 23, 1795.
No. 199. Same to same, June 8, 1795. (Extract.)
No. 200. Same to same, June 30, 1795.
No. 201. Extract from the instructions of the French Government to Mr. Adet, French Minister to the United States; without date.
No. 202. Mr. Adet, French Minister in the United States to the Secretary of State, July 14, 1795.
No. 203. Extract from the Register of Decrees of the Committee of Public Safety to the National Convention, January 3, 1795.
No. 204. French Minister to the Secretary of State, August 11, 1795.
No. 205. Secretary of State to the British Minister, August 4, 1795.
No. 206. Instructions to Mr. J. Q. Adams, relative to the exchange of ratifications of the treaty with Great Britain, August 25, 1795.
No. 207. Mr. Pickering, Acting Secretary of State, to Mr. J. Q. Adams, Minister at the Hague, August 25, 1795.
No. 208. Secretary of State to the British Chargé d'Affaires, September 5, 1795.
No. 209. Same to Mr. J. Q. Adams, or Mr. Deas, September 12, 1795. (Extract.)
No. 210. French Minister to the Secretary of State, September 22, 1795.
No. 211. Same to same, January 12, 1796.
No. 212. Summary statement of the complaints of the French Government against the Government of the United States, March 9, 1796.
No. 213. French Minister to the Secretary of State, March 29, 1796.
No. 214. Same to same, April 21, 1796.
No. 215. Same to same, May 18, 1796.
No. 216. Secretary of State to the French Minister, May 24, 1796.
No. 217. Same to same, May 25, 1796.
No. 218. French Minister to the Secretary of State, June 3, 1796.
No. 219. Secretary of State to the French Minister, June 13, 1796.
No. 220. French Minister to the Secretary of State, June 14, 1796.
No. 221. Secretary of State to the Chief Justice of the United States, June 30, 1796.
No. 222. Same to the French Minister, July 1, 1796.
No. 223. Same to Mr. H. G. Otis, District Attorney of the United States, July 12, 1796.
No. 224. French Minister to the Secretary of State, July 14, 1796.
No. 225. Extract of a report from the Secretary of State to the President of the United States, July 15, 1796.
No. 226. Secretary of State to the French Minister, July 19, 1796.
No. 227. Same to Mr. King, Minister of the United States at Great Britain, July 27, 1796. (Extract.)
No. 228. Commission of Foreign Affairs of the Batavian National Assembly to the Minister of the United States at the Hague, September 27, 1796.
No. 229. French Minister to the Secretary of State, October 12, 1796.
No. 230. Same to same, October 27, 1796.
No. 231. French Minister to the Secretary of State, November 15, 1796.
No. 232. Secretary of State to the French Minister, November 15, 1796.
No. 233. Same to Mr. King, Minister of the United States to Great Britain, November 26, 1796.
No. 234. Extract from the speech of the President of the United States to Congress, December 7, 1796.
No. 235. French Decree, November 8, 1793.
No. 236. Extract from the Register of Arrêts of the Committee of Public Safety, Finance, and Supplies, of France, November 18, 1794.
No. 237. Plan of a Decree reported by Mr. Villiers to the Council of Five Hundred, January 4, 1798.
No. 238. Message from P. Barras, President, and Legarde, Secretary, to the Council of Five Hundred, January 4, 1798.
No. 239. French law relative to vessels laden with English merchandise, January 18, 1798.
No. 240. Extract from the Registers of the Declarations of the Executive Directory of France, July 31, 1798. (Translation.)
No. 241. French Decree, August 16, 1798. (Translation.)
No. 242. Same, March 18, 1799. (Translation.)
No. 243. Same, October 29, 1799. (Translation.)
No. 244. Same, November 14, 1799. (Translation.)
No. 245. French law repealing the first article of the law of January 18, 1798, December 13, 1800. (Translation.)
No. 246. French Decree, December 19, 1800. (Translation.)
No. 247. Extract from the Register of the Resolves of the French Commission—Leeward Islands—November 27, 1797.
No. 248. French Decree, February 1, 1797.
No. 249. Same, August 1, 1796.
No. 250. Additional instructions to the British ships-of-war and privateers having letters of marque against France, November 6, 1793.
No. 251. Instructions to the commanders of British ships-of-war and privateers having letters of marque against France, January 8, 1794.
No. 252. Letter from Sir John Jervis to Thomas Griffith, Esq., March 18, 1794.
No. 253. Instructions to the commanders of British ships-of-war and privateers having letters of marque against France, August 18, 1794.
No. 254. Letter from Horatio Nelson to the American and Danish Consuls at Cadiz, April 11, 1797.
No. 255. Instructions to the commanders of British ships-of-war and privateers having letters of marque against France, January 25, 1798.
No. 256. Extract from a Convention between his Britannic Majesty and the Empress of Russia, March 25, 1793.

No. 257. Extract from a treaty between Great Britain and Spain of May 25, 1793.
No. 258. Extract of a convention between Great Britain and Prussia, July 14, 1793.
No. 259. Extract from a convention between Great Britain and Austria, August 30, 1793.
No. 260. Mr. Pickering, Secretary of State, to Mr. Pinckney, Minister of the United States at Paris, January 16, 1797.
No. 261. Report of the Secretary of State on the memorial of sundry citizens of Philadelphia, February 27, 1797.
No. 262. Secretary of State to Mr. King, Minister to Great Britain, April 6, 1797. (Extract.)
No. 263. Same to same, April 26, 1797.
No. 265. Secretary of State to Mr. King, May 9, 1797.
No. 266. Extract from the inaugural speech of the President of the United States, May 16, 1797.
No. 267. Secretary of State to Mr. B. H. Phillips, Consul at Curaçoa, May 23, 1797.
No. 269. Same to same, June 21, 1797.
No. 270. Extract of a report of the Secretary of State respecting depredations on the commerce of the United States, June 21, 1797.
No. 271. Secretary of State to Mr. Adams, Minister of the United States to Berlin, July 15, 1797. (Extract.)
No. 272. Secretary of State to Mr. Jacob Mayer, Consul at Cape François, September 22, 1797.
No. 273. Same to Mr. Marshall, one of the Ministers to France, September 30, 1797. (Extract.)
No. 274. Same to Mr. Jacob Mayer, October 6, 1797.
No. 275. Same to Mr. King, January 13, 1798. (Extract.)
No. 276. Mr. Odlin to Messrs. Smith and Ridgeway, March 9, 1798.
No. 277. Same to same, March 20, 1798.
No. 278. Secretary of State to Mr. Adams, Minister to Russia, March 17, 1798.
No. 280. Extract of a document published in France, in 1798, commenting upon the communications of the President of the United States to Congress, April 3, 1798.
No. 281. Secretary of State to Mr. Vans Murray, Minister to the Hague, April 20, 1798.
No. 282. Same to Mr. Frederick Jacob Wichelhausen, June 3, 1798.
No. 283. French Minister of Exterior Relations to Mr. Skipwith, Consul General of the United States at Paris, August 6, 1798.
No. 284. French Minister of Marine and the Colonies to the Agents of the Marine in the ports of the Republic, August 11, 1798. (Translation.)
No. 285. Same to the principal officers of the ports, civil and military, August 16, 1798. (Translation.)
No. 286. Secretary of State to Mr. Letombe, late Consul General of the French Republic, October 25, 1798.
No. 288. Mr. King to the Secretary of State, November 28, 1798.
No. 289. Extract from the speech of the President of the United States to Congress, December 8, 1798.
No. 290. Secretary of State to Mr. King, December 13, 1798.
No. 292. Same to H. G. Otis, District Attorney of the United States, December 31, 1798.
No. 293. Extracts from the report of the Secretary of State on the transactions relating to the United States and France, January 18, 1799.
No. 295. Secretary of State to the American Consul at Havana, January 25, 1799.
No. 296. Same to Mr. Letombe, late Consul General of France to the United States, February 4, 1799.
No. 296½. Same to General Desfourneaux, Agent of the French Executive Directory at Guadaloupe, March 16, 1799.
No. 297. Same to Messrs. Adams & Loring, Boston, March 30, 1799.
No. 298. Same to Mr. King, May 8, 1799.
No. 299. Same to Doctor Bouvier, of New York, May 21, 1799.
No. 300. Same to Mr. King, May 22, 1799. (Extract.)
No. 301. Same to Mr. Regis Le Blanc, French Consul, May 30, 1799.
No. 302. Same to Mr. Williams, United States Agent at London, June 1, 1799.
No. 303. Proclamation of the President of the United States renewing the commerce with St. Domingo, June 26, 1799.
No. 304. Chief Clerk in the Department of State to Mr. Samuel Williams, United States Agent at London, June 11, 1799.
No. 305. Secretary of State to Mr. Samuel S. Cooper, August 3, 1799.
No. 306. Same to Mr. King, September 20, 1800. (Extract.)
No. 307. Instructions to C. C. Pinckney, J. Marshall, and E. Gerry, Envoys Extraordinary and Ministers Plenipotentiary from the United States of America to the French Republic, dated July 15, 1797.
No. 308. Full powers to Messrs. Pinckney, Marshall, and Gerry, June 22, 1797.
No. 309. Mr. Marshall to Mr. Lee, Attorney General, October 12, 1797. (Extract.)
No. 310. Messrs. Pinckney, Marshall, and Gerry to the Secretary of State, October 22, 1797. (Extract.)
No. 311. Exhibit A, enclosed in a letter from the Envoys of the United States to the Secretary of State, November 8, 1797. (No. 2.)
No. 312. Exhibit B, from same to same, November 8, 1797. (No. 2.)
No. 314. Messrs. Pinckney, Marshall, and Gerry to Mr. Skipwith, December 20, 1797. (Extract.)
No. 315. Note transmitted from Messrs. Pinckney, Marshall, and Gerry to the Secretary of State, December 24, 1797. (Extract, No. 4.)
No. 316. Document marked B, from same to same, December 24, 1797. (Extract, No. 4.)
No. 317. Letter from same to the Minister of Foreign Affairs of the French Republic, January 17, 1798. Extract.)
No. 318. Messrs. Pinckney and Marshall to same; without date.
No. 319. Document A of Messrs. Pinckney, Marshall, and Gerry to the Secretary of State, March 9, 1798. (Extract.)
No. 320. Mr. Talleyrand to Messrs. Pinckney, Marshall, and Gerry, March 18, 1798. (Translation.)
No. 321. Messrs. Pinckney, Marshall, and Gerry to the French Minister of Exterior Relations.
No. 322. Same to same, April 3, 1798. (Extract.)
No. 323. The Secretary of State to Messrs. Pinckney, Marshall, and Gerry, March 23, 1798.
No. 324. Secretary of State to Mr. Gerry, June 25, 1798.
No. 325. Mr. Gerry to the Secretary of State, October 1, 1798. (Extract.)

No. 326. The Minister of Exterior Relations to Mr. Gerry, June 10, 1798. (Translation.)
No. 327. Same to same, June 18, 1798. (Translation.)
No. 328. Same to same, June 27, 1798.
No. 329. Same to same, July 6, 1798.
No. 330. Note upon the twelfth article of the convention between France and the United States of November 14, 1788, July 6, 1798.
No. 331. The Minister of Exterior Relations to Mr. Gerry, July 12, 1798. (Translation.)
No. 332. Same to same, July 22, 1798. (Translation.)
No. 333. Same to same, August 3, 1798. (Translation.)
No. 334. Same to Mr. Skipwith, August 6, 1798. (Translation.)
No. 335. The Minister of Marine and the Colonies to the Agents of Marine, dated August 13, 1798. (Translation.)
No. 336. Same to same, August 18, 1798. (Translation.)
No. 337. The Minister of Foreign Relations to Mr. Skipwith, August 20, 1798. (Translation.)
No. 338. Mr. Skipwith to the Secretary of State, August 22, 1798.
No. 339. Same to same, January 23, 1799.
No. 340. Secretary of State to Mr. Skipwith, June 10, 1799.
No. 341. The Minister of Foreign Relations of the French Republic to the Minister of Justice, December 13, 1799. (Translation.)
No. 342. The Minister of Exterior Relations to Citizen Callet Decoutiles, August 17, 1801. (Translation.)
No. 343. Mr. Skipwith to Mr. Livingston, December 19, 1801.
No. 344. Citizens Fleurieu and Roederer to the Minister of Exterior Relations, December 12, 1801. (Translation.)
No. 345. Mr. Pickering to Mr. Vans Murray, March 6, 1799.
No. 346. Instructions to Messrs. Ellsworth, Davie, and Murray, October 22, 1799.
No. 347. Secretary of State to Messrs. Ellsworth and Davie, October 26, 1799.
No. 348. Messrs. Ellsworth and Davie to the Minister of Foreign Relations, January 18, 1800.
No. 349. The Minister of Exterior Relations to Messrs. Ellsworth and Davie, January 31, 1800. (Translation.)
No. 350. Mr. Pickering to Messrs. Ellsworth, Davie, and Murray, February 14, 1800.
No. 351. Messrs. Ellsworth, Davie, and Murray to the Secretary of State, April 18, 1800.
No. 352. Same to the Ministers of the French Republic, dated April 7, 1800. (R.)
No. 353. The Ministers of the French Republic to Messrs. Ellsworth, Davie, and Murray, 9 Germinal, year 8. (Translation, S.)
No. 354. Messrs. Ellsworth, Davie, and Murray to the Ministers of the French Republic, April 11, 1800.
No. 355. The Ministers of the French Republic to Messrs. Ellsworth, Davie, and Murray, 23 Germinal, year 8. (Translation.)
No. 356. Messrs. Ellsworth, Davie, and Murray to the Minister of the French Republic, April 18, 1800.
No. 357. Project of a treaty proposed by Messrs. Ellsworth, Davie, and Murray; six articles.
No. 358. Messrs. Bonaparte, Fleurieu, and Roederer to Messrs. Ellsworth, Davie, and Murray, May 6, 1800.
No. 359. Answer to the foregoing, May 7, 1800.
No. 360. Messrs. Ellsworth, Davie, and Murray to Messrs. Bonaparte, Fleurieu, and Roederer, May 8, 1800.
No. 361. Project of a treaty proposed by Messrs. Ellsworth, Davie, and Murray; from article 7 to 36, inclusive.
No. 362. Messrs. Ellsworth, Davie, and Murray to the Secretary of State, May 17, 1800.
No. 363. Same to Messrs. Bonaparte, Fleurieu, and Roederer, May 19, 1800.
No. 364. Extract from the journal of Messrs. Ellsworth, Davie, and Murray, May 23, 1800.
No. 365. Messrs. Ellsworth, Davie, and Murray to Messrs. Bonaparte, Fleurieu, and Roederer, May 25, 1800. (A.)
No. 366. Same to same, June 1, 1800. (B.)
No. 367. Messrs. Bonaparte, Fleurieu, and Roederer to Messrs. Ellsworth, Davie, and Murray, June 5, 1800. (C.)
No. 368. Messrs. Ellsworth, Davie, and Murray, to Messrs. Bonaparte, Fleurieu, and Roederer, July 6, 1800. (D.)
No. 369. Same to same, July 23, 1800. (E.)
No. 370. Messrs. Bonaparte, Fleurieu, and Roederer to Messrs. Ellsworth, Davie, and Murray, July 27, 1800. (F.)
No. 371. Same to same, August 11, 1800. (G.)
No. 372. Extract from the journal of Messrs. Ellsworth, Davie, and Murray, July 7, 1800.
No. 373. Extract from journal of same, August 15, 1800.
No. 374. Messrs. Ellsworth, Davie, and Murray to the Secretary of State, August 15, 1800.
No. 375. Same to Messrs. Bonaparte, Fleurieu, and Roederer, August 20, 1800.
No. 376. Extract from the journal of Messrs. Ellsworth, Davie, and Murray, August 24, 1800.
No. 377. Messrs. Bonaparte, Fleurieu, and Roederer to Messrs. Ellsworth, Davie, and Murray, August 25, 1800.
No. 378. Messrs. Ellsworth, Davie, and Murray to Messrs. Bonaparte, Fleurieu, and Roederer, August 29, 1800.
No. 379. Messrs. Bonaparte, Fleurieu, and Roederer to Messrs. Ellsworth, Davie, and Murray, September 4, 1800. (Translation.)
No. 380. Extract from the journal of Messrs. Ellsworth, Davie, and Murray, September 5, 1800.
No. 381. Messrs. Ellsworth, Davie, and Murray to Messrs. Bonaparte, Fleurieu, and Roederer, September 8, 1800.
No. 382. Extract from the journal of Messrs. Ellsworth, Davie, and Murray, September 12, 1800.
No. 383. Extract from the journal of the same, September 13, 1800.
No. 384. Extract from the journal of the same, September 13, 1800.
No. 385. Messrs. Bonaparte, Fleurieu, and Roederer to Messrs. Ellsworth, Davie, and Murray, September 14, 1800. (Translation.)
No. 386. Messrs. Fleurieu and Roederer to Messrs. Ellsworth, Davie, and Murray, 2d Complimentaire, year 8. (Translation.)

No. 387. Extract from the journal of Messrs. Ellsworth, Davie, and Murray, September 24, 1800.
No. 388. Extract from the journal of same, October 2, 1800.
No. 389. Mr. Murray to the Secretary of State, October 1, 1800.
No. 390. Journal of Messrs. Ellsworth, Davie, and Murray, addressed to the Secretary of State, October 4, 1800.
No. 391. The Minister of Exterior Relations to Messrs. Ellsworth and Davie, October 5, 1800. (Translation.)
No. 392. The Minister of Marine to the Agent of the French Government in the Colonies, October 12, 1800. (Extract.)
No. 393. Mr. Talleyrand to Mr. Pichon, August 28, 1798. (Translation.)
No. 394. Mr. Murray to same, September 23, 1798.
No. 395. Mr. Talleyrand to same, September 28, 1798. (Translation.)
No. 396. Mr. Murray to Mr. Pickering, October 12, 1798.
No. 397. Mr. Pickering to Mr. Murray, April 24, 1799.
No. 398. Mr. Murray to Mr. Talleyrand, May 5, 1799.
No. 399. Mr. Talleyrand to Mr. Murray, May 12, 1799. (Translation.)
No. 400. Mr. Murray to Mr. Pickering, May 17, 1799.
No. 401. Same to same, August 14, 1799.
No. 402. Same to same, December 26, 1799.
No. 403. Same to Mr. Marshall, November 25, 1800.
No. 404. Same to Mr. Madison, May 20, 1801.
No. 405. Same to the Minister of Exterior Relations, May 29, 1801.
No. 406. Same to Mr. Lincoln, June 1, 1801.
No. 407. Same to the Minister of Exterior Relations, June 1, 1801.
No. 408. Messrs. Bonaparte, Fleurieu, and Roederer to Mr. Murray, June 8, 1801. (Translation.)
No. 409. Mr. Murray to Messrs. Bonaparte, Fleurieu, and Roederer, June 8, 1801. (Translation.)
No. 410. Same to Mr. Lincoln, June 9, 1801.
No. 411. Mr. Fleurieu to Mr. Murray, June 13, 1801. (Translation.)
No. 412. Mr. Murray to Messrs. Bonaparte, Fleurieu, and Roederer, June 14, 1801.
No. 413. Messrs. Bonaparte, Fleurieu, and Roederer to Mr. Murray, June 14, 1801. (Translation.)
No. 414. Mr. Murray to Messrs. Bonaparte, Fleurieu, and Roederer, June 15, 1801.
No. 415. Same to Mr. Madison, June 23, 1801.
No. 416. Same to same, June 24, 1801.
No. 417. Same to same, June 26, 1801.
No. 418. Messrs. Fleurieu and Roederer to Mr. Murray, June 27, 1801. (Translation.)
No. 419. Mr. Murray to Messrs. Bonaparte, Fleurieu, and Roederer, June 27, 1801.
No. 420. Same to Mr. Madison, July 1, 1801.
No. 421. Same to same, July 2, 1801.
No. 422. Messrs. Fleurieu and Roederer to Mr. Murray, July 3, 1801. (Translation.)
No. 423. Mr. Murray to Messrs. Bonaparte, Fleurieu, and Roederer, July 5, 1801.
No. 424. Same to Mr. Madison, July 9, 1801.
No. 425. Mr. Murray to Mr. Madison, July 15, 1801.
No. 426. Same to same, July 23, 1801.
No. 427. Same to same, July 31, 1801.
No. 428. Same to same, August 11, 1801.
No. 429. Same to same, August 3, 1801.
No. 430. The convention with France, September 30, 1800.
No. 431. Mr. Talleyrand to Mr. Pichon, January 3, 1801. (Translation.)
No. 432. The Secretary of the Navy to S. Higginson & Co., March 20, 1801
No. 433. Mr. Pichon to the Secretary of State, June 18, 1801.
No. 434. Same to same, July 10, 1801.
No. 435. Mr. Madison to Mr. Rufus King, December 10, 1801.
No. 436. Mr. Pichon to the Secretary of State, December 19, 1801.
No. 437. Mr. Lincoln to Messrs. Ellsworth and Murray, March —, 1801.
No. 438. Same to Mr. Murray, April 23. (Extract.)
No. 439. Mr. Pichon to Mr. Madison, July 10, 1801.
No. 440. Mr. Talleyrand to Mr. Pichon, August 4, 1801. (Extract, translation.)
No. 441. Mr. Guillaume, the particular director of the general liquidation of the public debt, to Mr. Skipwith, March 12, 1801. (Translation.)
No. 442. The Minister of Exterior Relations to Mr. Pichon, June 12, 1801. (Extract, translation.)
No. 443. Mr. Livingston to Mr. Madison, September 16, 1801. (Extract.)
No. 444. Mr. Madison to Mr. Livingston, September 28, 1801. (Extract.)
No. 445. Mr. Livingston to the Secretary of State, December 10, 1801. (Extract.)
No. 446. Mr. Madison to Mr. Livingston, December 18, 1801. (Extract.)
No. 447. Mr. Livingston to the Secretary of State, January 13, 1802. (Extract.)
No. 448. Same to the Minister of Exterior Relations, January 20, 1802.
No. 449. Same to the Secretary of State, January 26, 1802. (Extract.)
No. 450. Same to the Minister of Exterior Relations, February 20, 1802. (Extract.)
No. 451. Same to same, February 24, 1802.
No. 452. Same to same, March 13, 1802.
No. 453. Mr. Madison to Mr. Livingston, March 16, 1802. (Extract.)
No. 454. Mr. Livingston to the Secretary of State, March 22, 1802. (Extract.)
No. 455. Same to Mr. Madison, March 24, 1802. (Extract.)
No. 456. The Minister Plenipotentiary of the United States at Paris to the Minister of Exterior Relations, March 25, 1802.
No. 457. Proposition of Mr. Livingston to the French Republic; without date.
No. 458. Mr. Madison to Mr. Livingston, March 26, 1802. (Extract.)
No. 459. Mr. Livingston to the Minister of Exterior Relations, April 17, 1802.
No. 460. Mr. Madison to Mr. Livingston, May 1, 1802. (Extract.)

No. 461. Mr. Livingston to the Secretary of State, May 10, 1802. (Extract.)
No. 462. Mr. Madison to Mr. C. Pinckney, May 11, 1802. (Extract.)
No. 463. The Minister Plenipotentiary of the United States at Paris to the Minister of Exterior Relations, May 18, 1802.
No. 464. Mr. Livingston to the Secretary of State, May 20, 1802. (Extract.)
No. 465. Same to same, August 16, 1802. (Extract.)
No. 466. Mr. Madison to Mr. Livingston, October 15, 1802. (Extract.)
No. 467. Mr. Livingston to Mr. Madison, December 24, 1802. (Extract.)
No. 468. Mr. Madison to Mr. Livingston, January 18, 1803. (Extract.)
No. 469. Mr. Livingston to the Minister of Exterior Relations, January 24, 1803.
No. 470. Same to Mr. Bonaparte, First Consul, February 27, 1803. (Extract.)
No. 471. Mr. Madison to Messrs. Livingston and Monroe, March 2, 1803.
No. 472. The Minister of Exterior Relations to Mr. Livingston, March 9, 1803. (Translation.)
No. 473. Mr. Livingston to Mr. Madison, March 11, 1803. (Extract.)
No. 474. Same to the Minister of Exterior Relations, March 16, 1803. (Extract.)
No. 475. Same to Mr. Madison, April 11, 1803. (Extract.)
No. 476. Same to same, April 13, 1803.
No. 477. Mr. Monroe to Mr. Madison, April 15, 1803. (Extract.)
No. 478. Mr. Livingston to same, April 17, 1803. (Extract.)
No. 479. Mr. Madison to Messrs. Livingston and Monroe, April 18, 1803. (Extract.)
No. 480. Mr. Monroe to Mr. Madison, April 19, 1803. (Extract.)
No. 481. The Minister of the Public Treasury of France to the Minister Plenipotentiary of the United States, April 30, 1803. (Extract.)
No. 482. Copy of a convention between the United States and France of April 30, 1803, (with the conjectural note mentioned therein,) April 30, 1803.
No. 483. Mr. Livingston to Mr. Madison, May 12, 1803. (Extract.)
No. 484. Messrs. Livingston and Monroe to Mr. Madison, May 13, 1803. (Extract.)
No. 485. Mr. Livingston to Mr. Madison, May 20, 1803. (Extract.)
No. 486. Mr. Madison to Mr. Livingston, May 25, 1803. (Extract.)
No. 487. Same to Messrs. Livingston and Monroe, May 28, 1803.
No. 488. Mr. Livingston to the President of the United States, June 2, 1803. (Extract.)
No. 489. Same to Mr. Madison, June 25, 1803. (Extract.)
No. 490. Mr. Madison to Mr. Monroe, July 29, 1803. (Extract.)
No. 491. Mr. Livingston to the Secretary of State, July 30, 1803. (Extract.)
No. 492. Mr. Monroe to Mr. Livingston, August 20, 1803.
No. 493. Mr. Livingston to Mr. Monroe, September 9, 1803.
No. 494. Same to Mr. Madison, September 17, 1803. (Extract.)
No. 495. Same to Messrs. Mercer, Barnet, and Maclure, October 25, 1803. (Extract.)
No. 496. Mr. Madison to Mr. Livingston, October 27, 1803.
No. 497. Mr. Livingston to Mr. Madison, October 31, 1803.
No. 498. Mr. Madison to the Minister of Foreign Affairs, France, November 4, 1803.
No. 499. Sundry merchants and captains of vessels to Mr. Livingston, November 4, 1803.
No. 500. Mr. Madison to Mr. Livingston, November 9, 1803. (Postscript.)
No. 501. Mr. Livingston to the Minister of Exterior Relations, January 7, 1804.
No. 502. Same to Mr. Madison, January 13, 1804. (Extract.)
No. 503. Same to same, January 13, 1804. (Extract.)
No. 504. Same to same, January 18, 1804. (Extract.)
No. 505. Mr. Madison to Mr. Livingston, January 31, 1804. (Extract.)
No. 506. Same to Mr. Pinckney, February 6, 1804. (Extract.)
No. 507. Mr. Livingston to Mr. Skipwith, February 20, 1804. (Extract.)
No. 508. Same to the Minister of Exterior Relations, February 24, 1804.
No. 509. Mr. Skipwith to Mr. Livingston, February 25, 1804. (Extract.)
No. 510. Mons. B. Marbois to the Minister of Exterior Relations, March 8, 1804. (Translation.)
No. 511. Messrs. Mercer, Barnet, and Maclure to Mr. Livingston, March 9, 1804.
No. 512. Mr. Livingston to Messrs. Mercer, Barnet, and Maclure, March 13, 1804.
No. 513. Mr. Livingston to Mr. Skipwith, March 14, 1804.
No. 514. Messrs. Mercer, Barnet, and Maclure to Mr. Livingston, March 22, 1803. (Extract.)
No. 515. Mr. Livingston to Messrs. Mercer, Barnet, and Maclure, March 22, 1804. (Extract.)
No. 516. Mr. Madison to Mr. Livingston, March 23, 1804.
No. 517. Mr. Livingston to Messrs. Mercer, Barnet, and Maclure, March 26, 1804. (Postscript.)
No. 519. Messrs. Mercer, Barnet, and Maclure to Mr. Livingston, April 30, 1804. (Postscript.)
No. 520. Mr. Livingston to Messrs. Mercer, Barnet, and Maclure, May 1, 1804.
No. 521. Messrs. Mercer, Barnet, and Maclure to Mr. Livingston, May 2, 1804.
No. 522. Mr. Livingston to Messrs. Mercer, Barnet, and Maclure, May 2, 1804.
No. 523. Messrs. Mercer, Barnet, and Maclure to Mr. Livingston, May 3, 1804.
No. 524. Mr. Livingston to the Secretary of State, May 3, 1804. (Extracts.)
No. 525. Same to same, May 4, 1804. (Extracts.)
No. 526. Same to same, June 19, 1804. (Extracts.)
No. 527. Mr. Livingston to the Minister of Exterior Relations, June 27, 1804.
No. 528. Mr. Marbois to Mr. Livingston, July 1, 1804. (Translation.)
No. 529. Mr. Livingston to Mr. Defournon, July 15, 1804.
No. 530. Mr. Madison to Mr. John Armstrong, Minister to France, July 15, 1804. (Extract.)
No. 531. Mr. Livingston to Mr. Madison, July 25, 1804. (Extract.)
No. 532. Same to same, August 28, 1804. (Extract.)
No. 533. Same to same, August 29, 1804. (Extract.)
No. 534. The Minister of Exterior Relations to Mr. Livingston, September 6, 1804. (Translation.)
No. 535. Mr. Livingston to Mr. Madison, September 14, 1804. (Extract.)
No. 536. Mr. Armstrong to Mons. Barbe Marbois, May 20, 1805. (Extract.)
No. 537. Mr. Skipwith to the Secretary of State, January 1, 1804. (Extract.)

No. 538. Mr. Skipwith to Citizen Berlier, January 18, 1804. (Translation.)
No. 539. *Proces verbal* of the session of the Council of Prizes, February 1, 1804. (Extract, translation.)
No. 540. Citizen Berlier to Mr. Skipwith, February 15, 1804. (Translation.)
No. 541. Mr. Skipwith to Mr. Livingston, June 22, 1804. (Translation.)
No. 542. Mr. Livingston to Mr. Skipwith, June 25, 1804.
No. 543. Mr. Skipwith to Mr. Livingston, June 28, 1804.
No. 544. Same to the Secretary of State, July 18, 1804. (Extract.)
No. 545. Same to Mr. Armstrong, January 2, 1805. (Extract.)
No. 546. Mr. Delagrange to Mr. Barnet, January 9, 1806. (Extract.)

No. 1.

No. 4.—*Mr. Morris, Envoy Extraordinary and Minister Plenipotentiary of the United States to France, to Mr. Jefferson, Secretary of State, dated Paris, July* 10, 1792.

[Extract.]

"I have also repeatedly * * * in the unpropitious moment."
(Vide volume 1, Foreign Relations, page 332.)

No. 2.

No. 8.—*Mr. Morris to Mr. Jefferson, dated Paris, August* 22, 1792.

[Extract.]

"The day before yesterday * * * measures of extremity."
(Vide volume 1, Foreign Relations, page 336)

No. 3.

No. 14.—*Mr. Morris to Mr. Jefferson, dated Paris, December* 21, 1792.

[Extract.]

"Such, my dear sir, * * * our obligations are to be acquitted."
(Vide volume 1, Foreign Relations, page 347.)

No. 4.

No. 18.—*Mr. Morris to Mr. Jefferson, dated Paris, January* 25, 1793.

[Extract.]

"I consider a war * * * nor submit to."
(Vide volume 1, Foreign Relations, page 349.)

No. 5.

No. 18.—*Mr. Morris to Mr. Jefferson, dated Paris, February* 13, 1793.

[Extract.]

"My last, No. 18, * * *. The latter appears the more certain mode."
(Vide volume 1, Foreign Relations, pages 349, 350.)

No. 6.

Mr. Morris to Mr. Pinckney, Envoy Extraordinary and Minister Plenipotentiary of the United States to the Court of Great Britain, dated Paris, February 18, 1793.

(Vide volume 1, Foreign Relations, page 355.)

No. 7.

Decree of the National Convention of the 19*th February*, 1793, *second year of the French Republic, relative to produce exported and imported in American vessels to the colonies or to France.*

[Translation.]

The National Convention, after having heard the report of the Committee of General Defence, decrees as follows:

ARTICLE I. That all the ports of the French colonies be open to vessels of the United States of America.

ARTICLE II. That all produce exported or imported in American vessels, on going out or entering in the colonies, or in France, pay the same duties as that borne by French vessels.

ARTICLE III. That the Executive Council be authorized to take proper measures that the States with whom the Republic is at war do not reap any benefit from the advantages granted to friendly powers.

ARTICLE IV. That the Executive power negotiate with the Congress of the United States to obtain, in favor of the French merchants, a like reduction of the duties granted by the present law to American merchants, and thereby more closely cement the benevolent ties which unite the two nations.

ARTICLE V. That the law of the 20th of August, 1790, be suspended, and that vessels laden with merchandise of the East Indies may be at liberty to land in any port of the Republic during the war; and that those which shall be laden with the productions of the Isle of France and of Bourbon shall henceforward enjoy the same privilege.

The National Convention has suspended the law of the 15th of May, 1791, which inhibited the Americans from introducing, selling, and arming their vessels in France, and from enjoying all the advantages allowed to those built in the ship yards of the Republic.

Certified to be conformable to the decree of the National Convention of France.

The Minister Plenipotentiary of the French Republic,

GENET.

No. 8.

Copy of a Decree exempting from all duties the subsistences and other objects of supply in the colonies, relatively to the United States, pronounced in the sitting of the 26*th of March*, 1793, *second year of the French Republic.*

[Translation.]

(Vide volume 1, Foreign Relations, page 363.)

No. 9.

Mr. Morris, Minister Plenipotentiary of the United States to France, to Mr. Le Brun, French Minister of Foreign Affairs, dated Paris, March 24, 1793.

(Vide volume 1, Foreign Relations, pages 358, 359.)

No. 10.

Mr. Morris to Mr. Le Brun, dated Paris, March 28, 1793.

(Vide volume 1, Foreign Relations, page 359.)

No. 11.

Mr. Le Brun to Mr. Morris, dated Paris, March 29, 1793, second year of the Republic.

(Vide volume 1, Foreign Relations, pages 359, 360.)

No. 12.

Minister of Marine to the Minister of Foreign Affairs of the French Republic, dated Paris, April 7, 1793.

[Translation.]

(Vide volume 1, Foreign Relations, pages 361, 362.)

No. 13.

No. 26.—*Mr. Morris to Mr. Jefferson, dated Paris, April 4, 1793.*

[Extract.]

"The constant complaints on account of the capture of American vessels, and the necessity of giving protection to such of our countrymen as are here, have prevented me hitherto from leaving Paris."

No. 14.

Copy of a circular letter written by the French Minister of Marine to the Civil Ordonnateurs in the different ports of the Republic, dated Paris March 30, 1793.

[Translation.]

CITIZEN: Being informed * * * on the part of the French privateers.
(Vide volume 1, Foreign Relations, page 362.)

No. 15.

Mr. Le Brun, French Minister of Foreign Affairs, to Mr. Morris, dated Paris, April 8, 1793.

[Extract.—Translation.]

"Besides this proof duly attested, it were to be wished that the American vessels might be furnished with a passport, agreeably to the model annexed to the treaty of commerce of 1778. I have instructed Citizen Genet, Minister Plenipotentiary of the Republic at Philadelphia, to require of the Government of the United States a regulation for having all American vessels furnished with those passports, to prevent every difficulty that might arise in that respect."

No. 16.

Mr. Le Brun to Mr. Morris, dated Paris, April 8, 1793.

[Translation.]

SIR: I have received the new claims you have addressed to me concerning Captain Thomas White. * * * Consuls of your nation.

I have the honor to be, &c.,

LE BRUN.

(Vide volume 1, Foreign Relations, page 362.)

No. 17.

Mr. Morris to Mr. Le Brun, dated Paris, May 14, 1793.

SIR: I have this moment learned * * *.
(Vide volume 1, Foreign Relations, page 364.)

No. 18.

Copy of the Decree of the National Convention of May 9, 1793, *in the second year of the Republic of France.*

[Translation.]

The National Convention * * * citizens of France.
(Vide volume 1, Foreign Relations, page 379.)

No. 19.

Extract from the Registers of Deliberations of the Provisory Executive Council of May 16, 1793.

[Translation.]

(Vide volume 1, Foreign Relations, page 365.)

No. 20.

Mr. Le Brun to Mr. Morris.

[Translation.]

PARIS, *May* 17, 1793.

(Vide volume 1, Foreign Relations, page 364.)

No. 21.

Mr. Morris to Mr. Le Brun.

SAINPORT, *June* 12, 1793.

SIR: I have just learned, &c. * * *.
(Vide volume 1, Foreign Relations, page 366.)

No. 22.

Mr. Le Brun to Mr. Morris.

[Translation.]

PARIS, *May* 26, 1793.

SIR: Conformable to, &c. * * *.
(Vide volume 1, Foreign Relations, page 365.)

No. 23.

Decree of the National Convention of the 23*d of May, which declares that the vessels of the United States are not comprehended in the dispositions of the decree of the* 9*th of May.*

[Translation.]

The National Convention, after having heard the report of their Committee of Public Safety, wishing to maintain the union established between the French Republic and the United States of America, decree,

that the vessels of the United States are not comprehended in the dispositions of the decree of the 9th of May, conformably to the 16th article of the treaty concluded on the 6th of February, 1778.

True copy. LE BRUN.

Note subjoined to the foregoing in Waite's S. P., volume 7, page 149.

It appears that on the 28th of May the Convention passed a decree which so far repealed that of the 23d of May as to place in a state of provisional sequestration the property seized under the decree of the 9th of May.

No copy of the decree of the 28th of May is to be found in the Department of State.

No. 24.

Mr. Morris to Mr. Le Brun.

[Extract.]

SAINPORT, *June* 19, 1793.

"I was much astonished * * * the national decisions."
(Vide volume 1, Foreign Relations, pages 367, 368.)

No. 25.

No. 33.—*Mr. Morris to the Secretary of State.*

[Extract.]

SAINPORT, *June* 25, 1793.

"I do myself the honor * * * than I choose to acknowledge to them."
(Vide volume 1, Foreign Relations, pages 366, 367.)

No. 26.

Mr. Morris to the French Minister of Foreign Affairs, dated Sainport, June 27, 1793.

(Vide volume 1, Foreign Relations, page 369.)

No. 27.

Mr. Morris to the French Minister of Foreign Affairs, dated Sainport, June 28, 1793.

[Extract.]

"Permit me, sir, * * * inconveniences to both parties."
(Vide volume 1, Foreign Relations, page 369.)

No. 28.

French Minister of Foreign Affairs to Mr. Morris, dated Paris, July 3, 1793.

[Extract.]

"I also enclose a copy of a decree exempting vessels of the United States from the dispositions of the decree of the 9th of May. I am very happy in being able to give you this new proof of the fraternal sentiments of the French people for their allies, and of their firm determination to maintain, to the utmost of their power, the treaties subsisting between the two Republics."

No. 29.

Copy of the Decree of the National Convention of July 1, 1793, *second year of the French Republic, which exempts from the dispositions of the decree of May* 9, 1793, *the vessels of the United States.*

[Translation.]

The Convention, after having heard the report of the Committee of Public Safety, wishing to maintain the union established between the French Republic and the United States of America, decrees: That the vessels of the United States are not comprised in the dispositions of the decree of the 9th of May, conformably to the 16th article of the treaty concluded the 6th of February, 1778.

Certified conformable to the original.

DEFORGUES.

Note attached to the foregoing in Waite's S. P., volume 7, *page* 150.

It appears that on the 27th of July the Convention again put in force the decree of the 9th of May; but no copy of the act by which this was done is to be found in the Department of State.

No. 30.

Extracts from the Registers of the Deliberations of the Provisory Executive Council of July 14, 1793.

[Translation.]

The Minister of Marine, &c. * * *.

(Vide volume 1, Foreign Relations, page 371.)

No. 31.

Mr. Morris to the French Minister of Foreign Affairs, dated Sainport, July 24, 1793.

(Vide volume 1, Foreign Relations, page 370.)

No. 32.

No. 35.—*Mr. Morris to Mr. Jefferson, Secretary of State, dated Sainport, August* 13, 1793.

[Extracts.]

"You will perceive, sir, * * * will judge thereon."

(Vide volume 1, Foreign Relations, pages 368, 369.)

No. 33.

Mr. Jefferson, Secretary of State, to Mr. Morris.

PHILADELPHIA, *August* 16, 1793.

(Vide volume 1, Foreign Relations, pages 167 to 172.)

No. 34.

No. 38.—*Mr. Morris to the Secretary of State, dated Paris, October* 10, 1793.

[Extract.]

"I am very anxious that Consuls * * * be executed was repealed."

(Vide volume 1, Foreign Relations, page 373.)

No. 35.

French Minister of Foreign Affairs to Mr. Morris, dated Paris, October 14, 1793.

[Extract.]

"The extreme rigor * * * taken in the sequel."
(Vide volume 1, Foreign Relations, pages 376, 377.)

No. 36.

Copy of an address of Jean Bon Sant Andre to the National Convention of France, enclosed by Gouverneur Morris to the Secretary of State.

[Translation.]

Jean Bon Sant Andre, in the name of the Committee of Public Safety.

CITIZENS: If the report which I am instructed to make to the Convention in the name of its Committee of Public Safety had no other object than the particular affair to which it led, it might appear of a trifling nature; but legislators will doubtless observe in the passions which have provoked it, in the reproach of the laws, incoherent and contradictory, which have imposed on your religion in the diversity of opinion of two of your committee, that it was intrigue, supported by cupidity, to lead astray the wisdom of the representatives of the people.

The privateer Sans Culotte, of Honfleurs, captured on the 20th March, about six leagues from Portland, the American ship Laurens, Captain White, bound from Charleston to London with a cargo of rice and indigo. The Tribunal of Havre, Marat, pronounced the *replevy* of the vessel and cargo by its decision of April 10. It also condemned the captors to make the necessary repairs to the Laurens for enabling her to continue her route, to make restitution, under pain of 3,000 livres, to the crew, and to pay to the American captain the damages as well as the expense of the procedure.

Vile avarice with difficulty obtains its prey. Although the decision was just, as there did not then exist a law authorizing a French privateer to capture an American vessel, it was expected to obtain from the Convention a decree favorable to the pretensions of the owners. The proposition was not at first made openly, but intrigue, which is incessantly put in motion around us, which fabricates in darkness, which deceives even the most circumspect, the ideas of justice and equity, obtained that in the decree of May 9, rendered on the report of the Marine Committee, which authorizes the French privateers to seize on board of neutral vessels enemy provisions and merchandises. A retrospective effect should be given by the fifth article of that law. This was a surprise on your Marine Committee. Thus did the Minister of the United States think, who reclaimed strongly against this disposition, which he attributed to the suggestions of the owners of the privateer Sans Culotte.

The Committee of Public Safety, informed of the complaints of the Minister of the United States, demanded and obtained the report of the decree.

The second decree was again reported on the 28th of May. In fact, the Convention, to whom this question appeared delicate at that time, confined itself to order that the merchandises taken on board of neutrals should remain provisionally sequestered, and that the Committees of Public Safety and of Marine, in conjunction, should report to them on this business.

The Committee of Public Safety, pressed by the claims of the Minister of the United States, on the 1st of July made a report, on which the Convention decreed that, conformably to the treaty of February 6, 1778, the vessels of the United States should not be comprehended in the dispositions of the decree of the 9th May.

The affair relative to the taking of the Laurens seemed terminated by this decree. The owners of the Sans Culotte dared to hope for a new triumph, and, what is incredible, obtained it. The Committee of Marine, on the petition presented by them to the Convention, brought about the decree of the 27th of July, which maintained the dispositions of that of the 9th May.

However, a great and important question of policy was submitted to your wisdom by your Committee of Public Safety. Its object was to prepare the future glory of your commerce by determining to what point foreigners should be permitted to participate therein; the Committee of Public Safety proposed to you the act of navigation; you decreed, amidst the reiterated applause of an enlightened people, capable of appreciating the utility of the measures taken for their happiness. Now, in this navigation act you declared, in the name of the French nation, that you would fully maintain the commercial treaty concluded with the United States.

What doubt, therefore, can remain on this *interminable* affair? or shall we look for the expression of the true will of the Legislature in a decree which might have been the effect of surprise, or in one of those general laws, the fruit of the genius of the Legislature, made to descend to the latest posterity, and which, embracing in its dispositions all the views of policy, must have an authority equal to the force of the principles forming its basis, and to the happy effects which it should produce.

The Executive Council, obliged to pronounce between the French privateer and the American captain, seeing only the law and its principles, decreed the replevy of the ship Laurens, the payment of the articles of first necessity on board of her, and a just indemnification for the captain. The owners of the privateer complain most bitterly of this decision, and, adding insult to resentment, they accused the Executive Council of being bribed by Pitt. To imitate his Machiavelism; to commit injustice to neutral nations; to alienate Governments preserving friendship for us; and to prefer the fleeting interests of some individuals to that of the Republic in general, would seem to be under his influence.

But to have the courage of being just, even to its own detriment, and to consider much less its riches

than its honor, is the character and the duty of a free nation which has founded virtue solely as the basis of its Government.

The Executive Council has but one thing to reproach itself with, that of having had a moment of weakness. Notwithstanding the evidence of the proofs resulting from the date of the departure of the ship Laurens from Charleston, the 7th of February, when she could not have had any knowledge of the rupture between France and England, of the interrogation of the crew, of the bill of lading, and especially of the correspondence of the party who loaded her; notwithstanding so many testimonies collectively concurring to attest the illegality of the capture, it consented to submit its decree to a revision.

A new examination has produced the same result. The Executive Council has been more and more convinced that the law of nations, which, in the principles of your policy, does not differ from justice, did not permit longer to detain a vessel which belongs to a neutral and friendly nation. Already have eight months elapsed since the taking of this vessel; several methods have been used to embroil an affair simple in itself; still renewed by all the concerned in the Sans Culotte, and still returning to the sanctuary of the laws. This is an asylum without doubt, but it is open but to innocence, to generous and disinterested patriotism, and not to vile cupidity and the egotist.

Your committee, who have traced this business, who have sifted it, do not deem it necessary to support demonstrative proofs by presumption; but they conceive they have discovered the true motives of that obstinate resistance which is opposed to the judgment of the tribunal, and to the acts of the Executive Council, and it is because they conceive they know them that they abstain from speaking of them.

How insinuating and adroit is the thirst for riches! how great is the art of violating the most sacred principles, in order to turn it to the establishment of principles themselves! They endeavor to draw your attention to the lot of the families of the marines interested in the prize. The captors say, in their petition, that those families would be reduced to misery if you decree the replevy of the Laurens. Legislators, you know the spirit which animates the marines; it is yours, it is that which pervades the whole French people, of which they form part. To injure the enemy of the country; to force them to respect it; to treat delicately its friends, rendering them affection for affection, benevolence for benevolence; this is what they wish. The sailors, when you shall have determined, will submit to your decision; they will rove on the sea and compensate themselves on the English for the justice you shall render to the Americans. It is not the interest of the sailor which the interested seek to save; this is trifling and inconsiderable; it is their own. It is their own fortune which influences their claim; they have just requested you to enrich themselves. Legislators, should you comply?

The following is the project which your Committee of Public Safety charge me to present to you:

"The National Convention, after having heard the report of its Committee of Public Safety on the petition presented to them by the owners and crew of the privateer the Sans Culotte, relative to the prize made by that privateer of the American ship Laurens, Captain White, and upon which the Tribunal of Havre, Marat, by its decision of the 10th of April, and the Executive Council by its arrêts of the 23d Frimaire, and of ——, have pronounced the replevy, decrees definitively that they have no occasion to deliberate thereon."

A member.—The affair in question has been sent to the Committee of Public Safety, Commerce, and of Marine, united. It occupied the latter several times; he does not think that national justice requires the restitution of the merchandises taken, and his motive is, that those merchandises are enemy property. In fact, several reasons lead to a belief that those merchandises are American; I say several, for there are also others which lead to doubt of their being so, and even demonstrate that they are English property fraudulently transported, as the deposition of one of the crew has led him to believe. Now, if it be true that these merchandises are enemy property, the national generosity cannot in any hypothesis authorize the restitution of them. There does, indeed, exist a treaty which stipulates that American vessels shall neutralize the merchandises which they carry; but this treaty is disastrous for the French Republic; and although the committee has not thought that it should propose to you to apply modifications herein, it supports itself by the decrees which you have hitherto enacted, and especially that of Brumaire, in which it is said that the treaties shall be supported, except where the revolutionary government shall be in the necessity of making modifications. Now, it is perhaps an indispensable modification to seek to impoverish the commerce of our enemies, daily enriching itself by the means of a disastrous treaty. The interest of Americans is not here in question; it is that of the English; for enemy merchandises, under whatever flag they may be transported, are still enemy property. I demand, therefore, that the project which is submitted to you be sent back to the discussion of the three committees; that the discussion be had immediately; and that the Committee of Public Safety be charged to examine the treaty of February, 1778, and to make a report on the question if it be not susceptible of the application of the decree of Brumaire.

Jean Bon St. Andre.—Two propositions are made to you—the one particular, the other general. I shall say nothing to you on the general proposition. It is for the Convention to examine whether it thinks the treaty of 1778 susceptible of modification. But as long as treaties exist, and you have besides recently contracted the obligation of executing them in an important and solemn act, I do not think that any consideration should lead you to deviate from the principles which you have adopted. The question being called for from all parts, the decree was adopted.

No. 37.

Mr. Morris to the Secretary of State, dated Paris, October 19, 1793.

[Extract.]

"It is probable that * * * I hold the matter open."

(Vide volume 1, Foreign Relations, page 375.)

No. 38.

No. 42.—*Mr. Morris to the Secretary of State, dated Paris, November* 26, 1793.

[Extract.]

"We have (as Mr. Fenwick informs me) ninety-two sail of vessels at Bordeaux. I have formerly mentioned to you the embargo laid in that port. It has at length produced the greatest distress. The crews have consumed their provisions. The merchants will be saddled with heavy loss and cost. I have made reiterated applications, but the situation of that city has prevented the Comité de Salut Public from a direct interference. The commissaries have persisted in their measure of shutting the port. They promise Mr. Fenwick redress from day to day."

No. 39.

No. 44.—*Mr. Morris to the Secretary of State, dated Paris, January* 21, 1794.

[Extract.]

"I am promised daily that the embargo laid on our ships in the port of Bordeaux shall be taken off, and an indemnification be granted for the losses which it has occasioned. I have never been able to learn why it was laid, but have some reason to believe that just ground of suspicion had been given as to the voyages, the cargoes, and even the property, of some of the vessels then in that port.

"The deputation now here is pursuing the affair before the committees, and will, I trust, be successful, as it had already been resolved on to give adequate redress, and I presume that they will not impair the favorable intention which existed previous to their arrival."

No. 40.

Mr. Morris to the French Minister of Foreign Affairs.

[Translation.]

PARIS, *February* 27, 1794, *9th Ventose.*

The Minister Plenipotentiary of the United States from America to the Republic of France to the Minister for Foreign Affairs.

SIR: The captains of the American vessels brought into your ports, and the interested in the said vessels and their cargoes, address to me very serious complaints which appear to me but too well founded.

I shall not here examine the measure in itself, excusable perhaps in the present extraordinary circumstances of the Republic. But admitting that even a hard necessity might justify the violation of the rights of a neutral and ally nation, should it be expected to experience only the inevitable vexations of that violation? It ought to expect that the French Republic would pay for these forced supplies with so much the more liberality and readiness, as the manner in which they have been acquired is rather uncommon. But I observe with regret that those who, sailing for France, have had the misfortune to be conducted to England, have had less to complain of than those who have been conducted into the ports of the Republic, in which delays and expenses consume the whole amount. Some of the American vessels have been re-captured, but the captains, guarded with a part of their crews on board the French vessel by whom they were taken, have not been informed of the re-capture until their arrival in a port of the Republic, where they have for months solicited damages, relief, the means of support, and permission to depart. I am sorry to add that all their solicitations have proved ineffectual. Captains Florence, Donavan, and Benjamin Rogers, taken into Brest by the Impetueux, Captain Bishop, are in this circumstance. Several American vessels and cargoes, among others that of the Danish vessel Kragerve, are in this same port, and I am informed that no person is there authorized on the part of the Republic to treat for the cargoes, to pay the freight of the vessels, or to fix the damages which the injured persons conceive themselves entitled to.

Thus the unfortunate, taken at sea by the vessels of an ally nation, and conducted prisoners into distant ports, are obliged, although without means and almost destitute of resources, to undertake a long and expensive voyage, in order to obtain that justice which, in fine, can be rendered only in the ports whence they sailed, as it is there that they must verify and arrange definitively the price according to the quality.

I hope, sir, that the most particular orders will be expedited to remedy these evils, and that you will speedily enable me to render a satisfactory account thereof to the American Government.

GOUVERNEUR MORRIS.

No. 41.

French Minister of Foreign Affairs to Mr. Morris.

[Translation.]

PARIS, 14*th Ventose*, 2*d year of the Republic, one and indivisible, (March* 5, 1794.)

The Minister for Foreign Affairs to the Minister of the United States:

I have received your two letters of the 9th of this month, concerning different demands, the importance of which I am aware of. I have already submitted them to the Committee of Public Safety. I shall renew my solicitations to them, in order to obtain a decision as speedily as you desire.

If the committee have not yet determined on the claims of the American proprietors and captains, you must attribute the delay merely to the existing circumstances, and the multiplicity of business committed to them.

DEFORGUES.

No. 42.

No. 45.—*Mr. Morris to the Secretary of State, dated Sainport, March* 6, 1794.

[Extract.]

"I send herewith a copy of my letter with one of the same date, respecting the vessels and cargoes brought in by French frigates contrary not only to our treaty, but to every principle of the law of nations. These captures create great confusion, must produce much damage to mercantile men, and are a source of endless and well founded complaint. Every post brings me piles of letters about it from all quarters, and I see no remedy. You have a copy of the minister's answer to my letter, holding out the hope of speedy decision, but it may be very long before it can be obtained. And in the meantime, if I would give way to the clamors of the injured parties, I ought to make demands very like a declaration of war. What am I to do in such cases? It is impossible for me to guess the intentions of Government, and indeed, sir, the responsibility is great and distressing."

No. 43.

Mr. Buchot, French Commissioner of Foreign Relations, to Mr. Morris, dated Paris, 16*th Messidor,* 2*d year of the Republic, (July* 5, 1794.)

"The sentiments of the Convention and of the Government towards your fellow-citizens are too well known to you to leave a doubt of their dispositions to make good the losses which the circumstances inseparable from a great revolution may have caused some American navigators to experience."

No. 44.

Extracts of a letter from Mr. Randolph, Secretary of State, to Mr. Monroe, Minister to France, dated Philadelphia, June 10, 1794.

"You have been nominated * * * executive relative to the French nation.
"From Mr. Genet and Fauchet * * * *and restitution of the posts.*
"Should you be interrogated * * * negotiated with the Government here.
"In like manner, * * * attachment to their cause.
"There is reason to believe, * * * about the embargo.
"Should our embargo * * * accurate information.
"But you will go further, * * * obtaining of satisfaction.
"The dilatoriness * * * documents themselves.
"You know the extreme * * * is entered upon the better."
(Vide volume 1, Foreign Relations, pages 568, 569.)

No. 45.

Secretary of State to Mr. Monroe, dated July 30, 1794.

[Extract.]

The cases of spoliation and vexation * * * on the French Government."
Vide volume 1, Foreign Relations, page 670.)

No. 46.

Mr. Monroe to the Secretary of State, dated Paris, August 25, 1794.

[Extract.]

"At the same time I had reason to believe * * * rendered for the injury sustained."
(Vide volume 1, Foreign Relations, pages 672, 673.)

No. 47.

Mr. Monroe to the Secretary of State, dated Paris, September 15, 1794.

[Extract.]

"As soon as I could command * * * immense weight of business before the Department."
(Vide volume 1, Foreign Relations, pages 673, 674.)

No. 48.

The Secretary of State to Mr. Monroe, dated Philadelphia, September 25, 1794.

[Extract.]

"The spoliations and vexations * * * final success on your part."
(Vide volume 1, Foreign Relations, page 678,)

No. 51.

Mr. Monroe to the Secretary of State, dated Paris, November 7, 1794.

[Extract.]

"By this time I had obtained from Mr. Skipwith * * * prevent abuses under the existing system."
(Vide volume 1, Foreign Relations, page 682.)

No. 52.

Secretary of State to Mr. Monroe, dated Philadelphia, December 2, 1794.

[Extract.]

"In your letter you say * * * precedent for the assumption of any other."
(Vide volume 1, Foreign Relations, page 690.)

No. 53.

Mr. Monroe to the Secretary of State, dated Paris, January 13, 1795.

[Extract.]

"I have the pleasure to inform * * * retain it forever afterwards."
(Vide volume 1, Foreign Relations, page 691.)

No. 54.

Mr. Monroe to the Secretary of State, dated February 12, 1795.

[Extract.]

"You have already seen * * * to the best account in negotiation."
(Vide volume 1, Foreign Relations, page 695.)

No. 55.

Mr. Jay, Minister of the United States at London, to Mr. Monroe, dated London, February 19, 1795.

(Vide volume 1, Foreign Relations, page 518.)

No. 56.

Mr. Monroe to the Secretary of State, dated Paris, March 6, 1792.

[Extract.]

"P. S. 9th. Since writing the above, I have been explicitly assured by Mr. Pelet, a member of the diplomatic section of the Committee of Public Safety, that, in confidence, Mr. Jay's treaty contained nothing which would give uneasiness here; they had expressly instructed their agent, now negotiating with Spain, to use his utmost effort to secure for us the points in controversy between the United States and that power; in consequence, I thought proper to send in a short supplemental note, explanatory of the several objects of that controversy, and which I likewise enclose herein, with the report of Mr. Mountflorence, by whom it was delivered. What the success of their endeavors in our behalf may be is uncertain; but we cannot expect the conclusion of their own treaty will be long delayed on that account."

No. 57.

Secretary of State to Mr. Monroe, dated Philadelphia, March 8, 1795.

[Extract.]

"I have the pleasure to inform you that the President much approves your attention to our commerce; and the merchants who are immediately interested, and to whom I have communicated your measures, think them judicious."

No. 58.

Mr. Monroe to the Secretary of State, dated April 14, 1795.

[Extract.]

"I was lately favored with a letter from Mr. Jay * * *.
(Vide volume 1, Foreign Relations, page 705 to 712.)

No. 60.

Mr. Monroe to the Secretary of State, dated Paris, June 26, 1795.

[Extract.]

"Since my last, it is reduced * * * it might produce an ill effect there."
(Vide volume 1, Foreign Relations, page 715.)

No. 61.

The Secretary of State to Mr. Monroe, dated Philadelphia, July 14, 1795.

[Extract.]

"The treaty is not yet ratified by the President, nor will it be ratified, I believe, until it returns from England, if then. But I do not mean this for a public communication, or for any public body of men. I am engaged in a work which, when finished and approved by the President, will enable me to speak precisely to you. The late British order for seizing provisions is a weighty obstacle to a ratification. I do not suppose that such an attempt to starve France will be countenanced."

No. 62.

The Secretary of State to Mr. Monroe, dated Philadelphia, July 21, 1795.

SIR: By a past opportunity * * *.
(Vide volume 1, Foreign Relations, page 719.)

No. 63.

Secretary of State to Mr. Jay, Minister to Great Britain, dated Philadelphia, May 6, 1794.

[Instructions.]

SIR: The mission upon which you are about to enter * * * health and safe return.
(Vide volume 1, Foreign Relations, pages 472–'73–'74.)

No. 64.

Secretary of State to Mr. Jay, dated Philadelphia, November 12, 1794.

[Extract.]

"If the prohibition to sell French prizes should commence sooner than the termination of the war, we shall be placed in very great difficulties, and I am pleased to observe that you are impressed with the force of this idea."

No. 65.

Mr. Monroe to the Secretary of State, dated Paris, August 17, 1795.

[Extract.]

"Within a few days past * * * it can be withheld."
(Vide volume 1, Foreign Relations, pages 720–'21.)

No. 66.

Mr. Skipwith, Consul General of the United States at Paris, to Mr. Monroe, dated Paris, Vindemiaire, 3d year, (September 25, 1795.)

[Extract.]

"At your request I now lay before you a statement of the innumerable embarrassments and difficulties which our commerce has for a long time and continues still to labor under in the different ports of the French Republic. It is evident, if their Government does not soon remedy the incessant abuses and vexations practiced daily upon our merchants, vessels, captains, and crews, the trade of the United States

with France must cease. I cannot give you an ample detail of all the inconveniences and oppressions which have been thrown upon our commerce—many of the consuls and their agents, to whom you have written to forward such documents to my office, having not yet done it; besides, it would take volumes to expose them at full length.

"From the communications, however, already received from the different ports, and from the information I have collected from the captains present, I can assure you that there are near 300 sail of American vessels now in the ports of France, all of whom have suffered, or are suffering, more or less delay and difficulties, of which the examples annexed will afford you a general view. The hardships of which I have chiefly to complain, and out of which there grows incalculable evils, may be developed under four general heads:

"1. The capture, indiscriminately, of our vessels at sea by the vessels-of-war of the Republic.

"2. The impossibility of Americans selling their cargoes and receiving payment at the ports to which they are conducted, or of their own accord arrive.

"3. The difficulties and procrastinations which they find in their transactions with the Boards of Marine and Commerce.

"4. The non-compliance or heretofore delay in fulfilling the contracts made by the agents of the French Republic in America for supplies of provisions.

"The seizure of our vessels at sea often gives rise to the most serious and well founded complaints; the stripping them of their officers and crews, who are generally replaced by boys and inexperienced hands, in order to be conducted to ports, exposes them to much injury, and sometimes total loss; the confinement of our sailors taken out of those vessels, the seals upon their cargoes, and, above all, the sending the papers to the Commission of Marine, at Paris, involves the most unwarrantable hardships and delays, and I am sorry to add that all our vessels experience some of those difficulties, even, indeed, such as arrive with cargoes on account of the Republic, months elapsing before the captains can get their clearances and papers, many of which are often lost or mislaid."

No. 67.

Mr. Monroe to the Secretary of State, dated Paris, February 20, 1796.

SIR: Immediately after my last * * *.

(Vide volume 1, Foreign Relations, pages 730–'31.)

No. 68.

Summary exposition of the complaints of the French Government against the Government of the United States. March 9, 1796.

FIRST COMPLAINT. The inexecution of treaties.

1. The courts of justice * * * bind them to observe.

CH. DE LA CROIX.

PARIS, 19*th Ventose, 4th year of the Republic,* (*March* 9, 1796.)

(Vide volume 1, Foreign Relations, pages 732–'33.)

No. 69.

Mr. Redon, Commissioner of the Marine and of the Colonies of France, to Mr. Monroe, dated Paris, 7th Fructidor, 3d year of the Republic, (*August* 24, 1795.)

CITIZEN: The frankness which has always been and shall be the basis of the political and commercial transactions between the French Republic and that which you represent, commands me to awaken your solicitude upon occurrences which would tend insensibly to loosen the bonds which unite the two nations, if, as I cannot believe, you should not concur with the agents of the French Government in putting a stop to the multiplied abuses, of which the ports in the channel, and even the great ports of equipment, offer daily examples.

Some captains, furnished with American papers, frequent habitually those ports, and the shortness of the intervals which occur between their different trips give ground to strong suspicions against them. Most frequently they arrive in ballast, or with the semblance of a cargo, which they evade selling. Lately one arrived at Fecamp; contradicted himself in his declarations; in fine, every circumstance induces a belief that the real end, that the only end of the conduct they pursue, is a communication kept up between the French and English ports of the channel for the transportation of passengers, letters, and perhaps even coin.

While I transmit you these details, I cannot avoid informing you of complaints of another kind, which have been made by French seamen returned from the English prisons, and who, destitute, in consequence of a tedious imprisonment, of all means of subsistence, have been obliged to pay these same captains from two to five guineas for a passage from Dover to Calais. Such conduct adds to the suspicion of an under-

standing with our enemies, the certainty of a base cupidity, which asks a ransom from patriotism, and speculates upon misfortune.

You must be sensible, citizen, that the character of neutrality, which renders a nation respectable, in our view, ought not to serve as an Ægis to private designs, nor to shut our eyes upon those measures which may commit the general welfare and safety of the Republic. It is therefore urgent that you should co-operate in unveiling the individuals who usurp the American colors in order to betray our mutual interests, and it is in the name of that friendship which unites two free nations that I now wish to induce you to secure the co-operation of men clothed with your confidence, in our ports, to prevent such monstrous abuses. Your well known character is a guarantee that you will second with alacrity the adoption of measures which, without wounding the sacred rights of hospitality, may frustrate the intrigues of individuals who, under the cloak of that title, and through the means of conformity of manners, habits, language, and customs, receive, with impunity, from the treasures of England, means of corruption a thousand times more dangerous to us than the chance of battles. I submit with confidence to your wisdom the means which would appear to me proper to attain this end.

You could, citizen, direct the consuls of the United States to invite every captain of an American vessel not to land either men or goods, when arriving in our ports, without first calling on the maritime agent to communicate to him the intention of his voyage, the nature and quantity of the merchandise on board his vessel, and their destination, where shipped, and the number of his passengers. Each captain might receive from you, or from the consular agents of your nation, the order to exhibit, upon demand, his journal and other sea papers.

From the nature of the facts I have laid before you, would you think, citizen, that there would be any inconvenience that the maritime agent, or an agent of administration by him delegated, should be authorized to go on board, in order to ascertain the faithfulness of the declarations, if they give room for well founded suspicions? And would you not say, in case their inaccuracy should be proved, that it would be proper to keep the crew and passengers on board until a decision from the Committee of Public Safety be had? You must be sensible that even in these cases, which I delight in believing would be very rare, I should, on my part, hasten to cause to be furnished every necessary succor and facility; and the indemnity, which might be due in case of the definitive admission of the vessels into our ports, would besides be settled.

At all events, you will no doubt deem it proper not to suffer the landing of the passengers calling themselves citizens of the United States until their title to that citizenship be legally ascertained by the consuls of your nation.

I beg you, citizen, to weigh these ideas, and to transmit me yours on the preventive means to be used, to avoid the repetition of the acts of which I have presented you a picture.

REDON.

No. 70.

Mr. Monroe to the French Minister of Foreign Affairs, dated Paris, March 15, 1796.

I was lately honored with * * *.

(Vide volume 1, Foreign Relations, pages 733–'34–'35.)

No. 71.

French Minister of Foreign Affairs to Mr. Monroe, dated Paris, 7th Messidor, 4th year of the Republic, (June 25, 1796.*)*

Our last intelligence informs us that the House of Representatives of the Congress has consented, by the majority of fifty-one against forty-eight votes, to carry into execution the treaty concluded at London, between the United States and Great Britain, in November, 1794. As this advice is derived only from the gazettes, I desire, citizen, that you will be pleased to inform me what official information you have upon this subject. After the Chamber of Representatives has given its consent to this treaty, we ought, without doubt, to consider it in full force; and as the state of things which results from it merits our profound attention, I wish to learn from you in what light we are to consider the event which the public papers announce, before I call the attention of the Directory to those consequences which ought specially to interest this republic.

CH. DE LA CROIX.

No. 72.

French Minister of Foreign Affairs to Mr. Monroe, dated Paris, 19th Messidor, 4th year of the Republic, (July 7, 1796.*)*

CITIZEN MINISTER: The hope of seeing depart * * * most strict reciprocity.

CH. DE LA CROIX.

(Vide volume 1, Foreign Relations, page 739.)

No. 73.

Mr. Monroe to the French Minister of Foreign Affairs, dated Paris, July 14, 1796, *(26th Messidor,) and* 21*st year of the Independence of the United States of America.*

The Minister Plenipotentiary of the United States of America to the Minister of Foreign Affairs of the French Republic.

CITIZEN MINISTER: I have received your favor * * * candor of the Directoire Executif.

JAMES MONROE.

(Vide volume 1, Foreign Relations, pages 740, 741.)

No. 74.

Secretary of State to Mr. Monroe, dated Philadelphia, September 9, 1796.

SIR: General Pinckney will be * * * a successful conclusion.

I am, &c. TIMOTHY PICKERING.

(Vide volume 1, Foreign Relations, page 742.)

No. 75.

Extract from the Register of the Resolves of the French Executive Directory, dated 25*th Fructidor,* 4*th year of the Republic, (September* 11, 1796.*)*

The Executive Directory resolves as follows:

The Minister of Foreign Affairs will declare to Citizen Monroe, Minister Plenipotentiary of the United States of America, that if the Federal Government does not put a stop to the procedure against the Citizen Collot, and does not refer those who sue him before the Government and his natural judges in France, the Executive Directory will take the necessary measures that reprisals shall be used for reparation of all the injuries of the American Government, and of its agents, towards the French citizens and Government.

This resolve shall not be printed.

L. M. REVEILLERE LEPEAUX, *President.*

By the Executive Directory:

LAGARDE, *Secretary General.*

CH. DE LA CROIX, *Minister of Foreign Affairs.*

No. 76.

French Minister of Foreign Affairs to Mr. Monroe, dated Paris, 16*th Vindemiaire,* 5*th year of the Republic, (October* 7, 1796.*)*

[Translation.]

CITIZEN MINISTER: The Executive Directory * * * shall be made through you.

Health and fraternity,

CH. DE LA CROIX.

(Vide volume 1, Foreign Relations, page 745.)

No. 77.

Extract from the Register of the Resolves of the Executive Directory of the 14*th Messidor,* 4*th year of the French Republic, (July* 2, 1796.*)*

[Translation.]

The Executive Directory, considering that if it becomes the faith of the French nation to respect treaties or conventions which secure to the flags of some neutral or friendly powers commercial advantages, the result of which is to be common to the contracting powers, those same advantages, if they should turn to the benefit of our enemies, either through the weakness of our allies, or of neutrals, or through fear, through interested views, or through whatever motives, would, in fact, warrant the inexecution of the articles in which they were stipulated, decrees as follows:

All neutral or allied powers shall, without delay, be notified that the flag of the French Republic will treat neutral vessels, either as to confiscation, as to searches or capture, in the same manner as they shall suffer the English to treat them.

The Minister of Foreign Relations is charged with the execution of the present resolve, which shall not be printed.

A true copy:

CARNOT, *President.*

By the Executive Directory: The Secretary General,

LAGARDE.

True copy: The Minister of Foreign Affairs,

CH. DE LA CROIX.

True copy: The Minister Plenipotentiary of the French Republic, near the United States of America,

P. A. ADET.

No. 78.

French Minister of Foreign Affairs to Mr. Monroe, dated Paris, 21st Frimaire, 5th year of the Republic, (*December* 11, 1794.)

CITIZEN MINISTER: I hastened to lay before the Executive Directory the copy of your letter of recall, and of the credentials of Mr. Pinckney, whom the President of the United States has appointed to succeed you as Minister Plenipotentiary of the said States, near the French Republic.

The Directory has charged me to notify you "that it will no longer recognize nor receive a Minister Plenipotentiary from the United States, until after a reparation of the grievances demanded of the American Government, and which the French Republic has a right to expect."

I beg you, Citizen Minister, to be persuaded that this determination, which is become necessary, does not oppose the continuance of the affection between the French Republic and the American people, which is grounded on former good offices and reciprocal interest; an affection which you have taken pleasure in cultivating by all the means in your power.

Accept, Citizen Minister, the assurance of my perfect consideration.

CH. DE LA CROIX.

No. 79.

Answer of the President of the French Directory to Mr. Monroe's address on presenting his letter of recall; without date.

Mr. Minister Plenipotentiary of the United States of America:

By presenting this day to the Executive Directory your letters of recall, you offer a very strange spectacle to Europe.

France, rich in her freedom, surrounded by the train of her victories, and strong in the esteem of her allies, will not stoop to calculate the consequences of the condescension of the American Government to the wishes of its ancient tyrants. The French Republic expects, however, that the successors of Columbus, Raleigh, and Penn, always proud of their liberty, will never forget that they owe it to France. They will weigh, in their wisdom, the magnanimous friendship of the French people, with the crafty caresses of perfidious men, who meditate to bring them again under their former yoke. Assure the good people of America, Mr. Minister, that, like them, we adore liberty; that they will always possess our esteem, and find in the French people that republican generosity which knows how to grant peace, as well as to cause its sovereignty to be respected.

As for you, Mr. Minister Plenipotentiary, you have combatted for principles; you have known the true interests of your country—depart with our regret; we restore in you a representative to America, and we preserve the remembrance of the citizen whose personal qualities did honor to that title.

No. 80.

Report of Major Mountflorence to Mr. C. C. Pinckney, Minister Plenipotentiary of the United States to France, dated Consulat American, Paris, December 18, 1796.

SIR: In the absence of Mr. Skipwith * * *.

(Vide volume 2, Foreign Relations, pages 8 and 9.)

No. 81.

Mr. Pickering, Secretary of State, to Mr. C. C. Pinckney, Minister to France, dated Department of State, January 21, 1797.

[Extract.]

"The Commissioners and special agents of the French Republic, in the West Indies, are destroying our commerce in the most wanton manner. They have issued orders for taking all American vessels bound to or from English ports—not those only which the English occupy in St. Domingo, but those of their own islands. They condemn without the formality of a trial. These orders appear, from the information I have received, to have been issued in consequence of letters from Mr. Adet, who, you will see in his note of November 15, said the French armed vessels were not merely to capture American vessels, but to practice *vexations* towards them; and who, I am further informed, wrote to the Commissioners that they could not treat the American vessels too badly. This state of things cannot continue long. It makes little difference whether our vessels go voluntarily to French ports, or are carried in as prizes. In the latter case, they condemn without ceremony; and, in the former, they forcibly take the cargoes, heretofore with promises of payment, which they generally broke; and now, I am told, without even deigning to give their faithless promises."

No. 82.

Secretary of State to Mr. C. C. Pinckney, Minister to France, dated Department of State, Philadelphia, February 11, 1797.

[Extract.]

"The spoliations on our commerce by French privateers are daily increasing in a manner to set every just principle at defiance. If their acts were simply the violation of our treaty with France, the injuries would be comparatively trifling; but their outrages extend to the capture of our vessels, merely because going to or from a British port; nay, more, they take them when going from a *neutral* to a *French* port. In truth, there is, in a multitude of cases, little difference whether our vessels are carried in as prizes, or go voluntarily to the French ports in the islands for the purposes of traffic; the public agents take the cargoes by force, and fix their own terms, giving promises of distant payment, which are seldom duly performed. With regard to the vessels carried in as prizes, the agents and tribunals of the French Government act in concert with the privateers. The captured are not admitted to defend their property before the tribunals, the proceedings are wholly *ex parte*. We can account for such conduct only on the principle of plunder; and were not the privateers acting under the protection of commissions from the French Government, they would be pronounced pirates. Britain has furnished no precedents of such abominable rapine. These proceedings are rapidly rendering the name of Frenchmen as detestable as once it was dear to Americans, and if suffered by their Government to be continued, a total alienation will be inevitable. The facts here alluded to have not all been subjects of formal communication to our Government, but they are publicly related in such manner as to leave no doubt of their existence. It will, therefore, be highly important to both countries, and the President earnestly desires you would endeavor to engage the attention of the French Government, (if those desires should not have been anticipated,) to put an end to such atrocities; otherwise, it will be involved with the immediate actors in one common fate of indelible infamy."

No. 83.

Consul General of the United States at Paris to the French Minister of Foreign Affairs, dated the 5th Ventose, 5th year, (February 23, 1797.)

[Translation.]

CITIZEN MINISTER: The Consular Agent of the United States at the port of L'Orient, in his letter of Pluvoise, informs me that the owners of the privateer Hardy are prosecuting before the Tribunal of Commerce of the said Canton the condemnation of two American ships—the Hope and the Antelope—which these privateersmen manned under the pretext that their (rôles d'equipage) crew lists were not countersigned by a public officer of the United States, and that this formality was required by an ordonnance of the Marine of France. The same agent informs me that the said Tribunal of Commerce was to have written to you, and also to your colleagues, the Ministers of Marine and of Justice, to receive the instructions of Government in relation to the pretensions of the owners of the privateer. It is my duty, under these circumstances, Citizen Minister, for the interest of the commerce of my nation, to address to you some observations on this subject. I must then take the liberty of asserting that by no regulations of the United States are our ships subjected to this formality, and that not one of our vessels has (rôle d'equipage) a crew list thus countersigned. Moreover, in the different treaties and conventions that connect America with France, there is not found a single article sufficient to justify the doctrine set forth by the privateer. At the time when there existed a regulation of the former Government of France, that ordered the capture and condemnation of neutral ships whose rôles d'equipage shall not have been attested. This cannot, nor should it be understood but in relation to neutral ships belonging to powers bound, equally with France, by treaties containing contrary principles. I consider it unnecessary for me to com-

municate on this subject the right and supreme law of nations, being persuaded that you will think with me that every free and independent nation should possess the exclusive right to establish regulations for the management of their own navigation, and that no nation possesses the right to subject the citizens of another power to formalities to be observed in a foreign country not exacted by the laws of said country or by those to which said citizens belong. If, contrary to my expectation, Government establish the principle which the captain desires to see established, this would lead to the condemnation of all the ships belonging to my nation actually found in the different ports of France under the faith of treaties, and to authorize the cruisers of the Republic to capture all our merchantmen. Confidently relying on the justice and equity of the Ministers of Government, I am confident that the Tribunals of Commerce receive no instructions to favor such ungrounded pretensions.

Accept the assurance of my distinguished consideration.

FULWAR SKIPWITH.

No. 84.

French Minister of Foreign Affairs to the Consul General of the United States at Paris, dated 5th Ventose, 5th year, (February 23, 1797.)

[Translation.]

CITIZEN: I have received your letter of this month, relative to the American ships the *Hope* and the *Antelope*, the condemnation whereof is prosecuted by the owners of the privateer Hardy, before the Tribunal of Commerce sitting at L'Orient, because the rôles d'equipage (ships' rolls) were *not countersigned by a public officer of the United States.* You assert in your despatch, that by no regulation of the Federal Government are the ships of your nation subjected to this formality, and that *none of your ships have rôles d'equipage, ships' rolls, so countersigned;* again, you say, *in the different treaties and conventions that unite America with France, there is not found a single article that can justify the doctrine asserted by the owners of the privateer Hardy.* Your despatch, in this respect, contains an essential error. The Federal Government doubtless has never ceased to look upon the treaty of 1778 as obligatory upon the two nations. In this treaty we find the engagement reciprocally made, not to sail (when one of the contracting parties is engaged in war) without "sea letters (lettres de mêr) or passports expressing the name, property, and bulk of the ship, as also the name and place of the habitation of the master or commander of the said ships, that it may appear thereby that the ship really and truly belongs to the subject of one of the contracting parties, which passports shall be made out and granted according to the form annexed to the said treaty of 1778;" these are the very expressions of the 25th article of that treaty, whose object is to avoid and prevent *all manner of dissensions and quarrels on one side and the other*, the form of the passports (passports) and (letters) letters necessary to be given to vessels by the 25th article of the abovementioned treaty constitute an integral part of this treaty, and it becomes obligatory upon the two contracting parties, and it states that "leave and permission has been granted that the said ship has been visited before sailing, that the master or commander of the ship shall make oath before the officers of marine that the said ship belongs to one or more of the subjects of ————, the act whereof shall be put at the end of these presents, as likewise that he will keep, and cause to be kept by his crew on board, the marine ordinances and regulations, and enter in the proper office a list, signed and witnessed, containing the names and surnames, the places of birth and abode of the crew of his ship, and of all who shall embark on board her; whom he shall not take on board without the knowledge and permission of the officers of the marine, and in every port or haven where he shall enter with his ship he shall show this present to the officers and judges of the marine." Such are the formalities stipulated in order to prevent the one of the contracting parties from permitting their flag to cover property belonging to an enemy of the other. Our regulation of the 26th of July, 1778, is but the result of the treaty of the 6th of February of the same year. It directs the condemnation of foreign ships *that shall not have on board the rôle d'equipage, (ships' roll,) (arrêté,) made out by the public officers of the neutral countries where said vessel shall have set sail.* I ought to add, citizen, that it is well known that all the commerce of England with the United States has been carried on, since the war, under American colors. We have no guarantee against this perfidious understanding, but in the execution of our treaty. The Tribunal of Commerce sitting at L'Orient will receive the decision of the Minister of Justice, charged with the direction of the tribunals.

The Executive Directory, by its arrêté of the 12th of the present month, has given the requisite orders for the entire execution of the treaties, conventions, and regulations, relative to the navigation of neutrals, and particularly of those with the Americans. I will transmit to you this arrêté as soon as I shall have received it officially.

Health and fraternity,

CH. DE LA CROIX.

No. 85.

Postscript to a letter from Mr. C. C. Pinckney, Minister of the United States to France, to the Secretary of State, dated March 23, 1797.

Since despatching the original and duplicate of No. 11, I have received information that the ship Charlotte, Captain John Vincent, has been captured and carried into Dunkirk. As she is a vessel bought in Europe, and consequently has no sea letter, and as the Tribunal of Commerce has referred the papers to the Minister of Justice, there can be no doubt but that sentence of condemnation will be pronounced as in Bryant's case. The French Consul at Carthagena, in Spain, has condemned the American Brig Atalante, of Yorktown, Virginia, Elathaco Minor master and owner; he has appealed to the Civil Tribunal of the

Department of "Boriches de Rhone," at Aix, in Provence. But as his vessel is also in the same situation as Bryant's, we may expect a similar decision. A French privateer of St. Malo has captured and sent into "Isle de Bas," an American brig (whose name I have not yet learnt) from New York, bound to London, with a very valuable cargo of sugars, &c.; the pretences for capturing her have not yet been communicated to me; but as the French seem determined to distress our commerce as much as they can, pretences for condemnation are easily fabricated. I feel poignantly these continual violences offered to our trade and property, and that I am so situated that I cannot afford our countrymen the protection they ought to receive from our Government, nor show them that I even remonstrate against the power which oppresses them. To prevent hearing the firm representations which an American minister would have found himself obliged to present on account of these rapacious depredations, is one reason, I presume, that the Directory will not permit any one in that capacity to reside in France. Major Mountflorence advises me that he has convinced the head clerk of the office, whence the answer of the Minister of Foreign Affairs relative to the signature of the seamen's articles originated, that the Directory had given erroneous construction in respect to them to the treaty of 1778; and that the clerk had promised to prepare a report to the Minister, and prevail on him to present it to the Directory, to repeal the 4th article of the arrêté of the 12th of Ventose.

I much doubt if they will have the candor to acknowledge their error, for Mr. Adet's long recapitulation in his extravagant appeal to the people shows a determination in them to adhere to everything they have once advanced, although founded in error and palpable mistake. I wrote to Major Mountflorence to be careful in the petition he is preparing for the captains of the Hope and Antelope, to avoid any expression which might appear in the least disrespectful to either the Executive or Judiciary Departments of France. I have desired him to express our grievances firmly and decently, and to use no sentiments which might appear to have an intention to foment any division between the people and Government, or between one part of the Government and the other. We should disdain to pursue a conduct we disapprove in them.

No. 86.

Extract of a copy of a circular letter from the French Minister of Justice, of the 21st Ventose, (March 11,) to the Tribunals of Commerce.

"The arrêté of the Executive Directory, of the 12th of this month, is a guide pointing out, by a particular case, the course you ought to pursue in all others. The right of reciprocity, the legitimate and primitive basis of the law of nations, has made it indispensable, and the love of country should watch over its rigorous execution.

The first article also imposes upon me obligations which require the co-operation of your zeal and punctuality. I therefore invite you, citizens, in the name of the public good, to aid me in my efforts to comply with the views of the Executive Directory, and I venture to say those of all Europe, which will applaud the energy of an arrêté, the object of which is to re-establish the balance of commerce, and to destroy the overbearing preponderance of a perfidious and usurping Government. In vain have its agents deceived a people, to *whose liberty we have given birth*, unto the adoption of stipulations destructive of their and our interests; we know how to maintain an equilibrium by just and indispensable reprisals. The Executive Directory have established their principles according to the laws. It is your duty to make the application, and I confidently yield the care of them to that disinterested patriotism which has called you to the august functions with which you are charged.

THE MINISTER OF JUSTICE.

No. 87.

No. 10.—*Mr. C. C. Pinckney, Minister to France, to the Secretary of State, dated Amsterdam, March* 18, 1797.

DEAR SIR: Since sending away the quadruplicate of No. 9, and a postscript to it of this date, I have received information that the French Directory have passed an article on the 12th Ventose, year 5th, declaring that, as by the treaty of the 6th February, 1778, between France and America, they mutually engage to grant no particular favor to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same favor freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional; that, therefore, the articles stipulated in favor of England by the treaty concluded at London, on the 19th of November, 1794, between that power and the United States, are deemed to have been equally in favor of the French Republic, and of course to modify, in those points which are contrary to it, the treaty concluded the 6th February, 1778. That it was in consequence of these articles that the French Government had declared, by its arrêtés of the 14th and 28th of Messidor, year 4th, as it finds it constrained to do now, that it would use such means of reciprocity as it had a right to exercise in respect to what related to matters of war, as well as what regards the political, commercial, and maritime interests of the French Republic; that, consequently, it was necessary, "de fixes par le raprochment des traités du 6 Fevr., 1778, et du 19th November, 1794," every doubt on these points in which the rights of reciprocity ought to be exercised; and that, therefore, all merchandise which does not plainly appear to be neutral property taken on board of our ships shall be confiscated. That the articles of contraband shall extend to those mentioned in the 24th article of our treaty with Great Britain; and that every American bearing a commission given by the enemies of France, as well as every American sailor forming part of the crew of ships or vessels of an enemy, shall, by this fact alone, be deemed a pirate and treated as such, without being permitted in any case to allege that he hath been pressed by violence, menaces, or otherwise.

That, according to the law of 14th February, 1793, the regulations of the 21st October, 1744, and of 26th July, 1778, concerning the manner of ascertaining property of neutral ships and merchandises, shall be excluded according to their form and tenor. The decree, therefore, expressly states that every American vessel shall be, in consequence, good prize that shall not have on board a roll of the crew, such as is prescribed by the form annexed to the treaty of the 6th February, 1778, of which the execution is ordered by the 25th and 27th articles of the said treaty.

I will procure and forward the arrêté at length by the next opportunity. I am at present apprehensive that I shall be too late with this sketch for two vessels about sailing. The Hope and Antelope have been condemned because they had not the rôle d'équipage, or seamen's articles, signed by a public officer; which condemnation has proceeded on a mistaken exposition of facts, as nothing in the 25th or 27th articles, or in the form for sea letters annexed to the treaty, requires the signature of a public officer to such articles or rôle d'équipage. I will, by the next opportunity, also send the arguments of the Minister for Foreign Affairs for such condemnation, and the observations drawn by Major Mountflorence, and to be signed by Mr. Skipwith, and presented to the minister in answer thereto; also the report of the Minister of Justice to the Directory, and approved by that body, on the condemnation of Captain Bryant's vessel; it is impossible to copy them now, as I must close my letters.

I have the honor to be, with great respect and esteem, your most obedient, humble servant,

CHARLES COTESWORTH PINCKNEY.

No. 88.

[Translation.]

Decree of the Executive Directory concerning the navigation of neutral vessels, loaded with merchandise, belonging to the enemies of the Republic, and the judgment on the trials relative to the validity of maritime prizes, 12th Ventose, year 5, (March 2, 1797.)

The Executive Directory having * * *.

(Vide volume 1, Foreign Relations, pages 30, 31.)

No. 89.

Mr. C. C. Pinckney, Minister to France, to the Secretary of State, dated Amsterdam, March 19, 1797.

[Extract.]

"I hope I shall be in time for the vessels by which I sent No. 10 and its duplicate to transmit the enclosed copies of the report of the Minister of Justice to the Executive Directory on the condemnation of Captain John Bryant's vessel for the want of a sea letter, which report the Directory have approved and confirmed."

No. 90.

Secretary of State to Mr. C. C. Pinckney, Minister to France, dated Department of State, April 4, 1797.

[Extract.]

"The depredations of the French in the West Indies are continued with increased outrage, and we have advices of captures and condemnations in Europe which apply to no principle heretofore known and acknowledged in the civilized world. You say that a late emigrant, now at Paris, has assured the French Government 'that America (meaning the United States) is not of greater consequence, nor ought to be treated with more respect, than Geneva or Genoa.' But is it possible that the Directory should credit his opinion? And must we be obliged to think that such an idea of our weakness regulates the conduct of the French towards this country? You know how ill-founded is the emigrant's opinion, and have the means of appreciating the motives which influence the Directory. You do not name the emigrant; we conjecture that you mean Talleyrand Perigord."

No. 91.

Mr. C. C. Pinckney to the Secretary of State, dated Amsterdam, April 5, 1797.

[Extract.]

"I received accounts from Paris this ——— that no official answer had yet been given by the Minister of Foreign Relations to the reply drawn by Major Mountflorence, respecting the necessity of

having the rôle d'équipage, or seamen's articles, signed by a public officer. That gentleman writes me word that he does not expect anything will soon be done in this business, for, in a conversation which he had with one of the officers of that Department, 'he acknowledged that they were puzzled how to answer it, and he did not know what measure to adopt; that it was, undoubtedly, the intention of the French Government to proceed against us with as much harshness and rigor as they could do consistent with their own construction of the treaties, but that the arrêté had gone too far, and that they did not know how to recede.' Although I cannot communicate, officially, with the Directory or its ministers, I will embrace measures to have them informed how strongly America feels and reprobates the hostile conduct of France in the capturing of our vessels; and that this conduct, and the improper behavior of Mr. Adet, has united all parties in America; and that if the present measures are persisted in, and our present grievances unredressed, that such an alienation in the sentiments of America will take place that the name and character of a Frenchman will be as much and as generally hated in our country as it was formerly greatly and affectionately esteemed. I have received information that they are in possession of your letter to me of the 26th December, as printed in an English paper; but the effect it has had upon them I am not yet informed of."

No. 92.

Secretary of State to Mr. C. C. Pinckney, Minister to France, dated Department of State, April 8, 1797.

[Extract.]

"Although no official account has been published of the ignominious treatment you received from the French Government, yet the facts are pretty well understood, by various ways of intelligence, throughout the United States, and have excited a proper sensibility. These expressions are strengthened by the unexampled atrocities committed by the French agents and privateers in the West Indies, to say nothing of the flagrant depredations in the European seas, sanctioned by the Tribunals of France, and by her Consuls in the ports of Spain. I am satisfactorily informed that some of the latter are concerned in the privateers, with French commissions, equipped in the ports of Spain; and the report of Mr. Mountflorence, which you transmitted, shows that the merchants in the ports of France, who constitute the Tribunals of Commerce in which our captured vessels are tried, and on the most frivolous and shameful pretences condemned, are often, if not commonly, owners of the privateers on whose prizes they decide. The indignant reflections which such proceedings naturally excite need not be mentioned. Accounts of the French captures, piracies, and robberies in the West Indies would fill a volume. They are become so common as, while they increase the general resentment, excite no surprise. One of the most recent instances is that against the brigantine America, owned by Messrs. Norris & Hall, of Philadelphia, as stated and published in our newspapers by the master, Thomas Town, Jr. He sailed from St. Thomas's, a Danish island, on a voyage to Port de Paix, or Cape François, two ports in possession of the French, in St. Domingo. He arrived at Port de Paix with his cargo of dry goods and cash, the cash amounting to $16,919. A guard was immediately put on board his vessel, which was searched and the money found. They despatched him to Cape François, to the Commissioners, where it was decreed to take forcibly his cash and property. He refused to deliver his cash; they immediately ordered the guard to break the lock of his state room, and robbed him of the whole of it. And they forcibly took from his mate thirty-two half-joes, the proceeds of his adventure."

No. 93.

Letter of Captain Scott to the Consul General of the United States at Paris, dated Roscoff, April 9, 1797. (*Enclosed to the Secretary of State, in Mr. Pinckney's letter of the* 28*th April,* 1797.)

Sir: I wrote to you by last post, since which I am returned to Roscoff, and find the unloading of the brig John completed and her cargo stored in the town. I have been under the necessity of writing, this morning, to Mr. Diort to demand some assistance for myself and crew to subsist on until we know how we are to be disposed of, as all but myself are entirely destitute of every means, as what few things they saved they have nearly all sold to pay for their living since our condemnation, rather than be separated; but I found them yesterday, on my return, commencing their march for Brest, to be disposed of, I suppose, as English prisoners. I feel very anxious for the letter in answer to Mr. Diort, as our Government must surely make some provision for its citizens thus unwarrantably distressed and turned out of their employ to starve or go a privateering in a foreign country. In perusing the copy of my first letter, I am happy to find I was so minute and particular in relating my exact situation, as Mr. Diort informed me yesterday you had forwarded a copy of it on to Congress. The more I reflect upon my condemnation, sir, the more I am astonished. There must surely be some great flow [flaw] somewhere, or something very much misunderstood; it appears a piece of injustice, I hope almost unprecedented. America, surely, can have no idea of the risk her navigation is exposed to. This valuable cargo, sir, I had in charge must certainly be accounted and paid somewhere, as it is, I am confident, American property, and free from all deception. You will, I hope, excuse the freedom with which I write, as, from being at the fountain head of Government, you are no doubt best acquainted with the disposition of the two nations towards each other, and what, in this most difficult situation, is most proper to be done. But I think I see so much mischief and injustice depending and waiting our citizens, if they are thus to carry off the brig and cargo, that I shudder for the consequences that may ensue, as I am given to understand that expresses were immediately despatched to different ports, with instructions to masters of privateers, in consequence of my condemnation. The event is clear. In a little time the harbors of

France will be full of American vessels, and, if Government appears to justify this judgment on me, in consequence of my ship's articles being agreeable to the laws of Congress, and like the American ships, full of prizes. But if there is a possibility of annulling, or even molifying, this most cruel decision, it will have a most happy effect in deterring these sea-plunderers from depredating on our commerce and navigation.

I am confident that you will exert yourself for our interest, (and God knows we, at present, need some powerful advocate and assistance,) and will, therefore, I hope, overlook my zeal if I have stated what perhaps you clearly foresee; and, as I before observed, you are best acquainted with what steps now to take, my motives arising from a wish not only to obtain, if possible, justice for myself and those concerned with me, but as well to save from similar distress, trouble, and perplexity, thousands of Americans, and to preserve the prosperity, if not the peace of our country.

Relying on your endeavors and best advice, I am, &c.,

JAMES SCOTT, Jr.

No. 94.

Mr. C. C. Pinckney to the Secretary of State, dated the Hague, April 28, 1797.

[Extracts.]

"I have removed to this place, for a short time, to see it and the Batavian Convention, but particularly to converse more fully and freely than epistolary correspondence would admit with Mr. Adams on the situation of our affairs relative to France. I am exceedingly sorry that my letters must continue to be filled with unpleasant details of the oppression which our countrymen and their property suffer from the unfriendly and tyrannic conduct (call it what you please) of that Republic with regard to us. The American sloop Charlotte, Captain John Vincent, mentioned in my postscript to the triplicate and quadruplicate to No. 11, has been condemned by the Tribunal of Commerce of Dunkirk upon the same principle as the condemnation in Bryant's case. An appeal has been brought by Mr. Coffyn, but in the present temper of France I have very little hopes of its success. The expense in this as well as in Bryant's case, I am informed, will be one hundred and fifty livres, besides the lawyer's fees and charges. The expense, however, is trivial in comparison with the object. The consular agent at Dieppe has notified the capture of the American ship Sally, Captain Davis, bound from Guernsey to Dieppe. The Tribunal of Commerce of Calais has condemned lately the American cutter Lark, Captain Davidson, belonging to Mr. Alexander Black, because the "rôle d'équipage," or seamen's articles, was not signed by a public officer. This vessel was not captured on her passage, but sailed voluntarily into Calais with passengers.

"The brig Leonard, of Newburyport, William Hasket master, from Norfolk, in Virginia, bound to Rotterdam, has been captured by the French privateer Lazare Hoche, and sent into Brest; an American brig, D., of New York, Andrew Foster master, bound from London to New York, has been captured by the French lugger Jean Barre, of St. Malo, Captain Le Compte, and sent into Morlaix; the John, of Boston, James Scott master, belonging to Messrs. Loring, Jonathan P. and John Hall, of Boston, has been captured also, and sent into the same port, by a schooner of St. Malo, having on her stern "The Star of Boston." In this enclosure I transmit you a copy of the condemnation of these two vessels, a copy of Captain Scott's letter to Mr. Diot, our Consular Agent at Morlaix; copies of Captain Scott's two letters to our Consul General at Paris, and Captain Foster's and Mr. Diot's letter to the same gentleman. They will evince the distressing consequence of the cruel arrêté of the 12th Ventose, and will bear honorable testimony to the humane and generous conduct of Mr. Diot, which I trust will be properly noticed by our Government."

"The Captain of the Vengeur, who, it is reported, is at New York, has attached the moneys due from the French Government to the citizens of America for his indemnification. The officers of the Treasury, though not about to pay, doubted whether an attachment would lie, but the Directory sent a mandate supporting the attachment. Major Mountflorence informs me the Tribunal of Commerce would not give him a day in court on the subject, and he is now obliged to apply to the Civil Tribunal of the Department. I likewise send you in this enclosure the circular letter of the Minister of Justice to the Tribunals of Commerce. It appears very much like urging the speedy condemnation of our ships, and is so understood. The following is a most curious paragraph, when we consider it as coming from the pen of the Minister of Justice.

"Speaking of Britain, he says: 'En vain ses agens ont ils surpris à un peuple, *que nous avons enfanté à la liberté*, des stipulations, contraires à ses vrais intérets, et aux notres, nous saurons maintenir l'equilibre par des justes *reprisailles*."

No. 95.

French Minister of Marine and of the Colonies to Citizen Boyerfonfrede.

[Translation.]

Copy 957.—LIBERTY, EQUALITY.

Bureau of Invalids, Paris, *the 10th Floreal, year* 5—(*30th April*, 1797.)

L. Prizes.

The Minister of the Marine and of the Colonies to Citizen Boyerfonfrede:

The solution of two questions upon the arrêté of 12th Ventose, (3d March.)

Citizen: I have examined the two questions which you proposed to me in your letter of the 7th ultimo. These questions are reduced to two: 1st. Are those American ships not having on board the

ship's roll, (rôle d'équipage,) prescribed by the 9th article of the regulation of the 26th July, 1778, good prize? 2d. In this case are the ships only lawful prize? Upon the first question the Executive Directory has often given judgment, in the most formal manner, for the captors, particularly shown by its arrêté of the 12th Brumaire (3d November) last, approving a report made to it by the Minister of Justice relative to the capture of the *Royal Captain*, and this decision is in every respect conformable to the treaty of the 6th February, 1778, to which the Americans can and should refer. Indeed, the 25th and 27th articles of that treaty require all American vessels to have on board a (passeport or lettré de mêr) passport or sea letter, made out according to the form therein contained. In consulting this form, we discover that the captain is bound to remit to the officers of maritime affairs, at those ports where he shall land, a list, signed and witnessed, containing the names and surnames, the places of birth and abode of the crew. This list is nothing else but a rôle d'équipage. Every American ship must have a (passeport) passport and a (rôle d'équipage) ship's roll; I mean a *(liste d'équipage)* crew list.

Whereas, without these papers, she ought to be confiscated, because this (passeport) passport is the only paper on board admitted as a proof of the ownership of the vessel, and because the list exacted is the only paper which can afford sufficient proof that the crew are not composed of the subjects of an enemy's country, or of the proportion determined by the 9th article of regulation above cited.

The second question resolves itself into two very plain principles: the one, that every vessel which has on board neither (passeport) passport or (rôle d'équipage) ship's roll is considered an enemy; the other, that, by the terms of the 7th article, book 3, page 9, of the decree of 1681, goods the property of neutrals, and even of Frenchmen, found in an enemy's vessel, are good prize; so that no doubt remains that the cargo of every American vessel which shall not have on board either (passeport) passport or (liste d'équipage) crew list, in due form, is justly subject to confiscation. This opinion, as I have already said, is in conformity to that which has been decided by the Executive Directory, and the Minister of Justice is of the same opinion, whom I have particularly consulted on these two questions.

IRUGUET.

No. 96.

Mr. C. C. Pinckney to the Secretary of State, dated May 6, 1797.

"DEAR SIR: At length, after numberless vexations to our countrymen, and unjust seizures of their property, the French Government have explicitly avowed what they require of us. They now openly attack our national independence, and declare these seizures shall be continued unless we break a treaty sanctioned by the constituted authorities of our country. In a letter from Citizen Merlin, the Minister of Justice, to our Consul General at Paris, a copy of which I have this minute received, he says: 'As soon as your Government, restored to itself and to its true friends, and become just and reasonable, shall annul the extraordinary treaty it entered into on the 19th November, 1794, with our most implacable enemies, the French Republic will cease to avail itself of the dispositions of this treaty, so much in favor of England and so prejudicial to her; and I pledge myself that it will not be cited in order to support unjust pretensions.' In a postcript it appears that the Executive Directory authorized this letter; I herewith enclose you a copy of it. It is dated the fourth Floreal, (April 23, 1797,) but, from the date when the copy expedited to me, I believe it was not received by the Consul before the 27th or 28th of April. I have not seen a copy of the Consul's letter, which occasioned the answer of the Minister of Justice, except as it is quoted in the answer. I wrote to Major Mountflorence on the 10th of April, and mentioned to him 'that I conceived the 33d article of the treaty of 1786, between France and England, was only inserted pro majori cautelâ; and if it had not been there no right could have accrued to condemn vessels for the want of sea letters; that the article in our treaty justified the bringing such vessels into port for the purpose of examining whether the vessels were neutral or not, and not for the purpose of condemning them, if they were found to be really neutral; that we altogether denied that we had granted Great Britain any right or favor in that part of our treaty which relates to the capturing of enemy's or contraband goods on board of our vessels, for she was already in possession of that right, independent of the treaty, under the law of nations.' To you I need not make any comment on the minister's mode of reasoning in his letter. The ship Three Brothers, Captain Lendal Smith, of Portland, Massachusetts, was taken up the Straits by a French privateer, commanded by Captain Le Raix, of Marseilles, and sent into Malaga, where she is detained, and probably both vessel and cargo will be condemned; for this the French Consul assigns two reasons: one is the want of the rôle d'équipage, signed by a public officer; the other is the want of a bill of lading for the cargo, which consisted of staves, beef, flour, codfish, salmon, and plank, belonging to the captain and owner of the vessel."

No. 97.

Mr. C. C. Pinckney to the Secretary of State, dated Rotterdam, May 9, 1797.

[Extract.]

"I received accounts to-day that the Juliana, from Norfolk, in Virginia, is taken and carried into Havre; and that the Juno, Rainbow, and Charlotte, all three from Charleston, and the Hebe, from Savannah, are captured and carried into Nantez, and in all probability will be condemned for want of a 'rôle d'équipage.' certified by a public officer, agreeably to the regulation prescribed by France."

No. 98.

Letter from various masters of vessels condemned by France to Mr. C. C. Pinckney, dated Malaga, May 15, 1797.

SIR: The subscribers, citizens of the United States, after complimenting your excellency on your safe arrival at Paris, beg leave to represent to you our critical circumstances.

Every one of us are masters of vessels, the property of citizens of the United States, and we see, to our great concern, almost every day, some of our ships brought in and condemned by the French. These are condemned now upon a frivolous, but upon an unjustifiable principle. In peace, as well as in war, a vessel whose papers are not in proper order is liable to be condemned; but our case is quite contrary, for our ships are condemned because our papers are as they ought to be, according to the maritime laws of our country. The French Consuls, very unreasonably interfering with the maritime laws of the United States, pretend that our shipping papers should be certified by a public notary or some other officer in America, and their signature to be legalized by the French Consul resident there; this instance is unprecedented in all former wars. But, however wrong this their pretension may be, the more unjustifiable is it by their not giving our countrymen a warning for it, and a proportioned time, so that every owner and master of a vessel should have a chance of conforming themselves to this, though unreasonable and unprecedented, innovation. Be pleased to consider what a great number of American vessels, especially East Indiamen, that navigate the ocean unaware of all these proceedings, thinking themselves secure under the sanction of neutrality. What a ruin will fall upon our trade if, by not being provided with a formality they have no idea of, they should be taken. Even the Algerines, though barbarians, have given a proper time to ships of the United States to provide themselves with proper Mediterranean passports; why should not a civilized nation imitate their example? Our situation is still worse than that of an open war; for then every one would know what may happen to him, and would conduct himself in consequence. Even a man could endeavor to defend his property by force of arms, and in case of a reverse he would enjoy the benefit of a cartel. But now, if we should attempt to keep off by force a French privateer, although unjust and unwarrantable his depredations, it would be looked upon as a breach of neutrality. Therefore, tamely surrendering our vessels, under the good faith of neutrals, the ships are brought in, plundered, and condemned. What is still worse, the crew are turned on shore with only their clothes, and nothing else to keep them from starving, so that many of our best seamen are forced, through want, to enter on board those very privateers they have been taken by, and help them in plundering their own countrymen. In an open war a prisoner has a daily allowance from his enemy, and a cartel for returning him to his family; but in our present circumstances we can have but distant hopes of seeing home again. Please to measure, sir, these our circumstances by your feelings; and we earnestly beg you, sir, not to stifle or suppress those sentiments of philanthropy that will, undoubtedly, on this occasion, spring from your sensibility and patriotic heart in favor of your distressed countrymen; and be pleased then, following their dictates, to endeavor to bring about a speedy relief.

That your excellency may be successful in this circumstance, as well as in every other that will offer for the advantage and honor of the nation you so worthily represent, are the sanguine wishes of—

Your humble servants, the subscribers,

John Monroe, master of ship Lark, of Boston,
Increase Blake, master of schooner Laurel, of Boston.
Francis Elliot, master of brig Abbey, of Philadelphia.
Alexander Ross, jr., master of brig Greyhound, of Boston.
Lendal Smith, master of ship Three Brothers, of Portland—condemned.
Joseph Russell, master of ship Rebecca, of Haverhill.
Gideon Snow, master of brig Betsey, of Boston.
Peleg Tupper, master of schooner James, of Kingston.
Daniel Stone, master of schooner Rebecca, of Boston.
John B. Story, master of ——— Speedwell, of Boston.
Arthur Smith, master of brig Rover, of Baltimore.
Robert Mathews, master of brig Ninon, of New York.
Samuel Brooks, master of brig Mercury, of Boston—condemned.
Phil. Brum, master of brig Despatch, of Philadephia—condemned.
William Bradshaw, master of ship Polly, of Salem—condemned.
Ambrose Atkins, master of schooner Orrington, of ———, condemned.
Gilbert Stowland, master of brig Two Friends, of Boston—condemned.
Henry Lader, master of sloop Peggy, of Bristol, Mr. F. S.—condemned.
Thomas McIntire, master of brig Despatch, of Philadelphia.
John Monroe, in behalf of Captain William Billings, he being absent, and his ship, the Nancy, of Philadelphia, left under my care.

No. 99.

Mr. Montgomery, American Consul at Alicante, to Mr. Anjubault, French Consul at Carthagena, dated May 24, [1797;] *(enclosed to the Secretary of State in a letter from Mr. C. C. Pinckney.)*

SIR: I have received advice from Captain John Craft, of the Pomona, Captain William Plummer, of the Telemachus, Captain William Mayford, of the Eliza, and Captain James Alwood, of the schooner Abigal, belonging to citizens of the United States of America, that, on the 18th instant, in less than an hour after they got under way, in the bay of Alicante, they were boarded by the boats of three French privateers, two of which were then under Spanish colors, who forcibly put a number of armed men on board each vessel, and took the command from the above captains, steering a course for this harbor; and

they arrived the day following, where, I further learn, they are detained by you for the examination of their papers.

As a time has elapsed more than sufficient for such purpose, they being in the best order, even agreeably to the decree of the French Convention respecting the *rôle d'équipage*, I am to request that you immediately deliver up the papers and discharge the vessels in question, that they may proceed on their intended voyages to America; and, in default of your complying therewith, I protest against you, in particular, for every damage that may possibly accrue from such irregular proceedings.

I flatter myself, however, that when you shall have duly considered this business, of a very serious nature, you will not oblige me to have recourse to our superiors, and will prevent the mischief that may arise from it.

I have the honor to be, sir, your most obedient,

ROBERT MONTGOMERY.

No. 100.

The French Consul at Carthagena to the American Consul at Alicante.

[Translation.]

CARTHAGENA, *5th Prairial, An* 5, *(May* 24, 1797.*)*

SIR: I have received your official letter dated the 24th of May. I do not believe, sir, that you possess authority to use, so near to me, such peremptory language, or to specify the time necessary for the examination of the papers of these four vessels. You can assert their being in the best order, even as to what regards the *rôle d'équipage;* you can require me to deliver them up immediately, and, upon my non-compliance, you can also protest against me, and make me responsible. I will not be deterred from deciding according to the laws which I am charged by the Executive Directory of my Republic to put in execution.

I greet you, sir,

ANJUBAULT.

No. 101.

Letter from certain masters of vessels, enclosed to the Secretary of State by Mr. Charles C. Pinckney, Minister Plenipotentiary of the United States, dated Malaga, May 24, 1797.

We, the late masters of ships sailing out of different ports of the State of Massachusetts, have had our vessels and cargoes condemned and extorted from us by the French Consul in this port, for no other reason than that of our shipping articles, or *rôle d'équipage*, not specifying the place of birth and residence of our crew, or being attested by a notary public before our departure from the continent.

These unprecedented and iniquitous proceedings have deprived us of all the property we were worth in the world; and was it not for the humane protection we have experienced from some merchants established here in the American trade, we should find ourselves under the necessity of begging for subsistence, and impossibilitated to return to our native country, which, however, is very uncertain yet, for five privateers, and fitted out of this port, are waiting for our departure to again bring us back, and probably rob us of our clothes and other necessaries, now our only property.

We have appealed from the illegal sentence to the Department des Bouches du Rhone, and charged Mr. Cathatan, our Consul at Marseilles, with the business, by forwarding him our power of attorney, copy of condemnation, and certificate from our Consul here of the crew being American citizens, and a demand against the French privateer and Republic.

We hope he will undertake our defence in a proper manner, &c.

WILLIAM BRADSHAW, *of the ship Polly, Owned by John Norris, of Salem.*
HENRY LENDEN, *sloop Peggy.*
JOHN PAINE, *Bristol.*
AMBROSE ATKINS, *schooner Orrington.*
THACKSTER AVERY, *Penobscot.*

No. 102.

Secretary of State to Mr. C. C. Pinckney, dated Department of State, June 12, 1797.

[Extract.]

"The President, with the advice and consent of the Senate, has appointed yourself, Francis Dana, Chief Justice of Massachusetts, and John Marshall, Esq., of Virginia, Envoys Extraordinary and Ministers Plenipotentiary to the French Republic.

"You are placed at the head of the mission; although, to answer every reasonably-to-be-expected contingency, the powers are several as well as joint."

No. 103.

Mr. C. C. Pinckney to the Secretary of State, dated the Hague, June 28, 1797.

[Extracts.]

"On the 20th instant Mr. Pastoret, in the Council of Five Hundred, referred to the article of the constitution which vests in the Legislature the right of declaring war on the requisition of the Directory. There exists (said he) a people to whom we are united by treaties, and yet whose particular situation, with regard to us, we are ignorant of. The Directory appears to treat the Americans as enemies, and yet the Legislature has not declared war against them. The arrêté of the 12th Ventose seems to suppose that, in violation of the treaty of 1778, the Americans had committed hostilities against us. The commissaries of the Directory in the colonies applaud themselves for having taken measures by which the French privateers had made a great number of American prizes. But what right had they to fit out privateers against the people? What law authorizes them to do so?

"It is true the treaty of 1794, concluded with England, our most inveterate enemy, excites well grounded suspicions with respect to the intentions of the Government of the United States. But this cannot be a sufficient reason for the Directory's violating, with respect to them, both the laws and constitution; besides, at that time we had no marine to assist in protecting their commerce, and our country was a prey to the most dreadful anarchy. He finished with moving, first, that the Directory be required to give an account of the actual political relations of France and the United States; secondly, that the arrêtés of the 12th Ventose and 17th Germinal, concerning the treaties with the American Government, should be referred to a commission to report on the question whether the Legislature can annul the arrêtés of the Directory. Both of these have been referred to a committee of five members, and the speech was ordered to be printed."

"Mr. Adet arrived at Havre in an American ship without a rôle d'équipage. I enclose you the remarks of the 'Courier Maritime du Havre' on this circumstance. He infers that Mr. Adet must have been convinced, with all other publicists, that a rôle d'équipage was not necessary, and that all that was requisite was the passport conformable to the model annexed to the treaty of 1778."

No. 104.

Mr. C. C. Pinckney to the Secretary of State, dated the Hague, July 15, 1797.

[Extracts.]

"It is not yet in my power to transmit you any favorable accounts of the result of Mr. Pastoret's motion. The committee, though composed of persons apparently very favorable to us, thought it prudent to postpone their report for some time, in order to give the Directory an opportunity of making, if they chose it, some previous observations; but the time they proposed to allow for the coming in of these observations has elapsed, and yet the report is not made. On the 9th instant Major Mountflorence had an interview with Mr. Pastoret, who seemed to wish that an application might be made to the Legislature by some of the masters or owners of our captured vessels, requesting the Legislature to enact a law to oblige the Tribunals, in their adjudications of American vessels, to make the treaty of 1778 the sole basis of their decisions."

"In answer to a claim made by Mr. Skipwith, under the consular convention, for the cargo of the American vessel, the Charlotte, shipwrecked, and which the Commissary of the Marine at Ostend had put into the hands of the Justice of the Peace at that port, Mr. De la Croix has written him word that he had desired the Minister of Marine to give the necessary orders for the entire execution of your consular, which directs, in such case, that the articles should be delivered to the Consul of the nation to whom the vessel belongs.

"This letter was written on the 8th of Messidor, (26th of June.) I have not yet heard what the Minister of Marine has done on this subject. On the 18th of Messidor, (the 6th of July,) Mr. De la Croix, in answer to an application made him by Mr. Skipwith, relative to the hardships our countrymen labor under in being detained at the seaports and frontier towns, without being admitted to go to Paris and into the interior of the country, writes him word that the Directory thought it just that those who were interested in captured vessels should be permitted to attend the trial, and that passports should be delivered for that purpose; but that, with regard to such Americans as had debts due to them from the French Government, their presence at Paris could be of no service to them; for the liquidation of these debts being subject to circumstances which they could not change, their application could not expedite the payment; and therefore the Directory had resolved to support the arrêté, which forbids the citizens of the United States to reside in Paris."

No. 105.

Secretary of State to Mr. C. C. Pinckney, dated Department of State, Trenton, October 24, 1797.

[Extract.]

"I enclose the duplicate of my letter to you of the 17th. On the 21th instant I received your letter of the 26th of July, No. 24, and beg leave to express to you the satisfaction I have received from the particu-

lar details of facts so diligently collected and communicated in this and your former letters, and the opinions and reflections accompanying them.

"The result of the transactions and events adverted to will, I hope, facilitate the success of your mission; and there ought not to be much embarrassment in the negotiation when our claims are those of simple justice. As much as we have been insulted and abused, the time, I trust, approaches when our wrongs will be acknowledged and redressed.

"The French *nation* will certainly not adopt the language of Merlin, and say of the people of the United States, 'que nous les avons enfanté à la liberté,' nor require, as a condition of the expected redress, that we should surrender our independence; for such would be the effect of a compliance with Merlin's demand, 'that we should break our inconceivable treaty with England.' We have never denied—on the contrary, every man in the United States has acknowledged—the important aid we derived from France. Nay, we have owned it with grateful hearts; and we should never have thought of investigating the foundation of this sentiment, if the incessant and boundless demands on our gratitude had not extended, in fact, to a surrender of the sole object for which aid was granted, and gratitude felt and expressed—our independence. This we never shall surrender but with our lives.

"The recall of Santhonax seems to have given some small relief to our West India commerce. The Commissioners at St. Domingo do not now condemn our vessels when bound to a French port, but only when bound to an English port. When they are bound to a French port, they content themselves with taking the cargoes *for the administration;* and thus, although the voyage is *ruined*, the merchants escape a *total loss*. What a consolation!"

No. 106.

Report of the French Minister of Justice, made to the Executive Directory, the 12th Brumaire, an 5me., (November 3, 1797,) of the French Republic.

[Translation.]

Citizen Directors: The ship *Royal Captain*, under the command of Captain John Bryant, was captured the 12th Thermidor last, about four or five hours' sail from France, by the privateer, the ——, of the port of Boulogne, commanded by Captain Oudart Formentin, and on the day following was brought into this port. John Bryant was not provided with the certificates and passports, or (lettres de mêr) sea letters, mentioned in the 25th article of the treaty of amity and commerce concluded between France and the United States of North America on the 6th of February, 1778. He had a rôle d'équipage, but either he refused to show it to Captain Formentin, or the Captain did not deem it of any value; and, indeed, several erasures were seen in it, two dates, &c., &c. These circumstances, surely, must have induced Captain Formentin to capture the ship Royal Captain, although John Bryant hoisted the American flag. On the very day of the capture Captain Formentin made a report before the *Juge de Paix* of Boulogne; and on the following day, and others up to the 26th, inclusive, it was preceded by the same officer in putting interrogatories to John Bryant and his crew, composed only of six men; in taking an inventory of everything on board the captured vessel; in affixing as well as breaking seals. No contraband or prohibited articles were found on examination, that is to say, such as are qualified to be so by the 26th article of the treaty of 6th of February, 1778.

As to the papers, if it does not appear from them that John Bryant was born in the United States of America, (on the contrary, they lead to the suspicion that he is a native of Ireland,) they prove, at least, that he is a citizen of the United States—he there took the oath of fidelity, and to support the American Constitution. On the 8th of August, 1793, he had the command of a schooner out of Portsmouth, in America, which is proven by the passport which had been delivered to him by the President of the Congress; and the Consul of the United States of America, residing in France, attests, in a certificate of the 28th Thermidor, that it is necessary that he be a citizen of the United States to have the command of any vessel whatever of his nation. Among these papers, there are some that prove, if they be entitled to credit, that John Bryant was master of the ship *Royal Captain;* that he was on board of and commanded her; that, subsequent to the commencement of hostilities between England and France, he purchased her in England of Joshua Johnson, American Consul at London, who had bought her of an English merchant; and that this American built vessel had formerly been captured by the British, and had become their property in virtue of a decree given at the island of Bermuda, which declared her a lawful prize. Finally, the bills of lading, forming a part of these papers, state that the merchandise on board this vessel had been bought by John Bryant, and consigned to Hepinque, and were destined for Bordeaux. A question has arisen between John Bryant and Citizens Jupet, Sons and Company, owners of the privateer Le Juret, to know if the ship the Royal Captain and her cargo ought to be declared a lawful prize, and as such confiscated to the benefit of the said owners.

The Tribunal of Commerce, of Boulogne, before which it was tried, decided in favor of complainant. John has sent in an appeal from its judgment. The Commissary of the Executive power near the Civil Tribunal, sitting at St. Omers, where this appeal is pending, has made me a report of it before he enters his opinion, in comformity with the 3d article of the law of the 8th Floreal last, and I ought myself, in consequence, to refer it to the Executive Directory.

In all matters of this nature one is placed between two ——, which interest and national honor equally require to be avoided. Care should be taken not to offend a friendly nation in the person of one of its members. The same fear should be had of favoring the commerce and measures of an ambitious and hostile nation. In adopting the laws which are common to the French and American people, there can be no danger incurred. The interest of France will be maintained, and the United States will have neither complaints nor claims to advance.

The 25th article of the treaty of amity and commerce concluded between France and the United States of North America on the 6th of February, 1778, says: "To the end that all manner of dissensions and quarrels may be avoided and prevented on one side and the other, it is agreed that, in case either of the parties hereto should be engaged in war, the ships and vessels belonging to the subjects or people of the

other ally must be furnished with sea letters (lettres de mêr or passeports) expressing the name, property, and bulk of the ship, as also the name and place of habitation of the master or commander of the said ship, that it may appear thereby that the ship really and truly belongs to the subjects of one of the parties, which passport shall be made out and granted according to the form of this treaty," &c., &c.

N. B. The article is recited at length.

This article contains two stipulations. It was as first agreed when the ships and vessels of one of the parties should have (des lettres de mêr or passeports) sea letters or passports. Why was the convention entered into? This very article explains it, which is, to ascertain thereby that the same vessel is really and truly the property of the citizens of the other power. Whenever, then, ships or vessels are not provided with (des lettres de mêr or passeports) sea letters or passports, the nation at war cannot consider them as belonging to the subjects of the other. She must look upon them as forbans, pirates, or enemies. She can take possession of them, and they will be lawful prize. By the second, it is agreed that vessels that are laden must be provided not only with a passport, but also with certificates containing a minute description of the cargo, a declaration of contraband goods. The article also explains the motive of this second convention, to avoid and prevent all cause of suspicion, dissension, and quarrels on the one side as well as the cther; therefore, the captains and commanders of the ships belonging to a friendly power engaged in war shall be informed immediately of the character of the merchandise on board those vessels, if in whole or in part contraband and prohibited, if those ships, together with their cargoes, be subject to capture and confiscation, or if there be cause to remove from them a part of the contraband goods, in conformity with the 13th article of the same.

The ship *Royal Captain*, under consideration, was provided with neither (lettre de mêr) sea letter, passport, nor certificate. She was therefore suspected, and in France it cannot be admitted that she belonged either to the United States or the inhabitants or citizens of that country. It certainly was evident that John Bryant, the captain, was a citizen, and if what took place in England since the commencement of hostilities can be believed from an account on board, it will appear clearly that she is American built; that she was captured and condemned by the English at the island of Bermuda; that she was sold by an English merchant to the American Consul, resident at London, by whom she was again sold to John Bryant. Were the proof of these circumstances and facts otherwise unexceptionable, yet it could not, instead of the legal proof, afford the one required by the treaty of the 6th of February, 1778, the only one susceptible of admission. Too much indulgence in this respect, on the part of the French nation, would prove fatal to it; the commerce, frauds, and intrigues of its enemies would thereby be encouraged. This is not all: if we are to believe the assertion of John Bryant, that he was the owner of the *Royal Captain;* if, after the discovery of papers on board, we are to consider as a certainty that he acquired the ownership from the Consul of his nation, resident at London, it is also certain that this vessel belonged to the British, and that he purchased her after hostilities had begun between them and France; and by the terms of the 7th article of the regulation of the 26th of July, 1778, without speaking of those of the 23d of July, 1744, ships built by or formerly the property of an enemy are not to be considered as those of a neutral or ally, unless there be found on board authentic papers from under the hands of public officers competent to certify their date, or who can give sufficient proof that the sale and delivery thereof had been made to a subject of the allied or neutral powers before the commencement of hostilities.

The ship *Royal Captain* cannot, then, be looked upon as belonging to a neutral or ally, as John Bryant himself furnishes a proof that she had been British property, and was bought by him after the beginning of hostilities. She is therefore a lawful prize. John Bryant pretends that, relative to the liberty and safety of navigation and commerce, the treaty of February 6, 1778, is the only obligatory law for the ships of the United States; that all previous or subsequent edicts and regulations are foreign to them.

This pretension is true, with regard to conventions expressed in the treaty of February 6, 1778, but it is different with regard to the arrangements not therein expressed, and which are found in the edicts, and several regulations before and after this treaty, to render it admissible in this latter case. The treaty ought to have contained an express arrangement for this purpose. John Bryant does not admit that American vessels ought, of necessity, to be provided with (lettres de mêr or passeports) sea letters or passports; it is moreover certain, and acknowledged by the Consul General of the United States, resident in France, that the President of Congress is the only person who can give and sign them. But he says:

1st. That since the purchase of the *Royal Captain* he had never been in the United States, consequently he could not be provided with a (passeport) passport signed by the President of Congress; and

2d. That the (passeport) passport given to him by Citizen Coffyn, the American Consul General, resident at Dunkirk, was sufficient authority to sail under American colors. The answer to this presents itself; immediately after the purchase of the said vessel it was incumbent upon him to proceed to America to procure a (lettre de mêr or passeport) sea letter or passport; that from Citizen Coffyn would, perhaps, have been sufficient for his protection during the voyage, but entirely insufficient to authorize him to carry on trade, or it must be admitted that American Consuls have each, at his residence, the same power and the same rights as the President of Congress.

With regard to the (rôle d'équipage) crew list found on board the *Royal Captain*, it was observed to be irregular, that it had erasures, two dates, &c. John Bryant puts in a plea that, as the treaty of February 6, 1778, does not impose upon American vessels the necessity of having a (rôle d'équipage) crew list, the Consuls of that nation have alone the power to examine and censure these (rôles) lists. It is true that the treaty makes no mention of a (rôle d'équipage) crew list, but it was alluded to in the execution of the 25th article; it is said "that he to whom the passport is granted shall exhibit a list signed and confirmed by witnesses, containing the names, surnames, places of birth and habitation of those who compose the crew, and of all those who shall embark, whom he shall not receive on board without the knowledge and permission of the officers of marine."

Thus the argument of John Bryant fails in this circumstance. Citizens Directors, I think he ought to have replied to your Commissary of the Civil Tribunal of the *pas des Calais;* that he ought to approve of the decision of the Tribunal of Commerce of Boulogne, which declared the ship Royal Captain a lawful prize.

The Minister of Justice, MERLIN.

Approved by the Executive Directory, 12th Brumaire, an 5me.

True copy. L. M. REVELLIER LE PREUX, *President.*

By the Executive Directory.

The Secretary General, LE GARDE.

No. 107.

The Secretary of State to Mr. Thomas Pinckney, Minister of the United States to Great Britain, dated Philadelphia, April 20, 1793.

[Extract.]

"You may, on every occasion, give assurances which cannot go beyond the real desires of this country to preserve a fair neutrality in the present war, on condition that the rights of neutral nations are respected in us as they have been settled in *modern* times, either by the express declarations of the powers of Europe, or their adoption of them on particular occasions."

No. 108.

Secretary of State to Mr. T. Pinckney, Minister to Great Britain, dated Philadelphia, May 7, 1793.

[Extract.]

"In one of your letters of March 13 you express your apprehensions that some of the belligerent powers may stop our vessels going with grain to the ports of their enemies, and ask instructions which may meet the question in various points of view, intending, however, in the meantime, to contend for the amplest freedom of neutral nations. Your intention in this is perfectly proper, and coincides with the ideas of our own Government, in the particular case you put, as in general cases. Such a stoppage to an unblockaded port would be so unequivocal an infringement of the neutral rights that we cannot conceive it will be attempted. With respect to our conduct, as a neutral nation, it is marked out in our treaties with France and Holland, two of the belligerent powers; and as the duties of neutrality require an equal conduct to both parties, we should, on that ground, act on the same principles towards Great Britain. We presume that this would be satisfactory to her, because of its *equality*, and because she, too, has sanctioned the same principles in her treaty with France. Even our 17th article with France, which must be disagreeable, as from its nature it is unequal, is adopted exactly by Great Britain in her 40th article with the same power, and would have laid her, in a like case, under the same unequal obligations against us. We wish, then, that it could be arranged with Great Britain that our treaties with France and Holland and that of France and Great Britain (which agree in what respects neutral nations) should form the line of conduct for us all, in the present war, in the cases for which they provide. Where they are silent, the general principles of the law of nations must give the rule. I mean the principles of that law as they have been liberalized in latter times by the refinement of manners and morals, and evidenced by the declarations, stipulations, and practice of every civilized nation. In our treaty with Prussia, indeed, we have gone ahead of other nations in doing away restraints on the commerce of peaceful nations by declaring that nothing shall be contraband; for, in truth, in the present improved state of the arts, when every country has such ample means of procuring arms within and without itself, the regulations of contraband answer no other end than to draw other nations into the war. However, as nations have not given sanction to this improvement, we claim it, at present, with Prussia alone."

No. 109.

Secretary of State to Mr. T. Pinckney, dated Philadelphia, June 14, 1793.

[Extract.]

"I enclose you also several memorials and letters which have passed between the Executive and the ministers of France and England. These will develop to you the principles on which we are proceeding between the belligerent powers. The decisions, being founded in what is conceived to be rigorous justice, give dissatisfaction to both parties, and produce complaints from both; it is our duty, however, to persevere in them, and to meet the consequences. You will observe that Mr. Hammond proposes to refer to his Court the determination of the President, that the prizes taken by the Citoyen Genet could not be given up—the reasons for this are explained in the papers. Mr. Genet had stated that she was manned by French citizens; Mr. Hammond had not stated the contrary before the decision, neither produced any proofs. It was therefore supposed that she was manned principally by French citizens. After the decision Mr. Hammond denies the fact, but without producing any proof. I am really unable to say how it was, but I believe it to be certain that there were very few Americans.

"He says the issuing the commissions, &c., by Mr. Genet, within our territory, was an infringement of our sovereignty; therefore, the proceeds of it should be given up to Great Britain. The infringement was a matter between France and us; had we insisted on any penalty or forfeiture, by way of satisfaction to our insulted rights, it would have belonged to us, not to a third party. As between Great Britain and us, considering all the circumstances explained in the papers, we deemed we did enough to satisfy her. We are moreover assured that it is the standing usage of France, perhaps, too, of other nations, in all wars, to lodge blank commissions with all their foreign Consuls, to be given to every vessel of their nation, merchant or armed, without which a merchant vessel would be punished as a pirate

were she to take the smallest thing of the enemy that should fall in her way. Indeed, the place of the *delivery* of a commission is immaterial, as it may be sent by letter to any one, so it may be delivered by hand to him anywhere; the place of *signature by the sovereign* is the material thing. Were that to be done in any other jurisdiction than his own, it might draw the validity of the act into question."

No. 110.

Secretary of State to Mr. Pinckney, dated Philadelphia, September 7, 1793.

[Extract.]

"We have received, through a channel which cannot be considered as authentic, the copy of a paper styled 'additional instructions to the commanders of his Majesty's ships-of-war and privateers,' &c., dated at St. James, June 8, 1793. If this paper be authentic, I have little doubt but that you will have taken measures to forward it to me. But as your communication of it may miscarry, and time in the meanwhile be lost, it has been thought better that it should be supposed authentic; that on that supposition I should notice to you its very exceptionable nature, and the necessity of obtaining explanations on the subject from the British Government; desiring at the same time that you will consider this letter as provisionally written only, and as if never written, in the event that the paper which is the occasion of it be not genuine.

"The first article of it permits all vessels laden wholly or in part with corn, flour, or meal, bound to any port in France, to be stopped and sent into any British port, to be purchased by that Government, or to be released only on the condition of security given by the master that he will proceed to dispose of his cargo in the ports of some country *in amity with his Majesty*.

"This article is so manifestly contrary to the law of nations, that nothing more would seem necessary than to observe that it is so. Reason and usage have established that when two nations go to war, those who choose to live in peace retain their natural right to pursue their agriculture, manufactures, and other ordinary vocations, to carry the produce of their industry for exchange to all nations, belligerent or neutral, as usual; to go and come freely without injury or molestation, and, in short, that the war among others shall be for them as if it did not exist. One restriction on their natural rights has been submitted to by nations of peace, that is to say, that of not furnishing to either party implements merely of war for the annoyance of the other, nor anything whatever to a place blockaded by its enemy. What these implements of war are has been so often agreed, and is so well understood, as to leave little question about them at this day. There does not exist, perhaps, a nation in our common hemisphere which has not made a particular enumeration of them in some or all of their treaties under the name of contraband. It suffices for the present occasion to say that corn, flour, and meal, are not of the class of contraband, and consequently remain articles of free commerce. A culture which, like that of the soil, gives employment to such a proportion of mankind, could never be suspended by the whole earth, or interrupted for them, whenever any two nations should think proper to go to war.

"The state of war then existing between Great Britain and France furnishes no legitimate right to either to interrupt the agriculture of the United States or the peaceable exchange of its produce with all nations; and, consequently, the assumption of it will be as lawful hereafter as now, in peace as in war. No ground, acknowledged by the common reason of mankind, authorizes this act now, and unacknowledged ground may be taken at any time and all times. We see, then, a practice begun to which no time, no circumstances prescribe any limits, and which strikes at the root of our agriculture—that branch of industry which gives food, clothing, and comfort to the great mass of the inhabitants of these States. If any nation whatever has a right to shut up to our produce all the ports of the earth except her own and those of her friends, she may shut up these also, and so confine us within our own limits. No nation can subscribe to such pretensions—no nation can agree, at the mere will or interest of another, to have its peaceable industry suspended, and its citizens reduced to idleness and want. The loss of our produce, if destined for foreign markets, or that loss which would result from an arbitrary restraint of our markets, is a tax too serious for us to acquiesce in. It is not enough for a nation to say, we and our friends will buy your produce. We have a right to answer that it suits us better to sell to their enemies as well as their friends. Our ships are not to go to France to return empty. They go to exchange the surplus of our produce, which we can spare, for surpluses of other kinds which they can spare and we want; which they can furnish on better terms and more to our mind than Great Britain or her friends. We have a right to judge for ourselves what market best suits us, and they have none to forbid to us the enjoyment of the necessaries and comforts which we may obtain from any other independent country.

"This act, too, tends directly to draw us from that state of peace in which we are wishing to remain. It is an essential character of neutrality to furnish no aids (not stipulated by treaty) to one party which we are not equally ready to furnish to the other. If we permit corn to be sent to Great Britain and her friends, we are equally bound to permit it to France. To restrain it would be a partiality which might lead to a war with France, and between restraining it ourselves and permitting her enemies to restrain it unrightfully is no difference. She would consider this as a mere pretext of which she would not be the dupe; and on what honorable ground could we otherwise explain it? Thus we should see ourselves plunged, by this unauthorized act of Great Britain, into a war with which we meddle not, and which we wish to avoid, if justice to all parties and from all parties will enable us to avoid it. In the case where we found ourselves obliged by treaty to withhold from the enemies of France the right of arming in our ports, we thought ourselves in justice bound to withhold the same right from France also, and we did it. Were we to withhold from her supplies of provisions, we should, in like manner, be bound to withhold them from her enemies also, and thus shut to ourselves all the ports of Europe where corn is in demand, or make ourselves parties in the war. This is a dilemma which Great Britain has no right to force upon us, and for which no pretext can be found in any part of our conduct. She may indeed feel the desire of starving an enemy nation, but she can have no right of doing it at our loss, nor of making us the instruments of it."

No. 111.

Mr. Genet, Minister from France, to the Secretary of State, dated Philadelphia, May 27, 1793, the 2d year of the Republic of France.

[Translation.]

SIR: My predecessor has delivered * * * the most perfect harmony.

GENET.

(Vide volume 1, Foreign Relations, pages 149, 150.)

No. 112.

Secretary of State to Mr. Genet, dated Philadelphia, June 5, 1793.

SIR: In my letter of May 15, * * * in the ports of the United States.
I have the honor to be, &c.,

TH. JEFFERSON.

(Vide volume 1, Foreign Relations, page 150.)

No. 113.

Secretary of State to the Minister Plenipotentiary of Great Britain in the United States, dated Philadelphia, June 5, 1793.

[Extract.]

"SIR: In the letter which I had the honor of writing you on the 15th of May, in answer to your several memorials of the 8th of that month, I mentioned that the President reserved for further consideration a part of the one which related to the equipment of two privateers in the port of Charleston. The part alluded to was that wherein you express your confidence that the Executive Government of the United States would pursue measures for repressing such practices in future, and for restoring to their rightful owners any captures which such privateers might bring into the ports of the United States.

"The President, after a full investigation of this subject and the most mature consideration, has charged me to communicate to you that the first part of this application is found to be just, and that effectual measures are taken for preventing repetitions of the act therein complained of; but that the latter part, desiring restitution of the prizes, is understood to be inconsistent with the rules which govern such cases, and would, therefore, be unjustifiable towards the other party.

"The principal agents in this transaction were French citizens. Being within the United States at the moment a war broke out between their own and another country, they determined to go in its defence. They purchase, arm, and equip a vessel with their own money, man it themselves, receive a regular commission from their nation, depart out of the United States, and then commence hostilities by capturing a vessel. If, under these circumstances, the commission of the captors was valid, the property, according to the laws of war, was by the capture transferred to them, and it would be an aggression on their nation for the United States to rescue it from them, whether on the high seas or on coming into their ports. If the commission was not valid, and consequently the property not transferred by the laws of war to the captors, then the case would have been cognizable in our Courts of Admiralty, and the owners might have gone thither for redress. So that on neither supposition would the Executive be justifiable in interposing."

No. 114.

Mr. Genet to the Secretary of State, dated Philadelphia, June 8, 1793, 2d year of the French Republic.

[Translation.]

SIR: I have seen with pain * * * deserve to augment their number.

GENET.

(Vide volume 1, Foreign Relations, page 151.)

No. 115.

Circular letter from the Governor of Virginia to the Commandants of Counties in which are ports of navigation, dated Richmond, June 8, 1793.

SIR: The President of the United States having called on me, in my character of Commander-in-chief of the militia of this State, to be ready to suppress any attempt or attempts which may be made within

the limits thereof to violate the neutrality he has declared in behalf of the people of the United States towards the belligerent powers, I consider it my duty to communicate the same to the commandants of the militia of those counties whose local situation may require it, together with the sentiments expressed by the President on this occasion.

He has declared that the treaty existing between the United States and France, and the treaty existing between the United States and Holland, do not authorize those powers to arm vessels within our ports; therefore any attempt on the part of the belligerent powers or their subjects so to do will be a violation of the neutrality.

In all such cases you will therefore be pleased to interpose with your militia, seizing and detaining any vessel which you may find within the limits of your county, commissioned, equipped, and manned as a privateer, on behalf of any of the belligerent powers or of their subjects; and you will also interpose in all acts of hostility which may happen between the belligerent powers, detaining the party first aggressing.

In any event of this sort, you will be so good, without loss of time, to communicate the case to me, with all the evidence, legally taken in writing, appertaining thereunto, that I may transmit the same to the President of the United States, whose decision, when known to me, will be forwarded to you.

I have the honor to be, sir, &c.,

HENRY LEE.

No. 116.

Secretary of State to Mr. Genet, dated Philadelphia, June 17, 1793.

SIR: I shall now have the honor * * * equally as citizens are.

I have the honor to be, &c.,

THOMAS JEFFERSON.

(Vide volume 1, Foreign Relations, pages 154–'5.)

No. 117.

Mr. Genet to the Secretary of State, dated Philadelphia, June 22, 1793, 2d year of the Republic.

[Translation.]

SIR: Discussions are short * * * good faith and reason.

Accept, sir, the expression of my esteem and my respectful sentiments.

GENET.

(Vide volume 1, Foreign Relations, pages 155–'6.)

No. 118.

[Translation.]

Protest of Citizen Hauterive, Consul of the Republic of France, at New York, against the process and seizure of the Catharine, of Halifax.

JUNE 21, 1793.

Considering that tribunals are instituted to render justice between individuals, and not to judge of the differences that may arise between Governments, and still less to decide on the political relations which exist between nation and nation; that their sphere is circumscribed within the territorial limits of the State to which they belong; that there cannot be any relation of dependence between the tribunals which therein belong to two different nations:

That the consular jurisdiction is an extension and a first degree of jurisdiction of the Tribunals of Commerce and of Admiralty, instituted in foreign countries by the nation to which the political conventions have given the right of consulate as well as the right of recurring to the public force to insure the execution of the consular discussions:

That the limits of this jurisdiction depend only on the foreign Government which has established it, and that this Government may extend or contract it at pleasure, provided it does not attribute to it any action against the persons, the property, the police, and the local jurisdiction:

That in attributing to these tribunals dependent upon it that which belongs to another equally dependent upon it, a Government does not go beyond the limits of this power:

That recently the French Government hath given to the consulates of the Republic the jurisdiction of sea prizes, and has thus completely constituted them Courts of Admiralty:

That by that it only displaces one of the branches of the judiciary power; that the geographical position of a legally established tribunal neither alters the force, nor extent, nor independence of its jurisdiction:

That all intervention, direct or indirect, as to the French prizes being formally interdicted, the tribunals of the country, the admiralties of the two nations, however they may locally approach each other, are not the less separated from one another by the insurmountable barrier of political right:

That thus a French prize, remaining in a neutral port in virtue of treaties, is submitted to the consular admiralty in virtue of the right which nations have of organizing at pleasure their judicatures, is as much sheltered from the action of any other local tribunal as if it were in a French road:

For all these reasons, we, Alexander Hauterive, Consul of the Republic of France, considering that the New York District Court has extended its jurisdiction to a French prize, the decision of which was pending in our tribunal:

That this intervention, prescribed by the treaties, not only tends to establish a clashing of jurisdiction between two tribunals which cannot have communication together, but also to the annihilation of the consular tribunal, which is reduced to nothing as soon as the public force, which the treaties have given it the right of demanding to support its judgments, is employed against it:

That if this error of the judiciary power could be authorized by the Government, we must suppose that the Government has the right of interpreting, modifying, or destroying the political compacts which unite the two nations by the information and decision of the tribunals of one of these two nations:

We protest against the violation done to the rights of the nation we represent; we declare formally that whatever may be the decisions of the tribunal, which has arrogated to itself the judgment of the prize *Catharine, of Halifax*, to the injury of the consulate jurisdiction, the parties interested, who are amenable only to our tribunal, are not bound to conform to it; we declare this judgment to be null and of no effect whatever: 1st, by the notoriety of the incompetency of the tribunal; 2d, because it would be given in contempt of our protest; 3d, because it would be formed on insufficient information, the principal papers to elucidate the discussion being in our hands, never to go out of them; 4th, because the French Republic being one of the parties, it would be necessary, in order to proceed regularly, that the judges should find in the American laws that the French nation is amenable, in its political rights, to a private tribunal, and that they may be condemned by default.

We declare, in fine, that these rights shall remain entire, saving the requisition of damages and interest to the parties interested, and the demand of reparation for that of the two nations, who, in the diplomatic judgment, (the only competent arbiter between friendly nations,) will be acknowledged injured in its rights. Further, we declare that the judgment of the fact is still pending in the consular tribunal of the Republic at New York.

New York, June 21, 1793, 2d year of the French Republic. Certified to be conformable to the original.

No. 119.

Protest of the Consul of the Republic of France, at Philadelphia, against the seizure of the ship William.

JUNE 22, 1793.

Considering that no authority on earth has either the right or the power of interposing between the French nation and her enemies; that she alone is the arbiter and judge of the offensive acts which the support of her independence obliges her to commit against the despotic Governments coalesced to replunge her into a state of servitude, from which, abandoned by her friends, and assailed by so many enemies, she alone has been able to liberate herself; that the Court of Admiralty at Philadelphia, yielding at first to ill-founded reclamations, since recalling herself to the principles of the law of nations, has acknowledged its incompetency to the decision on the legality of French prizes:

That hence it evidently results that no local authority can take upon itself the information of a discussion which arises or may arise between nation and nation:

That nevertheless the Federal Government has placed a guard on the ship William, taken by the French galliot, the Citizen Genet, and by this matter of fact seems to declare that, previous to all discussion, it meant to interfere in the examination of the right and in the decision of the facts:

That if the Government interferes as local authority in the judgment of the facts, they deny and violate the principle expressly declared in the 17th article of the treaty between America and France:

That if, as a power invested by the nation to communicate with foreign Governments, they interfere in the examination of the right, they proceed previously by a method to this day unknown, in preceding a diplomatic discussion by an arbitrary and violent act, and by an execution purely military:

For all these reasons, we, Francis Dupont, Consul of the French Republic at Philadelphia, formally protest against the infringement committed on the rights of the French nation by the local government of Philadelphia.

We declare that, having proceeded in a judiciary manner to the sale of the said ship, and that being accountable, in the name of the French nation, to the purchasers of the property acquired by them, we throw upon the Government who has created these obstacles to acquiring the possession all the damages and interest.

We declare further that, in informing the minister of the French Republic of the violence opposed to the exercise of our functions, we, in his name, reserve, by the present protest, the pursuit in reparation for the violation of the conventional compacts and the outrage against the French nation in the ministry of its agents.

Done in our consulate, Philadelphia, June 22, 1793, 2d year of the French Republic.

FROIS DUPONT.

No. 120.

Mr. Randolph, Secretary of State, to R. Harrison, Esq., Attorney of the United States for the District of New York, dated Philadelphia, June 26, 1794.

SIR: Mr. Sedgwick, when last in this city, applied to me to release the vessel called the Republican, stating that she is the same upon the detention of which a Mr. Caritat has instituted an action against the Governor of New York and the federal marshal of that district, with a simul cum in his declaration involving the President of the United States and the Secretary of War. I told Mr. Sedgwick that the

style of this proceeding precluded everything like an accommodation in the spirit of concession. He replied that nothing of this kind was wished, but that, on the other hand, Mr. Caritat had been misled, or something to that effect, but was now sensible that he could not do better than to regain his vessel. From the statement which was given me, I did not doubt that the Government would be ready to discharge her. But as we were not in possession of any accurate information as to her true situation, I desired Mr. Sedgwick to obtain it for me in New York. This has produced the enclosed letter from Mr. Fellows, who desires me to write to the marshal. Let me request you, sir, to transmit to me a memorandum of the case, and to add what you think the best mode of getting rid of the affair.

I am, sir, with great esteem, your most obedient servant,

EDMUND RANDOLPH.

No. 121.

Report on a project of an act of navigation of the French Republic, presented to the National Convention, the 3d of July, 1793, in the name of the Committees of Marine, of Commerce, and of Public Safety, by Peter Marec, Deputy from Finistere; printed by order of the National Convention.

CITIZEN LEGISLATORS: You have referred to your diplomatic Committees of Marine and Commerce, united, the proposition made in your body the 20th of May last, to present to you, without delay, a project of an act of navigation.

This object, so worthy of the meditation of a republican legislator, has not been overlooked by your Committee of Public Safety. In the report they made to you on the 29th of May, on the state of the French Republic, they traced to you in general the invaluable advantages which would result to her from a measure which, having been adopted by England a century and a half ago, has been the most fruitful source of the prosperity of that rival power. But in a question of this nature, general considerations and observations, hastily made, are insufficient to impress conviction on every mind.

Your Marine Committee has been employed in collecting such ideas and elements as might completely enlighten you on the importance of a navigation act, and finally determine you to establish, at the side of the political constitution of the empire, this first basis of her commercial constitution. They could not unite, according to your views, with the Diplomatic Committee, which has not been renewed since the suppression of the Committee of General Defence, but they have concerted with those of Commerce and Public Safety, and it is in the name of these three committees that I come to present to you the result of their deliberations.

The principal end of the navigation act which we propose is, to destroy the interposition of all *indirect* navigation in the maritime transportation of our articles of exchange with foreign nations, and, in fine, to put a stop to that intermediate carrying trade, so prejudicial to our commerce and marine, which hitherto has rendered us benevolent tributaries of all the maritime powers of Europe. This act has also for its object to reserve to the national vessels the exclusive privilege of transporting the same articles of exchange from one port of the Republic to another.

This double prohibition is doubtless contrary to the principles of an indefinite commercial freedom; but such freedom, perhaps, would not agree with the system of an universal Republic; and it is conceived that the Republic of the human race will be still more difficult to realize than that of Plato. It is, then, our wisdom not to allow ourselves to be dazzled by the brilliant imaginations of political writers, and who warp the light of reason and experience in their spacious arguments and pompous theory. It is from the example of the great nations who surround us—from that nation, especially, who first knew how to apply to her navigation prohibitory regulations; it is from that source we ought to derive rules for our conduct, if we have at heart the true prosperity of our country.

France, taken in a commercial point of view, is the richest entrepôt of the universe; she is also the market which offers the most consumers and vent for the industry of other nations. Whence does it happen that, with so many resources and wants; with such abundance of territorial commodities, productions, and merchandises; with the habit of consuming such great quantities of the commodities, productions, and merchandises of foreigners, her navigation has hitherto been so languishing, her commercial marine so pitiful, so altogether destitute of the advantages which are its inherent right? Whence does it happen that the flag of her most formidable enemies has almost exclusively figured in her commercial relations? Because she was destitute of a navigation act; because a false, timid, and frivolous policy knew not how to produce, or did not dare to borrow from a great nation, proud of its wealth and of its credit, this valuable system, which has contributed more to the power of that nation than all the victories of its admirals.

In a word, it is time that the French nation should know all her advantages and how to profit of them. It is time for her to repair all the injury she has sustained in this respect, through the ignorance or criminal indifference of an oppressive Government, more careful of preserving at any price its despotic authority; more occupied in diplomatic intrigue or fiscal operations; more tenacious in maintaining the false splendor of a throne at the expense of the true interests of the people, than attentive to render productive, by every means in its power, their agriculture, their commerce, and their industry.

Doubtless there never was a more favorable occasion for procuring to our country the benefit of a navigation act. Numerous republican armies, familiarized with victory, being now fighting for her independence and her liberty against the very powers who are most interested in preventing us from enjoying such an act. Before the war it might have been sufficient for us to have made such an act merely with regard to England; such was the effect on Holland when Oliver Cromwell, in 1651, had a decree passed by the British Parliament.

At that epoch, according to the inquiries of one of our countrymen, the best informed at the present day in the knowledge of our true commercial and political interests, (Citizen Ducher,*) the maritime commerce of the English did not consist of more than 96,000 tons of transports; in 1790 it rose to more than 800,000 tons.

* If the Convention pass the present project of a navigation act into a decree, the country will be under obligations to Citizen Ducher, who, for upwards of two years past, has endeavored to obtain the adoption of this plan with indefatigable perseverance, as well in Committees of the National Assembly as by the publication of his writings. This is an act of justice which it affords me pleasure publicly to render to that excellent citizen.

Again: at that epoch, according to the interesting report presented to the Constituent Assembly on this subject by Citizen *Delattre*, "one-half of the navigation of England was carried on by foreigners. England has imperceptibly retaken her rights; towards the year 1700 foreigners possessed no more than the *fifth part* of this navigation; in 1725, only a little more than the *ninth;* in 1750, a little more than a *twelfth;* and in 1791 they possessed only the *fourteenth* part of it."

Our navigation a year ago was, in regard to foreign nations, still more unfavorable than the English navigation of 1651. Permit me here to give, in a concise manner, the striking calculations which were laid before you on this subject, in the month of December last, by the ex-Minister of the Home Department, in the table containing the amount of the exterior commerce of the Republic of France.

The maritime transportation of our exchange with the Europeans, the Levant, the Barbary States, and the Anglo Americans, estimating on a mean year, from 1787 to 1789 inclusive, has employed, in the whole, 16,225 vessels, measuring 1,184,170 tons, which, taking one with another, at 36 livres the ton, would produce 42,630,120 livres of freight.

There have been employed in this transportation, during the same period, only 3,763 French vessels, measuring, in the whole, 295,251 tons, making, at the same rate, 10,808,316 livres of freight.

That is to say, the French flag has appeared to come in for only a little more that *two-tenths*, whilst the English flag has participated therein to nearly the amount of *four-tenths*, and that of other nations in the remaining *four-tenths*.

In the first six months of 1792, in near six thousand vessels, measuring five hundred thousand tons, which have been in like manner employed on our commercial imports and exports to and from the same people, the French had but *three-tenths* of the total mass, whilst the vessels of England, and Holland, and the Hanseatic towns, had *four-tenths*, and the vessels of other nations the remaining *three-tenths*.

If we view this navigation under another aspect, that of our direct relations with each of the European States, of the Levant, Barbary, and North America, it will be seen that, during the same time, (taking the mean year of 1788 and 1789, inclusively,) there have been mixed in the maritime transportation of our exchanges: with Spain, one hundred and ninety-nine vessels other than French or Spanish, deduction being made of the foreign vessels which might have intermeddled in this carrying trade under either of the two flags; with Sardinia, two hundred and sixty-nine vessels, also intermedial; with the Republic of Genoa, two hundred and sixty-one similar vessels; with Holland, two hundred and fifty-three similar vessels. In a word, with all the States of which I have spoken, two thousand three hundred and sixty-eight vessels employed in indirect commerce, and whose tonnage amounts to two hundred and thirty thousand six hundred tons; which, valued at thirty-six per ton of freight, one with another, amount to eight millions three hundred and one thousand six hundred livres, carried off with inpunity in one year from our carrying trade, merely from the want of a navigation act in France, without counting upon the considerable advantages which would otherwise result from it, for her industry and commerce, for ship building in her ports, and for the employment of the whole or even the half of these two thousand three hundred and sixty-eight intermediate vessels.

It must, then, appear plainly to the conviction of every person that nothing would contribute more to the prosperity of our navigation, and consequently to every branch of our commerce and industry, than the adoption of an act which, by severely excluding all foreigners who hitherto have forcibly taken from our fellow-citizens the richest portion, if I may so express myself, of their patrimony, would, in the same proportion, increase the amount of their direct relations with foreign nations.

Let us hasten, then, citizens, to restore to our country all her rights, by adopting, in this respect, a grand system worthy of all that we have done for liberty.

If, at the epoch at which I now speak, our navigation is proportionally more languishing than that of England was when the genius of Cromwell gave her that so renowned act, let us hope that, by consecrating it in our maritime legislation, our navigation will in a short time acquire the same degree of splendor as that of our rivals. With more than two hundred and fifty leagues of coast on the ocean and the channel, and more than one hundred on the Mediterranean, with ports as secure, as extensive, and commodious, with an infinite number of havens, of dock yards, of manufactures of every kind; with an immensity of people as enterprising, as industrious, with incalculable territorial riches, and a mass of colonial commodities superior to that of all the powers of Europe united; and, above all, with a free and republican constitution, let us hope that France, freed from the yoke of the feudal system, and that of the fiscal, inseparably connected with it; delivered from her kings, her nobles, her priests, raised to the happy condition of depending on those laws only which are made by herself, and not obliged to receive them from any power on earth—let us hope, I say, that, in such a state of things, France, with an act of navigation, would behold the rapid envelopement of all the seeds of public and private prosperity which she contains in her bosom. Let us also hope that the decree you are about to pass will prove more efficacious for your obtaining a peace with the belligerent maritime powers than if they were to lose one hundred of their best vessels; and as to those who at this moment preserve circumspect neutrality towards you, be persuaded that the inevitable effect of your navigation act will be the attaching of them to you by indissoluble ties. All will be eager to seek an alliance with that European power from whom they will derive most benefit by the suppression of indirect navigation and the immensity of its consumers. Every one, from the moment of the promulgation of your decree, will pray and perhaps make use of secret efforts to procure you an advantageous peace, which doubtless, at present, they have some interest in preventing; and, besides, your independence, your political liberty, the establishment of your republican constitution, will be to them, as much as to yourselves, a subject of triumph and general victory.

The navigation act, as I have already said, is the basis of the commercial constitution of the Republic, or rather it is in this respect a true constitutional act. All the other laws upon maritime navigation should only be viewed as corollaries of this act, provisions as to the manner of its execution; in a word, merely regulating laws.

The latter may be successfully presented to you by your committees. The most interesting of these are relative to the tonnage of vessels, upon the means of multiplying ship building, and of bringing them to more perfection; upon forms of licenses and passports; upon the means of discovering and preventing *francisations*, simulèes, &c.; and, above all, upon a better tariff of rates of navigation, without which the constitutional act, in this respect, cannot produce all the effect which we have a right to expect from it.

Your committee will now confine itself to laying before you the project of that act. By prohibiting all intermediate navigation between you and each foreign nation, it extends this prohibition, not only to the transportation of the commodities, merchandises, or productions imported, of their growth, production, or manufacture, but also to the transportation of those imported from the *ordinary ports of sale*, and of the

first exportation. It is necessary that such a prohibition should be as extensive as it could be made, without which a navigation act would become a mere illusory measure. The English, from whom we borrow this system, have given it that extension, and, indeed, they are to be applauded for it.

The necessity of determining the requisite qualities for enjoying the privileges of a *French vessel*, that is to say, for the exclusive admission to carry on our direct navigation, in concurrence with the vessels of the people from whom we receive our articles of supply; this necessity, I say, was an immediate consequence of the prohibition of all indirect navigation. The project of the act regulates these qualities; it also determines the only evidence by which we could know the vessels of the nation with whom we may trade; and it is easily perceived that if we did not impose, in this respect, those conditions which are most conformable to our interest, every day crowds of intermediate vessels would borrow the flag of such nations, and we should have employed but half the means for abolishing indirect navigation. Besides, these conditions have a tendency to favor the direct navigation and commerce of such nations. By them it is put in the happy necessity of multiplying by every means its ship building, nautics, and maritime population; and if in the meanwhile its own vessels and mariners are insufficient for the exportation of its commodities and merchandises, then it belongs to us alone to supply that deficiency, and our navigation would then receive a further increase from this source, and our commerce an additional degree of prosperity.

Thus everything concurs, citizens, to induce you to adopt the project of the navigation act, which I am instructed to present to you. It is a national right you are about to proclaim, after having solemnly recognized the sacred rights of man and of citizen, and founded the freest constitution under the globe.

If all nations ought to recognize the equality, the liberty of nature, and the safety of society, in the exposition of the doctrines of that immortal declaration, all the maritime nations ought to recognize the rights of property in the dispositions of our navigation act. Would to Heaven that all had the courage or the wisdom to follow our example. Then there would be no exclusive privilege between one nation and another; and were the act of navigation adopted by all the maritime powers of the globe, it would in some degree realize that indefinite commercial liberty which, without doubt, is the first element of commerce, but which at present, in particular, is not suitable to the interests of any commercial nation.

With so many powerful inducements to decree an act of navigation, you doubtless will not, in the existing circumstances, be withheld by the apprehension that such a disposition would injure the obtaining of supplies for the Republic, which they are obliged to draw forth from foreigners. It is an acknowledged principle with the English themselves, and constantly practiced among them, that, in times of war, neutral vessels are excepted, of right, from the dispositions of the navigation act. This act, therefore, will not add to those restrictions which the maritime war at present imposes on the maritime transportation of our exchanges or of our supplies; and neutral vessels will continue to bring us everything which we dare not confide to our own.

Neither will you be deterred by an apprehension of injuring the personal interests of some hundreds of cosmopolite capitalists, of selfish Commissioners, for whom the want of a navigation act in France has been the principal, the most fruitful source of their colossal fortunes. The general interest of the country, that of her laborers, of her manufacturers, of her artists, of her seamen, her merchants, and all her *sans culottes*, to whom you will assure employment and bread. These reasons should determine you; these reasons should influence you exclusively in your deliberations. All will bless you; all will look upon the act of navigation as one of the most precious gifts you could bestow on your countrymen, next to the constitutional charter which you have just digested. When Oliver Cromwell had, through the medium of his Parliament, established a navigation act, all the ports of England manifested, by illuminations, the joy which that memorable act gave them; and the English people forgot for a moment that they received this gift from the hands of a tyrant. How great, then, ought the transports of our fellow-citizens to be when they receive your decree from the same hands which have given them the declaration of rights and the French constitution.

May France be enabled, in the end, therefore, to boast also of having a navigation act; may it henceforward be the basis of her policy, as it is about being that of her commerce. May she soon become more rich, more flourishing, more happy than she has been under the most brilliant reigns of her despots, and never treat with foreign powers without her constitution in one hand and her navigation in the other; and astonished Europe will, doubtless, see her merchants become one day her only ambassadors, like those of London and Amsterdam formerly, negotiating at foreign courts the most important interests of their country; and, after having weighed the destinies of the two worlds, and secured the prosperity and glory of their country, resuming the peaceable pursuits of commerce.

The following is the project of the decree:

No. 122.

Copy of the Act of Navigation of the French Republic, referred to in the foregoing.

The National Convention, after having heard the report of their Committees of Marine, of Commerce, and of Public Safety, considering that the French nation has the incontestable right of securing, by every method, the prosperity of her agriculture, commerce, and industry; that nothing has a more direct tendency to this end than a navigation act; and that, in the solemn declaration of this act she only makes use of the same right which she acknowledges to belong to all other nations, decrees as follows:

ARTICLE 1. That no foreign commodities, productions, or merchandises, shall be imported but *directly* by French vessels, or those belonging to the inhabitants of the country of which they are the growth, produce, or manufacture, or to the inhabitants of the country of the ordinary ports of sale and first exportation; the officers and three-fourths of the crew of a foreign vessel being of the country whose flag the vessel bears; the whole on pain of confiscation of the vessel and cargo, and a fine of three thousand livres jointly and severally against the owners, consignees, and agents of the vessel and cargo, the captain and lieutenant of the vessel.

ARTICLE 2. That foreign vessels shall not transport from one French port to another French port any commodities, productions, or merchandises, of the growth, produce, or manufacture of France, the colonies or possessions of France, under the penalties declared in article 1.

ARTICLE 3. That, after the 10th of August next, no vessel shall be reputed French, nor enjoy the privileges of a French vessel, unless such vessel shall have been built in the colonies or possessions of

France, or declared a good prize taken from an enemy, or confiscated for contravention of the laws of France, and unless the officers and three-fourths of the crew are Frenchmen.

No. 123.

Mr. T. Pinckney, Minister to Great Britain, to the Secretary of State.

LONDON, *July* 5, 1793.

DEAR SIR: The inclosed copy * * * he received by the packet.
I have the honor to be, &c.,

THOMAS PINCKNEY.

The SECRETARY OF STATE.
(Vide volume 1, Foreign Relations, page 241.)

No. 124.

Mr. Genet to the Secretary of State.

[Translation.]

PHILADELPHIA, *July* 9, 1793, *second year of the Republic.*

SIR: I have already frequently had the honor of conversing with you on the revolting treatment which the English vessels-of-war use on the high seas towards American vessels. I have informed you of the severe visits to which they subject them, and of the seizure they make on board of them, and under the protection of the flag of the United States, of the persons and property of the French citizens.

The reports of all the navigators attest the truth of these facts, and the complaints enclosed present new proofs. I request you, sir, to communicate them to the President of the United States, and to be so obliging as to inform me of the measures he has taken, or those he proposes to take, to cause our enemies to respect the flag of the United States as much as we ourselves do, and to have delivered to our fellow-citizens the property of which they have unjustly been deprived.

I must observe to you, sir, that as the English will probably continue to carry off with impunity our citizens and their property on board of American vessels, without embarrassing themselves with the philosophical principles proclaimed by the President of the United States, the engagements we have contracted with you, placing us in the most disadvantageous position with respect to our enemies, in depriving us of the privilege of using, at every point, with regard to them, the right of reprisals, it is as necessary for your as for our interest that we should agree to take other measures. I expect immediately, sir, a positive answer from the Federal Government on this subject; and I hope that it will comport with the dignity and justice of the American people, who ought not to require, if they are not at present in a situation to compel the English to justice, whom they have formerly conquered, that we should expose ourselves and them longer, by a misplaced complaisance, to the insults of that nation, towards whom generous proceedings generally lead only to new outrages.

GENET.

No. 125.

Secretary of State to Mr. Genet, dated Philadelphia. July 12, 1793.

SIR: The President of the United States, * * * well compensated.
I have the honor to be, &c.,

THOS. JEFFERSON.

(Vide volume 1, Foreign Relations, page 163.)

No. 126.

Secretary of State to Mr. Genet, dated Philadelphia, July 24, 1793.

SIR: Your favor of the 9th instant * * * which may prevent repetitions of it.
I have the honor to be, &c.,

THOS. JEFFERSON.

(Vide volume 1, Foreign Relations, pages 166, 167.)

No. 127.

Mr. Genet to the Secretary of State.

[Translation.]

PHILADELPHIA, *July* 25, 1793, *second year of the Republic of France.*

SIR: I receive daily new complaints * * * having become free men.
Accept, sir, &c.,

GENET.

(Vide volume 1, Foreign Relations, page 165.)

No. 128.

Secretary of State to Mr. Genet.

PHILADELPHIA, *August* 7, 1793.

SIR: In a letter of June 5, * * * to prevent the same.
I have the honor to be, &c.,

THOS. JEFFERSON.

(Vide volume 1, Foreign Relations, page 167.)

No. 129.

Circular letter from James Wood, Lieutenant Governor of Virginia, to the commandants of counties in which are ports of navigation.

RICHMOND, *August* 22, 1793.

SIR: It having been decided by the President of the United States that no armed vessel, which has been or shall be originally fitted out, in any part of the United States, as a cruiser or privateer, by either of the parties at war, is to have asylum in any of the ports of the United States; in case any vessel within the foregoing description should arrive in any port or harbor within the limits of your county, you are to cause her to be ordered to depart immediately; and in case of her refusal you are to take effectual measures to oblige her to depart. Force is not to be resorted to until every proper effort has been previously made to procure the early departure without it. If any such vessel or vessels shall have sent or brought, subsequent to the 5th instant, or should hereafter send or bring any prize or prizes into any port or harbor within your county, you will cause such prize or prizes to be immediately secured by your militia, for the purpose of being restored to the former owners. The following are the names of the privateers comprehended within the meaning of this letter, that have hitherto come to the knowledge of the Government of the United States:

Citizen Genet, Sans Culotte, Vanqueur de Bastile, fitted out at Charleston, South Carolina; Petit Democrat, fitted out at Philadelphia; Carmagnole, fitted out at Delaware.

You will be pleased to transmit in writing to the Governor all the cases, with the evidence thereon, which may occur in pursuance of this communication.

I have the honor to be, &c.,

JAMES WOOD.

No. 130.

Circular letter from the Secretary of State to the merchants of the United States.

PHILADELPHIA, *August* 27, 1793.

GENTLEMEN: Complaint having been made to the Government of the United States of some instances of unjustifiable vexation and spoliation, committed on our merchant vessels by the privateers of the powers at war, and it being possible that other instances may have happened of which no information has been given to the Government, I have it in charge from the President to assure the merchants of the United States, concerned in foreign commerce or navigation, that due attention will be paid to any injuries they may suffer on the high seas or in foreign countries, contrary to the law of nations, or to existing treaties; and that, on their forwarding hither well authenticated evidence of the same, proper proceedings will be adopted for their relief. The just and friendly dispositions of the several belligerent powers afford well-founded expectation that they will not hesitate to take effectual measures for restraining their armed vessels from committing aggressions and vexations on our citizens or their property.

There being no particular portion or description of the mercantile body pointed out by the laws for receiving communications of this nature, I take the liberty of addressing it to the merchants of Charleston, for the State of South Carolina, and of requesting that, through them, it may be made known to all those of their State whom it may concern.

Information will be freely received either from the individuals aggrieved or from any associations of merchants who will be pleased to take the trouble of giving it in a case so interesting to themselves and their country.

I have the honor to be, with great respect, gentlemen, &c.,

THOS. JEFFERSON.

To ———

GENTLEMEN: I take the liberty of requesting you to communicate the enclosed to the merchants of ———, and have the honor to be, with great respect, gentlemen, &c.,

THOS. JEFFERSON.

No. 131.

Secretary of State to the British Minister in the United States.

PHILADELPHIA, *September* 5, 1793.

SIR: I am honored with yours of August 30; * * * where the respective vessels are.

I have the honor to be, with great respect, sir, &c.,

THOS. JEFFERSON.

(Vide volume 1, Foreign Relations, pages 174, 175.)

No. 132.

Mr. Genet to the Secretary of State, dated New York, September 18, 1793, *second year of the French Republic.*

[Extract.]

"6. That the Secretary of War, to whom I communicated the wish of our Governments of the Windward Islands, to receive promptly some fire-arms and some cannon, which might put into a state of defence possessions guarantied by the United States, had the front to answer me, with an ironical carelessness, that the principles established by the President did not permit him to lend us so much as a pistol. 7. That the Secretary of the Treasury, with whom I had a conversation on the proposition which I made to convert almost the whole American debt, by means of an operation of finance authorized by law, into flour, rice, grain, salted provisions, and other objects of which France had the most pressing need, added to the refusal, which he had already made officially of favoring this arrangement, the positive declaration that, even if it were practicable, the United States could not consent to it, because England would not fail to consider this extraordinary reimbursement, furnished to a nation with which she is at war, as an act of hostility."

No. 133.

Secretary of State to the British Minister in the United States, dated Philadelphia, September 9, 1793.

[Extract.]

"And though the admission of the prizes and privateers of France is exclusive, yet it is the effect of treaty made long ago for valuable considerations, not with a view to the present circumstances, nor against any nation in particular, but all in general; and may, therefore, be faithfully observed without offence to any, and we mean faithfully to observe it. The same exclusive article has been stipulated, as was before observed, by Great Britain in her treaty with France, and, indeed, is to be found in the treaties between most nations."

No. 134.

Secretary of State to the British Minister in the United States, dated Philadelphia, September 12, 1793.

SIR: I have the honor to inform you that the privateers Petit Democrat and Carmagnole sent into New London as a prize the brig Nancy, of Jamaica; that the Governor of Connecticut, having possessed himself of the said brig by a party of militia, was ready to deliver her up to her master or owner at the time of her capture, but that no such persons have appeared, and that in this case the Governor will deliver her to the owner or to your order.

I have the honor to be, with great respect, sir, &c.,

THOS. JEFFERSON.

No. 135.

British Minister to the Secretary of State.

PHILADELPHIA, *September* 12, 1793.

SIR: I have the honor of transmitting to you * * * recurring to it in the present instance.
I have the honor to be, &c.,

GEORGE HAMMOND.

(Vide volume 1, Foreign Relations, page 240.)

No. 136.

George Rex.

ADDITIONAL INSTRUCTIONS.

To the Commanders of his Majesty's ships-of-war and privateers that have, or may have, letters of marque against France.

Given at our Court at St. James, the 8th day of June, 1793, and in the thirty-third year of our reign.

1. That it shall be lawful * * * with intent to enter the same.
(Vide volume 1, Foreign Relations, page 240.)

No. 137.

Mr. Genet to the Secretary of State.

[Translation.]

NEW YORK, *September* 14, 1793, *second year of the French Republic.*

SIR: The multiplied business * * * than all the privateers in the world.

GENET.

(Vide volume 1, Foreign Relations, pages 184, 185.)

No. 138.

The Secretary of State to the British Minister in the United States.

SEPTEMBER 22, 1793.

SIR: I have yet to acknowledge * * * its reciprocity necessarily results to us.
I have the honor to be, &c.,

THOS. JEFFERSON.

(Vide volume 1, Foreign Relations, pages 240, 241.)

No. 139.

Mr. Genet to the Secretary of State.

[Translation.]

NEW YORK, *September* 24, 1793, *second year of the Republic.*

SIR: I am charged to communicate * * * and to maintain their rights.
Accept my respect.

GENET.

(Vide volume 1, Foreign Relations, page 178.)

No. 140.

Mr. Genet to the Secretary of State.

[Translation.]

NEW YORK, *September* 27, 1793, *second year of the French Republic.*

SIR: I send you the decree passed * * * and to the cause of liberty.
Accept my respect.

GENET.

(Vide volume 1, Foreign Relations, pages 243, 244.)

No. 141.

Mr. Genet to the Secretary of State.

[Translation.]

NEW YORK, *September* 30, 1793, *second year of the French Republic.*

SIR: I am directed to communicate to you * * * the end we ought to propose by it.
Accept of my respect.

GENET.

(Vide volume 1, Foreign Relations, pages 244, 245.)

No. 142.

Mr. Genet to the Secretary of State.

[Translation.]

NEW YORK, *November* 14, 1793.

SIR: Having been overwhelmed * * * the two nations but one family.
Accept my respect.

GENET.

(Vide volume 1, Foreign Relations, page 246.)

No. 143.

Mr. Genet to the Governor of New York.

[Translation.]

NEW YORK, *November* 23, 1793, *second year of the French Republic.*

SIR: I have received the letter * * * think proper to direct.
Accept, sir, &c.

GENET.

(Vide volume 1, Foreign Relations, pages 186, 187.)

No. 144.

Mr. Genet to the Secretary of State, dated New York, November 25, 1793, *second year of the Republic.*

[Extract.]

"It is announced to me, from Baltimore, that two hundred colonists are embarking in the Chesapeake for *Jeremie.** The Philadelphia counter-revolutionary presses advertise that two vessels are about taking passengers for the Mole.† Thus, sir, it is no longer the good offices of an ally that France has occasion

* In a vessel belonging to Mr. Zachariah Copman.
† One is the ship Delaware, Captain James Art, fitted out by James Shoemaker. The other is the galliot Betsey Hannah, Captain Donachan, fitted out by Messrs, Reed & Soder.

to claim of the Federal Government; it is not to aid in our destruction that I have to conjure you; it is to entreat you not to conspire in the loss of a colony, which you ought to defend, that my afflicting duty is confined to.

"With whatever fury they have *obstinately persisted to paint me, in libels, which I despise*, as an enemy of the American people, and of their Government, and as aspiring to involve you in the war, you know, sir, with what moderation I have reminded you of the obligations which were imposed on you. In that, also, I have a clear conscience of having been influenced neither by our successes nor our misfortunes. I have only ceded to provisory acts, which, concealing a manifest contradiction under an apparent modesty, avow the inability to defend us, and usurp, at the same time, the right to let us be attacked."

No. 145.

Mr. Genet to the Secretary of State.

[Translation.]

NEW YORK, *November* 29, 1793, *second year of the Republic.*

SIR: It is not in my power * * * promised them by the President.
Accept my respect.

GENET.

(Vide volume 1, Foreign Relations, page 185.)

No. 146.

Report to the National Convention upon the navigation act, made in the name of the Committee of Public Safety, by B. Barrere. With two decrees passed in the session of the 21st September, the 2d year of the French Republic, one and indivisible.

Printed by order of the Convention, transmitted to the Departments and to the Armies, and translated into all languages.

CITIZENS: It was on the 21st September, 1792, * * *. The following are the projects of decrees which the Committee of Public Safety presents to you.
(Vide volume 1, Foreign Relations, pages 316, 320.)

No. 147.

Copy of the decree of a navigation act.

The National Convention, after having heard the report of the Committee of Public Safety, decree:

ARTICLE 1. That the treaties * * * the French nation is at peace.
(Vide volume 1, Foreign Relations, page 320.)

No. 148.

Copy of the decree relative to the licences of vessels under the French flag.

The National Convention, after having heard the report of the Committee of Public Safety, decree:

ARTICLE 1. That the licences of vessels * * * given to the informer.
(Vide volume 1, Foreign Relations, page 321.)

No. 149.

Extract from the speech of the President of the United States to both Houses of Congress, December 3, 1793.

"As soon as the war in Europe had embraced those powers with whom the United States have the most extensive relations, there was reason to apprehend that our intercourse with them might be interrupted, and our disposition for peace drawn into question by the suspicions too often entertained by belligerent nations. It seemed, therefore, to be my duty to admonish our citizens of the consequence of a contraband trade, and of hostile acts to any of the parties, and to obtain, by a declaration of the existing legal state of things, an easier admission of our right to the immunities belonging to our situation. Under these impressions the proclamation which will be laid before you was issued.

"In this posture of affairs, both new and delicate, I resolved to adopt general rules, which should conform to the treaties and assert the privileges of the United States. These were reduced into a system,

which will be communicated to you. Although I have not thought myself at liberty to forbid the sale of the prizes permitted by our treaty of commerce with France to be brought into our ports, I have not refused to cause them to be restored when they were taken within the protection of our territory, or by vessels commissioned or equipped in a warlike form within the limits of the United States.

No. 150.

Proclamation of neutrality by the President of the United States, dated December 3, 1793.

[Extract from Journals of Congress, December 3, 1793.]

A message was received from the President of the United States by Mr. Dandridge, his Secretary, who delivered in a copy of the proclamation, together with a copy of the rules prescribed by the President for the government of the executive officers in executing the treaties between the United States and foreign powers, referred to in the President's speech to both Houses.

By the President of the United States of America.

A PROCLAMATION.

Whereas it appears that a state of war * * * United States of America the seventeenth.

GEORGE WASHINGTON.

By the President:

THOMAS JEFFERSON.

(Vide volume 1, Foreign Relations, page 140.)

No. 151.

Instructions to the Collectors of the Customs.

[Circular.]

PHILADELPHIA, *August* 4, 1793.

SIR: It appearing that repeated * * * and except those vessels which shall have made prize, &c.

(Vide volume 1, Foreign Relations, pages 140, 141.)

No. 152.

Message of the President of the United States to Congress, December 5, 1793.

[Extract.]

"The Representative and Executive bodies of France * * * to our minister at that Court."

(Vide volume 1, Foreign Relations, pages 141, 142.)

No. 153.

Extract from the Report of the Secretary of State on the privileges and restrictions on the commerce of the United States in foreign countries, December 16, 1793.

"France has, of her own accord, proposed negotiations for improving, by a new treaty, on fair and equal principles, the commercial relations of the two countries. But her internal disturbances have hitherto prevented the prosecution of them to effect, though we have had repeated assurances of a continuance of the disposition."

No. 154.

The Secretary of State to the French Minister in the United States, dated January 28, 1794.

SIR: I am induced to believe, from your letter of the 23d instant, enclosing a complaint in behalf of Martin Villeneuve, that the act of Congress concerning Consuls and Vice Consuls, which was passed on the 14th of April, 1792, may possibly have escaped your notice.

You ascribe to the *Judge* of the district of New York some delinquency, and an instruction or warrant appears to have issued from Consul Hauterive to Mr. Willet, the Sheriff. Perhaps you will discover that, on such an occasion, neither the Judge nor the Sheriff is proper to be resorted to—the Marshal of New York and his deputies are the competent officers for aiding in the execution of any precept under the Consular Convention. If, however, you shall view the case in a different light, after examining the first section of that act, I shall, without delay, attend to any remarks which you may think proper to make.

I have the honor to be, &c.,

EDM. RANDOLPH.

No. 155.

The French Minister to the Secretary of State, dated Philadelphia, February 4, 1794, (O. S.)

[Translation.]

SIR: You will find under this envelope * * * sacrifices to prejudice and pride.

Accept my respect.

GENET.

(Vide volume 1, Foreign Relations, page 325.)

No. 156.

The President and Secretaries of the General and Extraordinary Commission of Guadaloupe to the Congress of the United States of America, dated Basserreet, November 6, 1793.

CITIZEN REPRESENTATIVES: An immense conspiracy is formed against the Republic of France. * * *. The General and Extraordinary Commission of Guadaloupe,

LA CHARRIERE, *President.*
KAIO and POHL, *Secretaries.*

(Vide volume 1, Foreign Relations, page 326.)

No. 157.

Secretary of State to the French Minister, dated Philadelphia, February 7, 1794.

SIR: I do myself the honor of informing you that the French ship L'Orient, of Bengal, now lying in the port of Philadelphia, attracts the attention of Government. It is represented that on her arrival she was the private ship of some company in France, and, though armed, was without a public commission; that possession has been since taken of her, under your authority, for the use of the French nation; that, as an evidence of her being destined to be used in public service, the uniform of France appears to be worn by those who are attached to her; and that she is to be commissioned *within the United States* to cruise upon the other belligerent powers. This last circumstance, when connected with those preceding, will, if it be true, be immediately seen to infringe the rules prescribed by the President, and now demands the repetition of the former declaration that the giving of such a commission is inadmissible. You will suffer me therefore to expect an answer explanatory of this affair, and if any intention of commissioning the L'Orient has been entertained that it will be renounced. The removal of suspicion, at its earliest stage, is the surest mode of continuing between the United States and France that harmony which it will be always my wish to maintain.

I have the honor to be, sir, &c.,

EDM. RANDOLPH.

No. 158.

Secretary of State to Mr. Mullony, dated Philadelphia, February 13, 1794.

SIR: I am informed that the appeals which were filed in the cases of the Catharine and William Tell, at New York, are already withdrawn, or likely to be immediately withdrawn. The consequence of this step will be to put them and their cargoes into the possession of the captors, and perhaps eventually out of the reach of Government. You spoke to me on this subject, and I understood from you that you would take care that the appeal on the Catharine at least should be continued. Let me beg the favor of you to come up immediately to General Knox, in order that proper measures may be concerted on this occasion.

I am, sir, your most obedient servant,

EDM. RANDOLPH.

No. 159.

Secretary of State to the British Minister, dated Philadelphia, February 13, 1794.

SIR: I do myself the honor of informing you that I am apprehensive, from the information which I received last night, of the appeals lodged in the cases of the Catharine and William Tell having been already withdrawn, or being about to be withdrawn without delay. I understood, from our conversation on this subject, that they were to be continued until the depositions should be forwarded to the Executive. Unless this should be done, the possession will be immediately surrendered by the marshal to the captors, and new measures for regaining possession may be executed with difficulty during the absence of the Governor from the city of New York. I must, therefore, beg the favor of your immediate interposition to prevent the dismission of the appeals.

I am, sir, your most obedient servant,

EDM. RANDOLPH.

No. 160.

Extract of a report from Mr. Edm. Randolph, Secretary of State, to the President of the United States, dated Philadelphia, March 2, 1794.

In your message to both Houses of Congress, on the 5th of December, 1793, * * * in depreciated assignats.

(Vide volume 1, Foreign Relations, pages 423, 424.)

No. 161.

Extract from a report of Mr. Edm. Randolph, Secretary of State, to the President of the United States, dated Philadelphia, March 14, 1794.

I did myself the honor of informing you, the other day, that the House of Representatives would probably remit to my office the documents which related to the vexations and spoilations on our trade, conceiving that they were of a nature purely Executive. Yesterday the Senate, as if they meant to take up the subject in some shape or other, passed a vote, as I have heard, calling for an abstract, estimates of the value of the property injured, &c. It is not understood, however, that this ought to arrest the proceedings of the President if he should think a demand of compensation, in behalf of each individual, advisable.

You have already expressed your sense on that subject, and I shall begin immediately to prepare separate statements.

But, sir, when I run over the long list of damage and confiscation under which the citizens of the United States are now groaning; when I conjecture the amount of the mercantile capital which must be lost to our country, already too deficient, in that respect, for its own independence; when I know that many individuals will actually become bankrupts by this unexpected invasion of their fortunes; I consider the tardy modes of ordinary negotiation as a refinement in torturing them with a hope, which, if ever fulfilled, will be accomplished only after a series of years. Nay, more. If the Government shall suspend its interposition until all the expensive forms of the superior foreign courts shall be exhausted, it will, in many instances, produce no other effect than to invite the possessors of a title remnant to throw away even that also.

I must acknowledge that the merchants who have been impoverished by this high-handed rigor seem to me to have a peculiar claim upon the most vigorous exertions of the Executive. If the resolutions proposed for adding 15,000 men to the military establishment should be carried, or a military countenance, for the purpose of defence should be assumed, by a proper modification of the militia and a complete military apparatus, redress for past injuries will not be treated as hitherto; we shall not fear insults in our own borders, nor meet with it abroad, from an opinion of our impotence. Under such circumstances I submit, sir, to your consideration whether it may not be expedient to send to England some temperate and sensible man, without a particle of the diplomatic character, who, under the particular instruction of Mr. Pinckney, may manage the discussion of the respective claims. The compensation for his services cannot be an affair of consequence; he will be a solicitor only, to execute the drudgery which Mr. Pinckney cannot perform; and there will be no danger of his contravening any view of our minister, as he will be always under his command. Such a person will go charged with all the necessary information, so as to render delay unnecessary for the collection of proof.

EDM. RANDOLPH.

No. 162.

The French Minister to the Secretary of State, dated Philadelphia, March 27, 1794.

[Translation.]

As you are about to lay before the President * * * Copy agreeable to the original.

J. H. FAUCHET.

(Vide volume 1, Foreign Relations, page 431)

No. 163.

Report from Mr. Edmund Randolph, Secretary of State, to the President of the United States, dated Philadelphia, March 31, 1794.

The laying of Mr. Fauchet's letter before Congress came into my mind. But I did not observe upon it, because he has given no answer whether a passport for the despatches on board may not be sufficient, or how he would wish the business to be modified. When that comes, it will probably be time enough to consider how far the President ought to be sending every application for relaxing the embargo to Congress; and whether there is not something too strong in excepting, by a new resolution, a vessel *notoriously loaded with flour for France* from the operation of the embargo. I thought that the liberal construction of the resolution would permit her to proceed. But, as you have determined otherwise, I cannot see the propriety of making a special rule for her, or of the President being the vehicle to Congress of such a proposition. Possibly Mr. Fauchet may place the subject upon other ground. I speak only upon the case as it now exists.

I have the honor, sir, to be, with the highest respect, your most obedient servant,

EDM. RANDOLPH.

No. 164.

Secretary of State to the British Minister in the United States, dated Philadelphia, May 1, 1794.

SIR: Your letter of the 11th ultimo renews a discussion * * * the decent but firm language of right.

I have the honor, sir, to be, with respect, your most obedient and most humble servant,

EDM. RANDOLPH.

(Vide volume 1, Foreign Relations, pages 450, 454.)

No. 165.

Secretary of State to the French Minister, dated Philadelphia, May 15, 1794.

SIR: I have at length prepared statements of the cases of vexation and spoliation, upon which certain citizens of the United States conceive themselves entitled to relief from your Government. Perhaps an interview between us might shorten the remonstrances which I have to make, and cut off a considerable delay. Permit me, therefore, to express a wish that you would name some day in the next week, when I may submit to you the complaints of my countrymen, as it will be a circumstance of great convenience to adjust the claims without the tedious form of a diplomatic discussion. If no place more suitable should occur to you, my office, which is now removed near the corner of Sixth in Arch street, will be free from interruption.

I have the honor, sir, to be, with great respect, your most obedient servant,

EDM. RANDOLPH.

No. 166.

Report from Mr. Edmund Randolph, Secretary of State, to the Vice President of the United States and President of the Senate, dated Philadelphia, May 20, 1794.

SIR: I now do myself the honor of transmitting to the Senate the abstract of vexations and spoliations of our commerce which was required by their resolution of the 13th day of March last. The volume sent will show that such a business could not be immediately completed. Indeed, sir, I was compelled, by the burden of business daily depending and arising in the office, to engage a gentleman of the law to assist me in preparing the abstract.

Permit me to remark, that the documents which have been forwarded to me are, in many instances, so imperfect as to render it impossible to make such regular statements as I wished.

I ought, at the same time, to observe, that on the second day of March, 1794, when I wrote my letter to the President of the United States, the cases of complaint against the British were thirty-two; against the French, twenty-six; against the Spanish, ten; and against the Dutch, one. The propriety, therefore, of what that letter contains will not be determined by the great list which has been exhibited since; nor will it be supposed that I have ever undertaken, or do now undertake, to vouch for a single fact; having made, and being able to make, no inquiry beyond the allegations of the parties interested.

The abstract would have been drawn in the first instance had it not been intended to endeavor to settle the business by representations to the foreign courts. Unless the Senate desire that the papers be retained here, it is probable that many of them will be sent abroad.

I have the honor, sir, to be, with great respect, your most obedient servant,

EDM. RANDOLPH.

No. 167.

Secretary of State to Christopher Gore, Esq., Attorney of the United States for Massachusetts district, dated Philadelphia, May 21, 1794.

SIR: The President of the United States being desirous of manifesting that, after the justice done by the French Republic to his complaint against the former minister, he wishes not that a secondary and perhaps an involuntary instrument should be punished; and at the same time of complying with the solicitation of Mr. Fauchet, I am to request you to cause to be discontinued the prosecution which has been instituted in behalf of the United States against Mr. Juteau, Chancellor of the Consulate at Boston, on the subject of arming the privateer Roland.

But the President, trusting that the baneful practice will not be repeated, will not, on this occasion, distinguish those citizens of the United States who were employed on board the Roland as privateer's men from Mr. Juteau. He therefore is willing that a similar prosecution against them may be also discontinued.

I have the honor to be, &c.,

EDM. RANDOLPH.

No. 168.

Secretary of State to the British Minister, dated Philadelphia, June 2, 1794.

[Extract.]

"In the letter which I had the honor of writing you on the 15th of May * * * to Congress, at the earliest moment of the session."

EDM. RANDOLPH.

(Vide volume 1, Foreign Relations, pages 464, 465.)

No. 169.

Secretary of State to the United States Ministers at France, Holland, and Great Britain, and the Commissioner of Spain, enclosing a decision of the President, dated Philadelphia, June 18, 1794.

SIR: I do myself the honor of enclosing to you the determination of the President of the United States as to the sailing of the vessels-of-war of any of the belligerent nations from the United States. The rule being reasonable in itself and conformable to the law of nations, is now transmitted to you with a hope that you will cause it to be promulgated among the ships-of-war, whether public or private, belonging to your nation.

I have the honor to be, with respect, your most obedient servant,

EDM. RANDOLPH.

"When any vessel, whether of war or merchandise, public or private, belonging to any belligerent nation, shall depart from the United States beyond the jurisdictional line of the United States on the ocean, and a vessel of war, whether public or private, belonging to another of the belligerent nations being adverse, shall, at the time of the departure of the first mentioned vessel, be within such jurisdictional line, the last mentioned vessel-of-war shall not sail beyond such jurisdictional line until the expiration of twenty-four hours after the departure of the first mentioned vessel.

"If any vessel-of-war belonging to a belligerent nation shall sail contrary to the foregoing rule, she shall be deemed to have violated the law of nations, and the Government of the United States will take measures for causing to be restored any prize taken by her and brought within the power of the United States.

"This rule shall commence forthwith, and shall be notified to all the foreign ministers residing near the United States."

No. 170.

Secretary of State to the British Minister, dated Philadelphia, June 21, 1794.

SIR: After acknowledging the receipt of your letter of the 8th instant concerning certain British vessels brought, at different periods, as prizes into American ports, I have the honor to inform you that the proof adduced in behalf of the ship William of Glasgow has been duly considered, and it not being competent to establish the place of her capture to be within the particular protection of the United States, the captors will not meet with any further interference from the Government.

The case of the Pilgrim is truly conceived by you. It was not known until after the 5th of April last, when the letter promising restitution was written, that she had been sold to an American citizen. If the prosecution ordered by Government, for the purpose of capacitating it to make specific restitution of the vessel, shall not succeed, it has been, and continues to be, its determination to consider the Pilgrim as standing upon an equal title to compensation with any of the vessels illegally captured.

The subject of compensation for vessels illegally captured was communicated by the President to Congress at the commencement of their last session, but it happened that no provision was then made by law to enable the Executive to fulfill the expectation given. As your letter was received after his departure, I cannot ascertain what ulterior measure may be contemplated by him, to give efficacy to the opinion which he has already expressed in favor of compensation. But I will immediately transmit a copy of that letter to him, and hope to be able in a few days to acquaint you with his decision.

I have the honor, sir, to be, with great respect, your most obedient servant,

EDM. RANDOLPH.

No. 171.

Report from Mr. Edmund Randolph, Secretary of State, to the President of the United States, dated Philadelphia, June 22, 1794.

SIR: I did myself the honor of writing to you yesterday and the day before.

It has since become necessary to decide the case of the ship William of Glasgow, which was said to have been captured by a French cruiser within the protection of our coast. But the evidence having been deemed by us all incompetent to establish the fact, both the French and English ministers have been informed that she will no longer be withheld by Government from the captors.

There has been the same unanimity in promising to Mr. Hammond that the Pilgrim, a British vessel, captured by an illegal privateer, and purchased by an American citizen, shall be placed upon an equal footing of compensation with other prizes of the same kind, if a prosecution ordered to be instituted against the present proprietor shall not enable the Government to restore her specifically.

But Mr. Hammond has also requested to know what measures are to be adopted upon the subject of compensation in general. Colonel Hamilton and General Knox are of opinion that Mr. Jay should be instructed to make this compensation an article in a treaty, and that Mr. Hammond be made acquainted with the instruction. Their reasons are set forth in enclosed paper. I am no less strong in favor of compensation than they are, but differ from them as to the nature of the stipulation, which is now to come from the President; the following being my view of the matter:

When compensation was first talked of, it was thought advisable that the President should declare it to be his opinion that it was incumbent on the United States to make it. Beyond this he had at no time gone, either in the communication which he directed to Mr. Hammond or in that which he sent to Congress on the 5th of December, 1793, nor ought he, in my judgment, ever to go further than to repeat his opinion and again to urge Congress.

1. For the Constitution forbids money to be drawn from the Treasury but in consequence of appropriations by law. If, therefore, the President had undertaken to *bind* the United States *absolutely*, it would have departed from the spirit at least of that instrument.

2. This subject has been submitted to Congress. Why they did not complete it is unknown to me, but they may take it up still. The proposition from the Secretaries of the Treasury and of War will, if it should succeed, establish a precedent entirely new. It will begin the practice of providing by a treaty with a foreign nation for sums of money which the Legislature shall hesitate about granting.

3. It is unnecessary to begin such a practice on this occasion by a *particular instruction*, because Mr. Jay's general instructions are full enough for the object, if he should find it expedient to enter into the arrangement.

4. If it should be asked what is the inconvenience of repeating *expressly* a power already vested *virtually* in Mr. Jay, it may be asked, in turn, what is to be the benefit? It is said that it will be a fresh proof of the sincerity of our professions to Great Britain. But even in this view it will be at least as good a proof of sincerity, when it is delivered from the lips of Mr. Jay to Lord Grenville, as if it were written by me to Mr. Hammond. There is, besides, a positive inconvenience. When Mr. Jay's powers were drawn, it was not decided that Congress would not grant compensation, and therefore the leaving the business to his discretion was in no respect improper. But now to give an instruction, in order to do by the President and Senate what was omitted to be done by the whole Legislature, will be exposed to this construction: that the President first recommends a thing to be done by both branches of Congress, and when it appears that the House of Representatives will not originate a bill for the purpose, measures are adopted to accomplish the end by excluding them.

5. Why need the President increase his engagements for compensation when the failure to do so cannot be imputed by way of blame?

It is therefore submitted to his consideration whether it may not be sufficient to say to Mr Hammond, that, as it happened that no provision was created by Congress for the compensation required, the President will again impress upon them his opinion that it is obligatory on the United States to make it, and to grant funds adequate to the case.

Mr. Bradford is not at hand for consultation.

I have the honor, sir, to be, with the highest respect, your obedient servant,

EDM. RANDOLPH.

No. 172.

Note from the Secretary of State to the Secretaries of the Treasury and of War and the Attorney General of the United States, dated June 30, 1794.

The Secretary of State has the honor of informing the Secretary of the Treasury, the Secretary of War, and the Attorney General of the United States, that he has this day received a Convention, bearing date the 27th of March, 1794, between Denmark and Sweden, for the maintenance of the rights of neutral

navigation. It is proper to notify the gentlemen that Mr. Jay is instructed, if he should find it necessary and expedient, to sound the ministers of those nations at the Court of London upon this very subject.

The affair being thus unexpectedly ripened, our adjustment with Great Britain uncertain, and the confidence in Mr. Jay's discretion not permitting a doubt that a power upon this head would be otherwise than prudently exercised, the Secretary of State takes the liberty of submitting to the consideration of the gentlemen, whether it may not be advantageous that the President should send a commission and power to some person in Europe as a diplomatic character, for the foregoing temporary object of forming a concert with those nations; enclosing, however, both the commission and powers to Mr. Jay, who shall, from his view of things in London, decide whether or not such a mission may produce good to the United States, and deliver or withhold them accordingly.

No. 173.

The Secretary of State to the French Minister, dated Philadelphia, July 31, 1794.

SIR: The complaints of our merchants against the spoliations and vexations of certain French cruisers have been already communicated to you. The documents concerning them are now forwarded to our minister in Paris for the purposes of discussion. I take the liberty, therefore, of reminding you that you promised to forward the compensation claimed, as far as justice will warrant. Let me entreat you, if you have not already written upon this occasion, to assist the application of Mr. Monroe by your co-operation, in order that no unnecessary delay may take place in an adjustment which is interesting to both countries.

I have the honor, sir, to be, with great respect and esteem, your most obedient servant,

EDM. RANDOLPH.

No. 174.

Secretary of State to the French Minister, dated Philadelphia, August 20, 1794.

SIR: I should have done myself the honor * * * pursued by the Government.

I have the honor, sir, to be, with great respect and esteem, your most obedient servant,

EDM. RANDOLPH.

(Vide volume 1, Foreign Relations, page 600.)

No. 175.

The French Minister to the Secretary of State, dated Philadelphia, the 9th Fructidor, 2d year of the French Republic, (August 26, 1794, O. S.)

[Translation.]

SIR: I have informed you several times * * * as prompt as favorable.

Accept, sir, my esteem.

J. H. FAUCHET.

(Vide volume 1, Foreign Relations, page 588.)

No. 176.

Copy of an extract from the instructions given to P. A. Adet, Minister Plenipotentiary of the French Republic near the United States of America, by the Committee of Public Safety of the National Convention, charged by the law of the 7th Fructidor, 2d year, with the direction of Foreign Affairs.

[Translation.]

"The minister shall prepare with the American Government the means of an arrangement of a new Consular Convention and of a new commercial treaty, and he shall communicate his negotiation on this subject to the Committee of Public Safety. This negotiation shall be built upon the different decrees of the National Convention passed on this subject. The object of the new treaty shall be to found the commercial relations of the two Republics upon stipulations more reciprocally advantageous and more clearly worded than that of 1778, and the object of the Consular Convention to assure the full and complete execution of this treaty."

True extract from my original instructions.

Philadelphia, the 12th Messidor, 3d year of the French Republic, (August 26, 1794.)

P. A. ADET.

No. 177.

The Governor of Virginia to the French Minister, dated Richmond, September 12, 1794.

SIR: I had the honor to find here your letter of the 31st of August, and, with very great pleasure, will make necessary inquiries, and then pursue the conduct which the President's instructions enjoin.

I have the honor to be, &c.,

HENRY LEE.

A copy, conformable to that which was sent to me by the Vice Consul of the Republic at Norfolk.

J. H. FAUCHET.

No. 178.

The French Minister to the Secretary of State, dated Philadelphia, the 2d of the Sans Culotides, 2d year of the French Republic, (September 18, 1794, *O. S.)*

SIR: In assuring me of the true sentiments * * * and whom I every day learn more to venerate. Accept, sir, &c.

J. H. FAUCHET.

(Vide volume 1, Foreign Relations, pages 601 to 603.)

No. 179.

The Secretary of State to the British Minister, dated Philadelphia, September 23, 1794.

SIR: Not a day passes which does not bring some report of the British cruisers capturing American vessels. As far as we are able to judge from the representations of the parties interested, American property and American bottoms are searched and seized, under a variety of frivolous pretexts, and in some instances in our very bays. But after making every allowance for these reports and these representations, I have no doubt that the schooner Betsy and the barque John, belonging to Messrs. Read and Forde, merchants in this city, which have been lately carried into Bermuda by the Experiment privateer of that island have been arrested without color of excuse. Increasing as these depredations seem to be, and counteracting as they do the expectations which have been formed of an amicable adjustment between the United States and Great Britain; nay, reviving as is too obvious, the spirit of the instructions of November 6, 1793, I trust that you will not confine your answer to the observation that if these vessels be innocent they will be acquitted; I rather hope that if you possess any information which may put an end to this constant and exasperating invasion of our property you will transmit it to such places as that it may more certainly reach the cruisers, and particularly that you will furnish the agent of Messrs. Read and Forde with such letters as may shelter their vessels and effects. I restrain myself to the request that any intelligence may be forwarded; but, sir, if you have *powers* also on the subject, you will be convinced of the necessity of exerting them to prevent this hourly sacrifice of American substance and these violent trials of American patience.

I have the honor to be, &c.,

EDM. RANDOLPH.

No. 180.

The Secretary of State to the French Minister, dated Philadelphia, September 27, 1794.

SIR: I do myself the honor of informing you that the Governor of Rhode Island has decided that the Perseverance, a prize to the Sanspareil, shall be restored to the captors, and of assuring you that I am, with great respect, &c.,

EDM. RANDOLPH.

No. 181.

The French Minister to the Secretary of State, dated Philadelphia, 10*th Vindemiaire, third year of the French Republic, (October* 1, 1794, *O. S.)*

[Translation.]

SIR: I send you the answer given by Mr. Lee, Governor of Virginia, to the Vice Consul of Norfolk, who claimed the execution of the 17th article of the treaty of commerce between France and the United

States. I shall be obliged by your informing me what the instructions are which this Governor could have received from the President, or, at least, what is the issue of my complaints against the manifest violation of the article I have just cited. I beg leave to observe to you that the brevity of the letter of Mr. Lee affords no satisfaction, and that if he delays any length of time in obtaining information the justice I demand will be too tardy, and will afford the English frigates time to be supplied, and finally to brave the authority of your Government.

Accept my esteem.

J. H. FAUCHET.

P. S. You will remark, sir, that the letter of the Vice Consul of Norfolk remained twelve days without an answer, and that, when complaints are made against prizes taken by our cruisers, two hours are enough for even unjust seizures to take place.

No. 182.

Secretary of State to the French Minister, dated Philadelphia, October 2, 1794.

SIR: I have had the honor of receiving your letter of the 1st instant, * * *.
(Vide volume 1, Foreign Relations, pages 603, 604.)

No. 183.

Secretary of State to the Lieutenant Governor of Virginia, dated Philadelphia, October 3, 1794.

SIR: It is with great mortification * * * shall be found to be accurate.

I have the honor to be, &c.,

EDM. RANDOLPH.

(Vide volume 1, Foreign Relations, page 604.)

No. 184.

The French Minister to the Secretary of State, dated Philadelphia, the 15th Vindemiaire, 3d year of the French Republic, (October 6, 1794, O. S.)

[Translation.]

SIR: In proportion to the pain of complaining * * * taken from your allies.

Accept, sir, my esteem.

J. H. FAUCHET.

(Vide volume 1, Foreign Relations, page 604.)

No. 185.

Letter from the Lieutenant Governor of Virginia to Thomas Newton, Esq., Commandant of the Militia at Norfolk.

IN COUNCIL, *October 9, 1794.*

SIR: I have received a letter from the Secretary of State, dated the 3d instant, * * * the Collector of the port of Norfolk.

I have the honor to be, &c.,

JAMES WOOD.

No. 186.

The French Minister to the Secretary of State.

[Translation.]

PHILADELPHIA, 26 *Vindemiaire, 3d year of the French Republic, October 17, 1794, (O. S.)*

SIR: I conceive how painful it must be to you to observe me recurring so often to the same questions, and speaking to you so frequently on the same affairs; be persuaded that it is not less so to me to have

daily new motives of complaint against the abuse made of the laws in order to persecute our privateers. You announce to me that La Perseverance, prize to the Sans Pareil, had been delivered to the captors by order of the Governor of Rhode Island. In contempt of that decision, the English agents have just created new difficulties—a new decision is still expected to take place on the first Monday of November. It is impossible, sir, for this state of things to continue much longer. You are sensible how necessary it will be to retrench from our treaty the article which reciprocally permits the ships-of-war of the two nations to conduct to, and sell their prizes in, their respective ports, should this right become illusory and void by the difficulty thrown in the way of its execution. I proposed a method, as simple as it is just, for putting an end to this tyrannical chicanery—this method was to require security from those who prosecuted prizes as illegal. Were this measure adopted, it would render our enemies less ingenious in their proceedings, and prevent them from bringing so many actions of the justice of which they themselves are not convinced. Your silence led me to presume that you were of opinion with me on this point. I am undeceived by the recent complaints which crowd upon me from all parts. I expect, sir, that the Federal Government will put an end to these persecutions by the mode I have proposed, or by any other which its wisdom may suggest.

Permit me, sir, to call to your attention, at the same time, the outrage committed on board the Favorite by men clothed in American uniform. Among the arms which they have pillaged, there are some of which the Republic stand in great need. I hope that forms will not add to the crime already committed delays injurious to the interests of the French Republic, outraged by an act so contrary to the law of nations and to treaties.

Accept, sir, my esteem.

J. H. FAUCHET.

No. 187.

Copy of a circular to the Governors of the several States, dated (from the State Department) Philadelphia, October 22, 1794.

SIR: It gives me pain to inform your excellency * * * the execution of legal process.

I have the honor to be, with sentiments of the highest respect, your excellency's most obedient servant.

EDM. RANDOLPH.

(Vide volume 1, Foreign Relations, pages 589, 590.)

No. 188.

Secretary of State to the British Minister, dated Philadelphia, October 23, 1794.

SIR: Under the authority of a letter addressed, on the 5th ultimo, by Captain Alexander F. Cochrane, commander of his Britannic Majesty's ship Thetis, to Mr. John Hamilton, the British Consul at Norfolk, in Virginia, I am compelled with pain to learn that all the captains of his Britannic Majesty's ships are particularly ordered to convey to Halifax every person not being a French citizen, but belonging to any nation at peace with Great Britain, who may be found on board of French privateers, there to be tried as a *pirate*.

To this order, so far as it dooms to the penalties of *piracy* American citizens under the circumstances stated, I oppose the rights of a neutral nation. These rights are pressed with the more confidence, as it is not pretended to declare them innocent of all offence. Far from it. We deem our citizens criminal who perpetrate hostility under any of the belligerent flags, and it is too notorious to have escaped you that this is the decided language of our courts.

But are they pirates? To answer this important question in the affirmative, would be to admire rigor rather than conciliation; to estimate as of light concern the jeopardy into which the peace of nations is thrown; to confront the genuine doctrines of the law of nations, and even of the English law.

It will not be controverted that he who acts hostilely under a proper commission cannot be a pirate, nor yet that a commission granted to French privateers, covers from the crime of piracy French citizens who sail under it. But the order referred to, if at all justifiable, can be justified upon this ground only, that such a commission does not spread its protection over American citizens who may be a part of the crew.

The practice of nations is often quoted to illustrate the principles of general law; and stipulations of treaties are high evidences of that practice. Hence, when in the treaties of the United States with France and Holland the citizens and subjects of one contracting party are expressly prohibited from taking a commission from the enemy of the other, and the peril of piracy is attached to him who accepts the commission, but is not extended to subordinate mariners, it is natural to conclude that, without this prohibition, even the principal himself would not have been a pirate. For although treaties are sometimes declaratory of a pre-existing law, yet do they more often enact what otherwise would not have existed. And in this instance the treaty would seem to contemplate the introduction of a new arrangement; it being a subject which the parties appear to have had much at heart; and probably would not, if the piracy of the common sailors had been perfectly clear, have cast into doubt by naming him only as a pirate who was more obviously so than the inferior men within his command. A terror upon the body of seamen would have been far more effectual than upon individual captains or commanders; and notice of danger would have been the more humane, and was the more necessary to the former as they were more ignorant and more liable to seduction.

Vattel, indeed, in b. 3, c. 15, s. 229, while he considers foreigners in relation to other Governments,

condemns those who take commissions to prey upon a nation absolutely innocent with respect to them as guilty of an infamous practice; but then he adds "la commission qu'ils reçoivent, *en les assurant de l' indemnité*, ne peut laver leur infamie." Thus he effaces the imputation of piracy.

This principle Molloy must have had in view when, in the 15th section of his chapter on piracy, he states the following case:

"A Dutchman, but *naturalized* by the Duke of Savoy, and living at Villa Franca in his dominions, procures a commission from the States of Holland, and coming to Leghorn there rode with the colors and ensigns of the Duke of Savoy. The ship Diamond being then in port, and having received her lading, was afterwards in her voyage surprised by that caper, and brought into Villa Franca, and there condemned and sold to one Poleman; which ship, afterwards coming from England, the plaintiffs having notice, made a seizure; and upon trial adjudication passed for the plaintiffs, the original proprietors. For though the ship-of-war and the captors were of Savoy, and carried thither, yet, being taken by virtue of a Dutch commission, by the law-marine she must be carried infra præsidia of that Prince or State, by virtue of whose commission she was taken. Nor can such carrying of the ensigns or colors of the Duke of Savoy, who was then in amity with the Crown of England, or the *commander, though a subject of that Prince, make him a pirate, or subject them or those to whom they have transferred their interest of the prize, any ways to be questioned for the same criminaliter.* For that the original quo ad as to the taking was lawful; as one enemy might take from an other," &c. (The rest of the case is unimportant on the present occasion.)

I must, therefore, make protestation against the treatment of sailors who may be citizens of the United States, and under the circumstances described by Captain Cochrane, *as pirates;* and I cannot but entertain a hope that your impressions will not differ from mine, especially when the assurance is repeated that our laws shall be enforced against any person violating them in this particular.

I have the honor to be, with great respect, sir, your most obedient servant,

EDM. RANDOLPH.

No. 189.

Secretary of State to Mr. T. Pinckney, Minister to Great Britain, dated Philadelphia, December 23, 1794.

DEAR SIR: My respect for your recommendation of Messrs. Talleyrand, Beaumetz, and Liancourt, and for the character of each of them, induces me to explain to you the reason why I have not been able to pay them that attention which I personally wished. It was a fact unknown to you, but too often impressed upon me indirectly to escape notice, that the French Republic would have learned with disgust that they had been received by the President. He having resolved not to receive them, I held it to be my duty to do violence to my individual regard for their characters by merging it in political considerations. I am sure, therefore, that you will accept this letter as an adequate apology for not indulging myself on this occasion with a demonstration of my esteem for your recommendation.

I have the honor to be, dear sir, &c.,

EDM. RANDOLPH.

No. 190.

Secretary of State to Mr. Hollingsworth, Attorney United States, Maryland District, dated Philadelphia, December 24, 1794.

SIR: I do myself the honor of enclosing to you the copy of a letter from the Minister of his Britannic Majesty, dated yesterday, relative to a prize called the Hope, carried into Baltimore by a privateer named "Le Peuple Francoise." You perceive that the privateer is supposed to be one of the proscribed. I must therefore request you to make an immediate inquiry into the case, and to do whatsoever the law authorizes. If the intervention of the Governor of your State should be necessary, you are at liberty to despatch an express to him at the public expense.

I have the honor to be, sir, with great esteem and respect, your most obedient servant,

EDM. RANDOLPH.

P. S. In case of the absence of Mr. Hollingsworth, the Collector will do what is necessary.

No. 191.

Secretary of State to Mr. Read, Attorney United States, Delaware District, dated Philadelphia, December 24, 1794.

SIR: I do myself the honor of enclosing to you a copy of a letter from Mr. Hammond, marking out some offenders against the laws of neutrality in your State. Permit me to ask your immediate attention to the subject, and to put the law in force against any citizens of the United States who may come within the criminality described by Mr. Hammond.

I have the honor to be, with great respect, sir, your most obedient servant,

EDM. RANDOLPH.

No. 192.

Secretary of State to the Secretary of War, dated Philadelphia, December 24, 1794.

SIR: Permit me to enclose to you a copy of a letter from Mr. Hammond, relative to a prize now at Baltimore, in the hands of a French privateer. If the routine in which this business has been conducted enables you to give fuller effect to what ought to be done on this occasion, than has been done by my letter to the Attorney for the District of Maryland, which is also enclosed, I will thank you to attend to it immediately.

I have the honor to be, with great respect, sir, your most obedient servant,

EDM. RANDOLPH.

No. 193.

Secretary of State to the British Minister, dated Philadelphia, December 24, 1794.

SIR: I do myself the honor of acknowledging your two letters of yesterday.

The Secretary of War, in whose Department the inquiry into the case of the supposed illicit privateer lies, has undertaken immediately to exercise this function, so far as relates to the vessel herself. I have enclosed a copy of your letter to the Attorney of the District of Delaware, and urged him to put the law in force against any citizens of the United States who come within the criminal description.

With respect to the British vessel at Baltimore, which is a prize to the French privateer Le Peuple Francoise, I have written to the Attorney of the District of Maryland to examine the case, and to do what the law authorizes. If the intervention of the Governor of that State should be required, he is instructed to apply for it. Should the Attorney be absent, the Collector is desired to open the letter, and he will find in the body of it an instruction to him to proceed. I shall also despatch a copy of the letter on this subject to the Secretary of War, requesting his co-operation, if there be anything within his Department.

I have the honor to be, sir, with great respect, your most obedient servant,

EDM. RANDOLPH.

No. 194.

Letter from Lieutenant Colonel Willis Wilson to the Governor of Virginia.

PORTSMOUTH, *January* 3, 1795.

SIR: I beg leave to enclose your excellency a copy of a note from the British Consul to the Collector of Customs of this port. The Collector, it seems, thought himself unwarranted to do anything in the business. I was applied to by an officer of the customs respecting the Consul's request or demand, and conceived it my duty to give orders to the commandant of the forts not to suffer the frigates to pass until your excellency's orders were had thereon. It is also my duty, for the sake of tranquillity, peace, and order, to make known that the commanders of his Britannic Majesty's ships have rendered themselves very obnoxious to the citizens of these two towns, as well as others, by lawless depredations on their property, and tyrannical impressments of native seamen; that there now lie at our wharves three French ships-of-war, with crews to the amount of six or seven hundred men; the British ships in question, if allowed to come up, must also lay at the wharves to go through their repairs; consequently, the necessary subordination cannot be had by the officers of either party over their seamen; I am, therefore, very apprehensive in such a case of dangerous consequences. In short, I think it very imprudent in the British to throw themselves in a port where there will be so great a majority of people with whom they are at war; for it is not in the power of all neutral ports to keep order, or protect their neutrality; I am sure it is not the case with this. If, therefore, they are entitled to repairs in our ports, I humbly conceive Yorktown, or any port where there may not be so large a concourse of French citizens, a much more eligible place for them.

I will be very thankful to your excellency for advice, whether the brigadiers have an existing command over the respective counties, or whether that command is vested in the Lieutenant Colonels and the Brigadier Generals confined to the brigades.

I have the honor to be, &c.

WILLIS WILSON.

No. 195.

The French Minister to the Secretary of State, Philadelphia, 12th Pluviose, 3d year of the French Republic, (January 31, 1795.*)*

[Translation.]

SIR: It is now the third time that English vessels * * * towards the United States.

Accept my respect.

J. H. FAUCHET.

(Vide volume 1, Foreign Relations, page 605.)

No. 196.

Secretary of State to the Governor of Virginia.

DEPARTMENT OF STATE, *February* 1, 1795.

SIR: It is with the greatest * * * to and from Richmond.
I beg the favor of your excellency's immediate reply. And have the honor to be, sir, &c.,

EDM. RANDOLPH.

(Vide volume 1, Foreign Relations, page 605.)

No. 197.

The French Minister to the Secretary of State, dated Philadelphia, the 13th Floreal, 3d year of the French Republic, (May 2, 1795, O. S.)

[Translation.]

SIR: On the 24th of February last, * * * to the cold impartiality of your Government.
Accept, sir, &c.

J. H. FAUCHET.

(Vide volume 1, Foreign Relations, pages 608, 609.)

No. 198.

The French Minister to the Secretary of State, dated Philadelphia, 4th Prairial, 3d year of the French Republic, (May 23, 1795, O. S.)

[Translation.]

SIR: It is now twenty-one days * * * attachment.
Accept, sir, my esteem.

J. H. FAUCHET.

(Vide volume 1, Foreign Relations, page 609.)

No. 199.

The French Minister to the Secretary of State, dated Philadelphia, the 20th Prairial, 3d year of the French Republic, (June 8, 1795.)

[Extract.]

"Were the history of the prizes brought into the United States * * * confidence of his country."

(Vide volume 1, Foreign Relations, pages 645, 646, 647.)

No. 200.

The French Minister to the Secretary of State, dated Philadelphia, the 12th Messidor, 3d year of the French Republic, (June 30, 1795, O. S.)

[Translation.]

SIR: I herewith enclose to you a literal copy of the part of my instructions relative to a new commercial treaty and a new Consular Convention to be entered into between France and the United States.

Honesty, justice, the interest of the two nations, and the most exact reciprocity are the basis which the French Republic adopts in her treaties of friendship. Be pleased to assure the President that I shall be too happy if I can contribute to tighten the bands which unite the French Republic to the United States, and to assure the happiness of both.

Accept, &c.

P. A. ADET.

No. 201.

Copy of an extract from the instructions given by the French Government to Citizen Adet.

[Translation.]

"The Minister Plenipotentiary shall stipulate positively and without reserve to the reciprocal exemption from the tonnage duty so necessary to our mercantile marine. This exemption, implicitly assured in the ports of the United States by the 4th and 5th articles of our commercial treaty, has never been executed therein, and since the organization of their customs a very burdensome tonnage duty has been rigorously exacted on our merchant vessels; even in 1793 a severity and an injustice were used which the American Government should not have suffered. But the respective naturalization of the French and the American citizens, proposed by Mr. Jefferson and desired by the French Nation, will facilitate this stipulation of a reciprocal exemption from tonnage, and render it less offensive to the powers who, in virtue of treaties, might claim a participation in the same advantages. As the *casus fœderis* would by this stipulation be changed in this respect."

No. 202.

Mr. Adet, French Minister in the United States, to the Secretary of State.

[Translation.]

PHILADELPHIA, THE 26TH MESSIDOR, 3*d year of the French Republic, (July* 14, 1795, *O. S.)*

SIR: I have the honor to transmit to you * * * you might be animated yourself.
Accept, sir, &c.

P. A. ADET.

(Vide volume 1, Foreign Relations, page 642.)

No. 203.

Extract from the Register of the decrees of the Committee of Public Safety of the National Convention of the 14*th of Nivose,* 3*d year of the French Republic, (January* 3, 1795.*)*

[Translation.]

The Committee of Public Safety, considering * * * The members of the Committee of Public Safety—

CAMBACERES.
MERLIN, *of Douay.*
CARNOT.
PRIEUR, *of the Marne.*
MAREC.
A. DUMONT.
J. G. CHAZAL.
PELET.

The Commissioner of Foreign Affairs.

A. F. MIOT.

True copy.

P. A. ADET.

(Vide volume 1, Foreign Relations, pages 642, 643.)

No. 204.

The French Minister to the Secretary of State, dated Philadelphia, 24*th Thermidor,* 3*d year of the French Republic, (August* 11, 1795, *O. S.)*

[Translation.]

SIR: I have just received the documents * * * upon an important errand.
Accept, &c.

P. A. ADET.

(Vide volume 1, Foreign Relations, page 630.)

No. 205.

Secretary of State to the British Minister, dated Philadelphia, August 14, 1795.

The undersigned, Secretary of State for the United States of America, in conformity with the assurance which he had the honor of giving to the Minister Plenipotentiary of his Britannic Majesty in the conference on the 13th of July, 1795, now communicates by memorial the determination which the President of the United States has thought proper to adopt.

It is known to the minister that, by the Constitution of the United States, the treaty between them and his Britannic Majesty, which was signed at London on the 19th day of November, 1794, partly depended for its existence on the advice and consent of the Senate, who were convened to deliberate thereon on the 8th of June, 1795, the earliest suitable time after the long delay in its arrival. The result is no less known to the minister to be that, on the 24th day of the last mentioned month, the Senate did consent to and advise the President of the United States to ratify the said treaty, on condition that there be added to it an article whereby it shall be agreed to suspend the operation of so much of the 12th article as respects the trade which his said Majesty thereby consents may be carried on between the United States and his islands in the West Indies in the manner and on the terms and conditions therein specified.

The preliminary course having thus been in affirmance of the treaty, and the final act being devolved on the President, he has, after duly appreciating the importance of closing all differences, determined to ratify the treaty in the manner advised and consented to by the Senate.

The undersigned is therefore authorized to declare that the treaty, duly ratified by the President, according to the advice and consent of the Senate, will be transmitted by the earliest opportunity to the person to be authorized to exchange the ratifications.

The President, not having foreseen the necessity of any further immediate negotiation with his Britannic Majesty, and having, in consequence thereof, assigned, at the latter end of the last year, to the minister accredited to his court an employment for a short time at another place, has contemplated Mr. John Q. Adams, the resident of the United States at the Hague, to transact what remains to be accomplished of the important business of the treaty, and for this purpose he will be instructed to repair immediately to London.

The President, under the influence of the same temper which has hitherto directed him, will also, without delay, take such measures relative to further friendly negotiations on the subject proposed by the Senate, and the several matters which, from want of time and other circumstances, were not perfected by the treaty, as will most effectually conduce to mutual convenience, and tend to promote mutual satisfaction and friendship.

But the undersigned is charged to declare that the sensibility of the President has been greatly excited by understanding that various captures have been lately made of American vessels laden with provisions, in consequence of a recent order, said to have been issued under the authority of his Britannic Majesty.

Mr. Adams will therefore be instructed to inquire if such an order has, in fact, been issued, as no copy thereof has been seen by the President; and, upon ascertaining its existence, he will make such representations as shall appear to be advisable, and particularly that the ratification of the President must not be construed into an admission of the legality of the said order.

EDM. RANDOLPH, *Secretary of State.*

No. 206.

Instructions to Mr. John Q. Adams relative to the exchange of ratifications of the treaty with Great Britain of 1794.

[Extract.]

"*Separate instructions for Mr. Adams relative to the exchange of ratifications, which Mr. Deas will be directed to execute if Mr. Adams does not go over before the 20th day of October,* 1795, *dated Department of State, August* 25, 1795."

SIR: The first part of the business for which you are called to London, by my letter of the 14th inst., is the exchange of ratifications of the late treaty between the United States and Great Britain. The documents now transmitted, as relating thereto, are, 1st, a copy of that letter; 2d, a printed but authentic copy of the treaty, and resolution of the Senate advising the ratification; 3d, a copy of the memorial from the Department of State to the British Minister Plenipotentiary near the United States; and 4th, a letter from the President to his Britannic Majesty, indicating the functions which you are destined to fulfill.

At the earliest possible moment after your arrival in London you will communicate to the proper persons belonging to the British Ministry your mission as stated in the memorial, and request that the conferences necessary to its conclusion may be expedited.

When you shall come into conference you will declare that you are possessed of the ratification, as was promised in the memorial, but that you are instructed to inquire into the existence of a late order, said to be issued under the authority of his Britannic Majesty, for the seizure of the provision vessels even of neutral nations. If the order does not exist, or, existing, does not operate on the vessels of the United States, you will proceed to accomplish the exchange of ratifications as is hereinafter mentioned. If this order does exist, and does operate on the vessels of the United States, you will make such representations as that order shall suggest relative to the interests and situation of the United States, to the end that it may be removed; and, particularly, that the ratification of the President must not be construed into an admission of the legality of the said order. Minute instructions cannot now be given concerning

that order, as our accounts of it are very imperfect. But if, after every prudent effort, you find that it cannot be removed, its continuance is not to be an obstacle to the exchange of ratifications.

No. 207.

Mr. Pickering, Acting Secretary of State, to Mr. J. Q. Adams, Minister of the United States at the Hague, dated Department of State, August 25, 1795.

SIR: The President of the United States having ratified, with the advice and consent of the Senate, the treaty of amity, commerce, and navigation, concluded and signed between the Plenipotentiaries of the United States of America and his Britannic Majesty, at London, on the 19th day of November, 1794, he has thought proper to authorize you to take the necessary measures for the exchange of ratifications. On the credit and authority of this letter, therefore, you may proceed to the exchange of ratifications.

This letter will be directed to be opened by William Allen Deas, if you do not arrive in London by the 20th day of October, 1795. In that case he will, by virtue of this letter, possess the same authority for exchanging the ratifications as is hereby given to you, and will continue to exercise it until the business is accomplished, unless you shall afterwards arrive, and think it advisable to take it into your own hands, notwithstanding it may have been begun. So, also, if Mr. Pinckney should return before the affair is settled, he, as our minister in ordinary in London, will be entitled to assume the management of it, if he chooses to do so.

This letter will be shown, and a copy of it may be given to those of his Britannic Majesty's ministers to whom it may appertain.

I am, very respectfully, sir, your obedient servant,

TIMOTHY PICKERING.

No. 208.

Secretary of State to Mr. Bond, British Chargé d'Affaires in the United States, dated Department of State, September 5, 1795.

SIR: A letter received yesterday from the Attorney of the District of Pennsylvania, intimating a defect of evidence against the present captain of the armed ship Cassius, leads me to inquire whether you are possessed of any to support a charge against him as having been concerned in originally fitting her out, or entering on board her, either in the United States, or going from the States with an intention of entering on board her, contrary to law. If you have, or can obtain such evidence, you will greatly oblige me by communicating it.

I am, sir, with great consideration, your most obedient servant,

TIMOTHY PICKERING.

No. 209.

Mr. Pickering, Acting Secretary of State, to John Quincy Adams, Esq., or William Allen Deas, Esq., dated Department of State, September 12, 1795.

[Extract.]

"To the complaint of Captain Home's outrages I have to add one against the commander of the Hermione frigate, who, on the 4th of July, 1795, came down from Port-au-Prince to Jamaica, on the island of Hispaniola, and there stripped upwards of twenty American vessels of their crews, impressing all the men, excepting the captains and mates. The deposition of Captain Cyprian Cook and of Elijah Clark, his passenger, herewith transmitted, will give you the particulars of this violence. The cruelty and brutality of that British naval officer are sufficiently marked in the deposition.

"If Britain studied to keep up the irritation in the minds of Americans, and wished to prevent the return of our good will, some of her naval commanders appear perfectly qualified for the object. But we believe she has very different views. We consider such proceedings as obnoxious to her government, as they are injurious to us. To vindicate, however, the honor of that Government, justice must be done; our seamen should recover more than their liberty; liberal damages should be awarded them, and such naval officers receive exemplary punishment. Further, to prevent a repetition of such atrocious acts more pointed orders must be given, and the consequences to those who violate them rendered severe and certain.

"This evil is of such magnitude, and so frequently occurring, Great Britain ought, for her own sake, to agree to some regulation calculated effectually to protect our seamen, if the return of our friendship and its good consequences be really objects worth obtaining, or if justice and humanity constitute parts of her character."

No. 210.

The French Minister to Mr. Pickering, Secretary of the Department of War, charged with the Department of State, dated Philadelphia, the 1st Vindemiaire, 4th year of the French Republic, (September 22, 1795, O. S.)

[Translation.]

SIR: Possessing full confidence * * * as having armed in the United States.

P. A. ADET.

(Vide volume 1, Foreign Relations, pages 632, 633.)

No. 211.

The French Minister to the Secretary of State, dated Philadelphia, 22d Nivose, 4th year of the French Republic, (the 12th of January, 1796, O. S.)

[Translation.]

SIR: Letters from the French Consuls at Baltimore, Norfolk, and Alexandria * * * given assurances to the Republic.

Accept, sir, the assurances of my esteem,

P. A. ADET.

(Vide volume 1, Foreign Relations, page 645.)

No. 212

MARCH 9, 1796.

Summary statement of the complaints of the French Republic against the Government of the United States.

[Translation.]

First complaint: The inexecution of the treaties.

1st. The courts of justice of the United States * * * they draw from their commerce with them.

CH. DE LA CROIX.
The Minister for Foreign Affairs.

PARIS, 19*th Ventose, 4th year of the French Republic.*

(Vide volume 1, Foreign Relations, pages 732, 733.)

No. 213.

The French Minister to the Secretary of State, Philadelphia, 9th Germinal, 4th year of the Republic, (March 29, 1796, O. S.)

[Translation.]

SIR: On the 7th Vindemiaire last * * * the duty of neutrality dictates to it.

Accept, sir, &c.

P. A. ADET.

(Vide volume 1, Foreign Relations, page 644.)

No. 214.

The French Minister to the Secretary of State, dated Philadelphia, 1st Floreal, 4th year of the French Republic, (April 21, 1796, O. S.)

[Translation.]

SIR: I had the honor of writing to you * * * to the affections of his family.

Accept, sir, the expression of my respect.

P. A. ADET.

(Vide volume 1, Foreign Relations, pages 644, 645.)

No. 215.

The French Minister to the Secretary of State, Philadelphia, 29th Floreal, 4th year of the French Republic, (May 18, 1796, O. S.)

[Translation.]

SIR: I have just been informed indirectly * * * to the duties of a neutral nation.
Accept, sir, &c.

P. A. ADET.

(Vide volume 1, Foreign Relations, pages 650, 651.)

No. 216.

Secretary of State to the French Minister.

DEPARTMENT OF STATE, *May* 24, 1796.

SIR: On the 20th I received your letter of the 18th * * * the warring powers themselves.
I am, with great respect, sir, &c.,

TIMOTHY PICKERING.

(Vide volume 1, Foreign Relations, pages 651, 652.)

No. 217.

Secretary of State to the French Minister.

DEPARTMENT OF STATE, *May* 25, 1796.

SIR: I intended long since to have returned an answer * * * have been wholly misconceived.
I have the honor to be, &c.,

TIMOTHY PICKERING.

(Vide volume 1, Foreign Relations, pages 649, 650.)

No. 218.

The French Minister to the Secretary of State, dated Philadelphia, 15th Prairial, 4th year of the French Republic, (June 3, 1796, O. S.)

[Translation.]

SIR: By abandoning the Corvette Le Cassius * * * the departure of my first directions.
Accept, sir, &c.

P. A. ADET.

(Vide volume 1, Foreign Relations, page 636.)

No. 219.

Secretary of State to the French Minister.

DEPARTMENT OF STATE, *June* 13, 1796.

SIR: The merchants of Philadelphia * * * a friendly and allied nation.
With great respect, I am, &c.,

TIMOTHY PICKERING.

(Vide volume 1, Foreign Relations, page 652.)

No. 220.

The French Minister to the Secretary of State, dated Philadelphia, 26th Prairial, 4th year, (June 14, 1796, O. S.)

[Translation.]

SIR: I have received the letter * * * which is the object of your letter.
Accept, sir, &c.

P. A. ADET.

(Vide volume 1, Foreign Relations, page 652.)

No. 221.

Secretary of State to Mr. Ellsworth, Chief Justice of the United States, dated Department of State, June 30, 1796.

DEAR SIR: I am sorry I did not think to ask of you the precise result of the question agitated before you at Charleston and Columbia, relative to the sale of prizes taken by a French privateer from the British. I presume your decision was, that the sales should not be made; it appearing that the permission of such sales would be a violation of the 24th article of our treaty with Great Britain. The principal difficulty which has occurred here, on my inquiries, respects the *mode of proceeding* to prevent the sales. You ordered an injunction to stay the sales in Charleston. May Judge Cushing do the same at Boston with regard to the prizes lately carried in there? Can the District Judge do the same? Trusting that you have fully made up your mind on this subject, I beg the favor of you to communicate it immediately to Judge Lowell at Boston, to whom I have written on this occasion, and, at your leisure, to indulge me with an answer, particularly as circular instructions may be proper to be transmitted to all the District Judges and Attorneys, as well as to the Collectors of the Customs.

In great haste, I am, with the utmost respect, sir, your obedient servant,

TIMOTHY PICKERING.

No. 222.

Secretary of State to the French Minister.

DEPARTMENT OF STATE, *July* 1, 1796.

SIR: It being the duty of the Executive * * * an early answer to this letter.
With great respect, I am, &c.,

TIMOTHY PICKERING.

(Vide volume 1, Foreign Relations, page 653.)

No. 228.

Secretary of State to Harrison Gray Otis, District Attorney of the United States, dated Department of State, July 12, 1796.

SIR: I received your letter of the 6th. Since I wrote you on the 30th ultimo, orders have been issued from the Treasury Department to the Collectors not to admit to an entry any prizes taken by foreign privateers, commissioned by any Prince or State at enmity with Great Britain.

I trust the Chief Justice, Ellsworth, will have written to Judge Lowell on this subject, agreeably to my request on the 30th ultimo, the question having been considered, and, I take it, determined by him in South Carolina.

By an act of Congress, (being in addition to the act entitled "An act to establish the Judicial Courts of the United States,") passed the 2d of March, 1793, any Judge of the *Supreme* Court may grant an injunction in cases where it might be granted by the Supreme or a Circuit Court. Judge Ellsworth's expected statement, I trust, will show that Judge Cushing may proceed in Massachusetts as he did in South Carolina. The British Consul, I think, omitted an act of duty, in not making the remonstrance against the sales of the prizes, or the entry of them, as you proposed, unless there were on the spot agents of the owners of the vessels and cargoes, on whom that duty would be incumbent.

If no formal injunction should be obtained to prevent the sales, the agents of the captors may, I presume, be properly informed that the sales will be unlawful, and that they will subject themselves, if they proceed to sell the prizes, to indictment and punishment, for a violation of a supreme law of the United States. In one way or the other I hope we shall be able to escape the charge of infringing a treaty; or, if the sales of any of the prizes should take place, that the United States will be justified by a rigorous prosecution of the agents. The Attorney General is absent from the seat of Government, or I would have requested his advice on this occasion.

I am, sir, with great respect your obedient servant,

TIMOTHY PICKERING.

No. 224.

The French Minister to the Secretary of State, dated Philadelphia, the 26th Messidor, 4th year of the French Republic, (July 14, 1796, O. S.)

[Translation.]

SIR: The business with which * * * foundation this prohibition rests.
Accept, sir, &c.

P. A. ADET.

(Vide volume 1, Foreign Relations, page 653.)

No. 225.

Extract of a report from Mr. Pickering, Secretary of State, to the President of the United States, dated Department of State, July 15, 1796.

"Mr. Adet asks whether the President has caused orders to be given to prevent the sale of prizes conducted into the ports of the United States by vessels of the Republic, or privateers armed under its authority. On this, I have the honor to inform you that the 24th article of the British treaty having explicitly forbidden the arming of privateers, and the selling of their prizes in the ports of the United States, the Secretary of the Treasury prepared, as a matter of course, circular letters to the Collectors, to conform to the restrictions contained in that article as the law of the land. This was the more necessary, as formerly the Collectors had been instructed to admit to an entry and sale the prizes brought into our ports."

No. 226.

Secretary of State to the French Minister, dated Department of State, July 19, 1796.

SIR: I have to acknowledge the receipt * * * prizes brought into our ports by *privateers*.
I have the honor to be, with great respect, sir, your most obedient servant,

TIMOTHY PICKERING.

(Vide volume 1, Foreign Relations, pages 653, 654.)

No. 227.

Secretary of State to Mr. King, Minister United States to Great Britain, dated Department of State, July 27, 1796.

[Extract.]

"Orders having been given to prevent the sale of prizes brought into our ports by French *privateers*, conformably to the 24th article of our treaty with Great Britain, a certain class of our citizens raised some little clamor, that the prohibition was not only unfriendly to France, but a violation of our treaty with that nation."

No. 228.

Extract of a letter from the Commission of Foreign Affairs of the Batavian National Assembly, to the Minister Resident of the United States of America, dated Hague, September 27, 1796.

"We cannot let the present opportunity pass without requesting you to state to your Government how useful it would be to the interests of the inhabitants of the two Republics that the United States should at last seriously take to heart the numberless insults daily committed on their flag by the English—to represent to them, that when circumstances oblige our commerce to confide its interests to the neutral flag of American vessels, it has a just right to insist that that flag be protected with energy, and that it be not insulted at the expense of a friendly and allied nation. Deign to recall to the remembrance of the nation of which you are minister that the numerous services which our Republic has rendered to it, our reciprocal relations, as well as mutual utility, imperiously require that it should cease to view with indifference the manner in which the English act; who carry off with impunity from on board American vessels the property of Batavians. Lead them to perceive that reasons of convenience, treaties concluded

subsequent to that with the Batavian Republic, cannot change or annul a treaty formally concluded and ratified between our two nations—between two nations who have equally suffered from the arrogance and despotism on the seas of proud Albion—in a word, between two nations *who, making common cause with the French Republic*, and governing themselves by the imprescriptible rights of nature and of men, may render to the two hemispheres a peace for which humanity languishes."

No. 229.

The French Minister to the Secretary of State, dated Philadelphia, 21st Vindemiaire, 5th year of the French Republic, (October 12, 1796, O. S.)

[Translation.]

SIR: The French privateer Leo took into Charleston * * * inform my Government of your ulterior resolutions.

Accept, &c.

P. A. ADET.

(Vide volume 1, Foreign Relations, pages 654, 655.)

No. 230.

The French Minister to the Secretary of State, dated Philadelphia, October 27, 1796.

[Translation.]

The undersigned, Minister Plenipotentiary of the French Republic, * * * influence the French Republic.

Done at Philadelphia, 6th Brumaire, 5th year of the French Republic, one and indivisible, (October 27, 1796, O. S.)

P. A. ADET.

(Vide volume 1, Foreign Relations, pages 576, 577.)

No. 231.

The French Minister to the Secretary of State, dated Philadelphia, November 15, 1796, O. S.

[Translation.]

The undersigned, Minister Plenipotentiary of the French Republic, * * *. Let your Government return to itself, and you will still find in Frenchmen faithful friends and generous allies.

Done at Philadelphia, the 25th Brumaire, 5th year of the French Republic, (November 15, 1796, O. S.)

P. A. ADET.

(Vide volume 1, Foreign Relations, pages 579, 583.)

No. 232.

Secretary of State to the French Minister, Department of State, November 15, 1796.

SIR: On the 13th ultimo I had the honor * * * occasioned the further delay to this time.

I have the honor to be, with perfect respect, sir, your most obedient servant,

TIMOTHY PICKERING.

(Vide volume 1, Foreign Relations, pages 655, 656.)

No. 233.

Secretary of State to Mr. King, Minister of the United States to Great Britain, dated Department of State, November 26, 1796.

DEAR SIR: On the 14th instant I enclosed you copies of a note from Mr. Adet, and of my answer. He has since addressed to me another note, in which he has enumerated the complaints of the *Executive*

Directory of the French Republic against the *Government* of the United States. Among the grounds of complaint, the commercial treaty with Great Britain holds a distinguished place, and is assigned as the direct cause of the orders of the Directory to Mr. Adet to suspend his ministerial functions with the Federal Government. This last long note, as well as the former, with my answer, has been published in a pamphlet, which I now enclose. To you, who have been a member of the Government, and are actually acquainted with all its transactions in relation to France, no illustration is necessary to convince you how groundless are the complaints exhibited by Mr. Adet, or how repugnant to principle and to treaty are the measures resolved on by the Directory respecting our commerce; you will see that I endeavor to obtain an explanation of the decree of the Directory, but instead of an explanation, Mr. Adet is pleased to tell me that I appear not to have understood either his note or the decree of the Directory respecting our commerce. He adds, indeed, that the Directory mean, by their decree, to set aside the rule mutually stipulated by our two nations, *that free ships shall make free goods, and to add to the list of contraband articles*, in equal violation of our treaty; but the object of my inquiry was to ascertain whether, *in the actual state of things*, our commerce was to be exposed to the vexations which might, by the men-of-war and privateers, be imagined to be warranted by the general terms of the decree. You will observe that your information from Mr. Monroe, and letter to our Consul, Mr. Johnson, founded thereon, contributed to increase the doubts excited by the tenor of the decree itself. The subsequent words of Mr. Adet increase our embarrassment; for our treaty with France is not simply to be violated in the two instances just mentioned, but we are to be exposed to "reprisals for all *vexations*, contrary to the law of nations and to the treaties, which the Americans shall endure on the part of the English without an *efficacious opposition*." And what opposition will the Directory deem *efficacious*, short of war with Great Britain? What other opposition can we make, seeing that a compliance with the views of the Directory would oblige us to require of Great Britain a voluntary relinquishment of her acknowledged rights under the laws of nations? If the decree is executed, we shall, in truth, suffer unexampled vexation; for the French armed ships and privateers will have no guide but their opinions of the cases of capture and kind of vexations we endure from the British. And then, in the final event, if circumstances shall incline the Directory to recur to principles and the stipulations of treaties, it will be said, in answer to our complaints, that their armed vessels have misconstrued their decree, as the British armed vessels mistook the orders of the 6th of November, 1793, to carry our vessels into their ports for *adjudication*.

The articles of our produce are now generally so much lower in France than in the United States, our commerce with that country is reduced to a small scale; the opportunities of corresponding directly with our minister at Paris will, therefore, not often occur; so that it will be in your power to communicate earlier advices of what is passing in France than we can expect from Mr. Pinckney. I must entreat you to advert to this circumstance, and that to a recital of facts you would add such reflections as a nearer view of them shall suggest.

I commit to your care a letter for Gouverneur Morris, Esq., to be delivered when he returns to England, for we hear he is on the continent.

With great respect and esteem, sir,

TIMOTHY PICKERING.

No. 234.

Extract from the speech of the President of the United States to both Houses of Congress, dated December 7, 1796.

"While, in our external relations, some serious inconveniences and embarrassments have been overcome, and others lessened, it is with much pain and deep regret I mention that circumstances of a very unwelcome nature have lately occurred. Our trade has suffered and is suffering extensive injuries in the West Indies from the cruisers and agents of the French Republic; and communications have been received from its minister here which indicate the danger of a further disturbance of our commerce by its authority, and which are in other respects far from agreeable."

No. 235.

Decree of the French National Convention, dated November 8, 1798, and transmitted to Mr. Randolph, Secretary of State, by letter, dated the 7th Germinal, 2d year, (March 27, 1794.)

[Translation.]

The National Convention, after having heard the report of the Committee of Public Safety, decrees that all disputes arisen, or which may arise, on the validity or invalidity of prizes made by privateers, shall be decided, by way of administration, by the Provisory Executive Council. The decree of the 14th February, (O. S.,) attributing the judgment of these matters to the commercial tribunals, is repealed.

Copy agreeable to the original.

J. H. FAUCHET.

No. 236.

Extract from the Register of Arrets of the Committee of Public Safety, Finance, and Supplies, 25th Brumaire, 3d year of the Republic, (November 18, 1794.)

[Translation.]

The Committee of Public Safety, Commerce and Supplies order as follows:
ARTICLE 1. The vessels of the United States of America, * * *.
(Vide volume 1, Foreign Relations, pages 752.)

No. 237.

Plan of a Decree, reported by M. Villiers to the Council of Five Hundred, in its sitting of the 11th of January, 1798, translated from a Paris paper, entitled Journal du Soir, of the same day, enclosed in the triplicate of the Envoy's letter, No. 5, dated January 8, 1798.

[Translation.]

"1. The character of a vessel, relative to the quality of neuter or enemy, is determined by her cargo.

"In consequence, every vessel loaded in whole or in part with English merchandise is declared lawful prize, whoever the owner of said merchandise may be.

"2. Every foreign vessel which, in the course of her voyage, shall have entered an English port, shall not enter France except in case of distress; she shall depart thence as soon as the causes of her entry shall have ceased."

This decree was immediately and unanimously adopted.

No. 238.

Message to the Council of Five Hundred, of the 15th Nivose, 6th year, (January 4, 1798.)

[Translation.]

CITIZENS REPRESENTATIVES: On this day, the 15th of Nivose, and at the very hour at which the Executive Directory addresses this message to you, the municipal administrators, the justices of the peace, the commissaries of the directory, and the superintendents of the customs, are proceeding, in all the chief places of the departments, in all the ports, and in all the principal communes of the Republic, to seize the English merchandise now in France, or introduced into its territory in contravention of the law of the 10th of Brumaire, 5th year, (October 31, 1796.)

Such is the first act by which, now that peace is given to the continent, the war declared long since against England is about to assume the real character which becomes it. The French will not suffer a power which seeks to found its prosperity upon the misfortunes of other nations to raise its commerce upon the ruin of that of other States, and which, aspiring to the dominion of the seas, wishes to introduce everywhere the articles of its own manufacture, and to receive nothing from foreign industry, any longer to enjoy the fruit of guilty speculations.

The English Government has kept in pay, during the war, the coalesced forces with the produce of its manufactures. It has violated all the principles of the law of nations, in order to shackle the relations of neutral powers; it has caused to be seized the provisions, corn, and commodities, which it supposed to be destined for France; it has declared contraband everything which it thought could be useful to the Republic. It desired to starve it. All the citizens call for vengeance.

When it had to fear the capture of vessels sailing under its flag, it corrupted foreign captains to induce them to take on board their vessels English merchandise, and thus to introduce it by stratagem, by fraud, or otherwise, into other States, and especially into the French Republic.

The neutral powers should have perceived that by this conduct their merchants took part in the war, and that they lent assistance to one of the belligerent powers.

We serve a party as well when we procure for it the means of augmenting its forces as when we unite ourselves to those which it has. The neutral powers should have perceived that England, by stopping the vessels of other powers laden in their respective ports and destined for France, by permitting articles coming from her own manufactories alone to circulate, aimed at an exclusive commerce, and that it would be necessary to seek reparation for such an attempt.

The ordinance of the marine and the regulation of 1704 have declared lawful prize the vessels and their cargoes, in which is found English merchandise, belonging to enemies. These provisions should be extended. The interest of Europe requires it.

The Directory thinks it urgent and necessary to pass a law declaring that the character of vessels, relative to their quality of neutral or enemy, shall be determined by their cargo, and the cargo shall be no longer covered by the flag: in consequence, that every vessel found at sea, having on board English provisions and merchandise as her cargo, in whole or in part, shall be declared lawful prize, whosoever may be the proprietor of these provisions or merchandise, which shall be reputed contraband, for this cause alone that they came from England or her possessions.

It would be useful to declare at the same time that, except in the case of distress, the ports of the Republic shall be shut to all foreign vessels which, in the course of their voyages, shall have entered those of England.

The Executive Directory requests you, citizens representatives, to adopt these measures. No neutral or allied power can mistake their object, nor complain of them, unless it be already abandoned to England. The infallible effect of the measure is to enhance the value of the produce of their own soil and industry, to increase the prosperity of their commerce, to repel everything that comes from England, and essentially to influence the conclusion of the war.

Such are the motives which induce the Executive Directory to invite you, citizen representatives, to take the object of this message into the most prompt consideration.

P. BARRAS, *President.*
LAGARDE, *Secretary General.*

No. 239.

Translated extract from the Bulletin des Lois, No. 178, *printed at Paris, and enclosed with the quadruplicate of the envoy's letter No.* 6.

Law relative to vessels laden with English merchandise, of the 29*th Nivose,* 6*th year, (January* 18, 1798.*)*

The Council of Ancients, adopting the reasons for the declaration of urgency which precedes the resolution hereinafter contained, approves the act of urgency. Here follows the tenor of the declaration of urgency and of the resolution of the 22d Nivose, (January 11, 1798.) The Council of Five Hundred, after having heard the report of a special committee upon the message of the Executive Directory, of the 15th Nivose, (January 4,) relative to the English merchandise, considering that the interest of the Republic demands the most prompt measures against all vessels which may be loaded therewith, declares that there is urgency.

The Council having declared the urgency, resolves as follows:

ARTICLE 1. The character of vessels, relative to their quality of neuter or enemy, shall be determined by their cargo; in consequence, every vessel found at sea loaded in whole or in part with merchandise the production of England or her possessions shall be declared good prize, whoever the owner of these goods or merchandise may be.

ARTICLE 2. Every foreign vessel which, in the course of her voyage, shall have entered into an English port, shall not be admitted into a port of the French Republic except in case of necessity; in which case she shall be bound to depart from the said port as soon as the causes of her entry shall have ceased.

ARTICLE 3. The present resolution shall be printed.

BOULAY, (of la Meurthe,) *President.*
GUILLEMARDET, ROEMERS, } *Secretaries.*

After a second reading the Council of Ancients approves the above resolutions. The 29th of Nivose, sixth year of the French Republic, (January 18, 1798.)

MARRAGON, *President.*
ET. LAVEAUX, KAUFFMANN, MENUAU, MERIC, } *Secretaries.*

No. 240.

No. 29.—[TRANSLATION.]

Extract from the registers of the deliberations of the Executive Directory.

PARIS, *the* 13*th Thermidor,* 6*th year of the French Republic, (July* 31, 1798.*)*

The Executive Directory, having heard the report of the Minister of Marine and the Colonies;

Considering that information recently received from the French colonies and the continent of America leave no room to doubt that French cruisers, or such as call themselves French, have infringed the laws of the Republic relative to cruising and prizes;

Considering that foreigners and pirates have abused the latitude allowed at Cayenne and in the West India Islands to vessels fitted out for cruising or for war and commerce, in order to cover with the French flag their extortions, and the violation of the respect due to the law of nations and to the persons and property of allies and neutrals,

DECREES.

ARTICLE 1. Hereafter no letters of marque, authorizations, or permissions to fit out vessels either for cruising or for war and commerce, shall be issued in the colonies of America but by special agents of the Directory themselves, who shall not delegate that power to any one. They shall exercise it only in favor of owners of vessels whose principles and responsibility are well known to them; and they shall be bound to conform themselves to all the laws relative to cruising and prizes, and especially to those of the 1st October, 1793, (O. S.)

ARTICLE 2. All letters of marque, authorizations, or permissions, granted in the colonies of America by the particular agents of the Executive Directory, and all other agents, civil and military, under their

orders, to fit out vessels either for cruising or for war and commerce, shall be considered as not having been done after the thirtieth day from the publication of the present decree in the said colonies.

ARTICLE 3. All agents and other deputies in the neutral possessions, appointed to decide there upon the validity of prizes taken by the French cruisers, and who shall be suspected of having a direct or indirect interest in the vessels fitted out for cruising or for war and commerce, shall be immediately recalled.

ARTICLE 4. The special agents of the Executive Directory at Cayenne, Saint Domingo, and Guadaloupe, shall studiously take care that the interests and property of vessels belonging to neutrals or allies be scrupulously respected; and they shall in no case bargain for their cargoes but by mutual consent, and to the full and entire satisfaction of the contracting parties.

ARTICLE 5. The said special agents of the Executive Directory, the commanders of all vessels of the Republic, the consuls, vice consuls, and all others invested with powers for that purpose, shall cause to be arrested and punished, conformably to the laws, all those who shall contravene the provisions of the present decree, which shall be printed in the bulletin of the laws, and with the execution of which the Ministers of Foreign Relations, and of the Marine, and of the Colonies, are charged.

For a true copy, as the President of the Executive Directory.

MERLIN.

By the Executive Directory, as the Secretary General,

FREILHARD.

For a true copy, the Minister of Exterior Relations,

CH. MAU. TALLEYRAND.

By the Minister, the Secretary General,

PAGANES.

No. 241.

[Translation.]

Department of Exterior Relations.

LIBERTY. EQUALITY.

Copy of a decree. Extract from the register of the decrees of the Executive Directory, of the 29th Thermidor, 6th year of the French Republic, (August 16, 1798.)

The Executive Directory, considering that notwithstanding the hostile manifestations of the Government of the United States, which have occasioned a momentary embargo upon their vessels, it must be believed that, unless abandoned to the passions of the British cabinet, that Government, faithful to the interests of the American nation, will take measures conformable to the pacific dispositions of the French Republic after it shall receive a confirmation of them;

And wishing to pursue the friendly and fraternal habits of France towards a people whose liberty it defended, decrees as follows:

ARTICLE 1. The embargo laid upon the American vessels shall be immediately raised.

ARTICLE 2. The Minister of Marine and of the Colonies is charged with the execution of the present decree, which shall not be printed.

For a true copy, as President of the Executive Directory,

MERLIN.

By the Executive Directory, as Secretary General,

J. M. REVEILLERE LEPEAUX.

For a true copy, the Minister of Exterior Relations,

CH. MAU. TALLEYRAND.

No. 242.

[Translation.]

Decree of the Executive Directory, in explanation of that of the 12th Ventose, 5th year, (March 2, 1797,) concerning the navigation of neutral vessels, of the 28th Ventose, 7th year, (March 18, 1799.)

The Executive Directory, having examined its decree of the 12th Ventose, 5th year, (March 2, 1797,) concerning the navigation of neutral vessels loaded with merchandise belonging to the enemies of the Republic, and the judgment on the trials as to the validity of maritime prizes, considering that the 4th article of that decree, in what relates to the rôles d'équipages with which neutral vessels ought to be furnished, has had improper interpretations so far as concerns the rôles d'équipages of American vessels, and that it is time to do away the obstacles resulting therefrom to the navigation of the vessels of that nation.

After having heard the Minister of Exterior Relations and the Minister of Justice declare that, by the fourth article of said decree it was not understood that the navigation of American vessels, relatively to the form of their rôles d'équipages, was subjected to other conditions than those imposed on all neutrals by the 12th article of the ordinance of 1794, and by the 9th article of that of the 26th of July, 1778.

The Ministers of the Marine and of Justice, each in what concerns him, are charged with the execution of the present decree, which shall be inserted in the bulletin of laws.

No. 243.

Decree of the Executive Directory as to those who compose the crews of the vessels of the enemies of France, (8th Brumaire, 7th year, October 29, 1799.)

[Translation.]

The Executive Directory, on the report of the Minister of Exterior Relations, considering that the squadrons, privateers, and vessels of England and Russia, are in part manned by foreigners; considering that this violation is a manifest abuse of the law of nations, and that the powers of Europe have not taken any measures to stop it—decree:

ARTICLE 1. Every person, native (original) of friendly countries, allied to the French Republic, or neutral, holding a commission given by the enemies of France, or making part of the crews of the vessels of war, or other enemy vessels, shall, for that act alone, be declared a pirate, and treated as such, without being allowed, in any case, to allege that he was forced by violence, menace, or otherwise.

ARTICLE 2. The Executive Directory of the Batavian, Ligurian, Cisalpine, and Roman Republics, shall be informed of this measure.

ARTICLE 3. The provisions contained in the first article shall be notified to the powers neutral or allied to the French Republic.

No. 244.

Copy of a decree of the Executive Directory, on the mode of executing its decree of the 8th Brumaire, 7th year, (October 29, 1799,) concerning those who compose the crew of enemy vessels. 24th Brumaire, year 7, (November 14, 1799.)

[Translation.]

ARTICLE 1. In execution of the 3d article of the decree of the Executive Directory of the 8th of this month, the allied or neutral powers shall be invited to take the necessary measures for recalling within a time, which shall be fixed, those mariners of their respective nations actually embarked on board the vessels-of-war or other vessels belonging to England.

ARTICLE 2. The Ambassadors, Ministers, and Envoys of the Republic, near the respective powers, shall receive particular instructions on this subject.

ARTICLE 3. The period of the execution of the decree of the 8th Brumaire shall be determined by a subsequent decree.

ARTICLE 4. The Minister of Exterior Relations shall be charged to make arrangements with the Minister of Marine and the Colonies for the execution of the present decree.

No. 245.

French law, repealing the 1st article of that of 29th Nivose, 6th year, January 18, 1798, relative to maritime cruising.

[Translation.]

ARTICLE 1. The 1st article of the law of the 29th Nivose, 6th year, January 18, 1798, relative to maritime cruising, is repealed.

The Consuls of the Republic order that the above law shall be published and executed, and that the seal of the Republic shall be affixed to it.

Done at the national palace of the Consuls of the Republic, the 23d Frimaire, 8th year, December 13, 1800, of the Republic.

ROGER DUCOS.
BONAPARTE.
SIEYES.

No. 246.

[Translation.]

Decree of the Consuls of the Republic, which puts in force the ordinance of the 26th of July, 1778, concerning the navigation of neutral vessels, 29th Frimaire, 8th year, December 19, 1800.

The Consuls having examined the law of the 23d Frimaire, 8th year, December 13, 1800, which repeals the first article of the law of the 25th Nivose, 6th year, January 14, 1798, relative to maritime cruising; considering that the repeal of that law necessarily renews that state of the law antecedently existing.

That this, as fixed by the ordinance of the 26th July, 1778, is considered the most proper to conciliate

the interests of the Republic with the rights of neutral powers; wishing to prevent, on the part of French or neutral owners, (armateur,) errors or interpretations which shall counteract the views under which the law of the 29th Nivose, 6th year, January 18, 1798, has been repealed—decree what follows:

ARTICLE 1. The regulations prescribed by the ordinance of the 26th July, 1778, concerning the navigation of neutral vessels, shall be strictly observed by all those to whom they shall be applicable; but, in case of a contravention on their part, they are to suffer the confiscations and condemnations, in damages, fixed on by the said ordinance and the laws.

ARTICLE 2. The Ministers of Justice, of the Marine, of Exterior Relations, and of the Finances, are charged, each one in what concerns him, with the execution of the present decree, which shall be inserted in the bulletin of the laws.

The Consuls of the Republic,

BONAPARTE.
SIEYES.
ROGER DUCOS.

No. 247.

Extract from the Register of Resolves of the commission delegated by the French Government to the Leeward Islands.

[Translation.]

The commission resolves that the captains of French national vessels and privateers are authorized to stop and bring into the ports of the colony American vessels bound to English ports or coming from the said ports.

The vessels which are already taken, or shall be hereafter, shall remain in the ports of the colony until it shall be otherwise ordered.

At the Cape, 7th Frimaire, (November 27, 1797,) in the fifth year of the French Republic, one and indivisible.

Signed on the records of the Process Verbal,

LE BLANC, *President.*
SANTHONAX, } *Commissioners.*
RAIMOND, }
PASCAL, *Secretary General.*

A true copy.

The Secretary General of the Commission,

PASCAL.

No. 248.

[Translation]

EQUALITY. LIBERTY.

DECREE.

The Special Agents of the Executive Directory to the Windward Islands:

Considering that the ports of the Windward and Leeward Islands, as well as those of Demarara, Essequibo, and Berbice, delivered up to the English, occupied and defended by emigrants, are in a state of regular siege, and not entitled to the same advantages as the ports of the different English colonies, possessed by that power before the war, or to other rights;

Considering that it is against every principle to treat a horde of insurgents, destitute of country, without Government, and without a flag, with the same respect as civilized nations preserve towards each other during a war;

Considering that, by the authentic acts which are in our possession, it is proved that the divers places of the colonies, delivered up to the English by the rebel Frenchmen and Batavians, no more belong to the British Government than la Vendee, in which the English ministry had, in like manner, mercenary troops under pay—some regiments clad in the same uniform as those of England;

Considering that, in virtue of the second article of the treaty of alliance, concluded at Paris on the 6th of February, 1778, between the United States and France, the former power engaged to defend the American possessions in case of war, and that the Government and the commerce of the United States have strangely abused the forbearance of the Republic of France, in turning to its injury the favors granted to them of trading in all the ports of the French colonies;

That by permitting neutral vessels any longer to carry provisions of war and of subsistence to men evidently in a state of rebellion would be to prolong civil war, and the calamities and crimes flowing therefrom—decree as follows:

ARTICLE 1. The ships of the Republic and French privateers are authorized to capture, and conduct into the ports of the Republic, neutral vessels destined to the Windward and Leeward Islands of America delivered up to the English, and occupied and defended by the emigrants. These ports are Martinico, St. Lucia, Tobago, Demarara, Berbice, Essequibo, and at the Leeward, Port au Prince, St. Mark's, L'Archaye, and Jeremie.

ARTICLE 2. Every armed vessel, having a commission from either of the said ports, shall be reputed a pirate, and the crews adjudged and punished as such.

ARTICLE 3. The vessels and cargoes described in the first and second articles are declared good prize, and shall be sold for the benefit of the captors.

ARTICLE 4. Every captured vessel which shall have cleared out under the vague denomination of *West Indies*, is comprehended in the first and second articles.

ARTICLE 5. The decree of the 4th of last Nivose, in pursuance of the resolution of the Executive Directory, of the 14th Messidor, 4th year, shall be executed, until further orders, as far as shall not be contravened by the present decree.

This decree shall be printed, transcribed in the register of the criminal and commercial tribunals, sent to all the French colonial ports, read, published, and posted up wherever it may be necessary.

It shall be notified officially to the neutral Governments of St. Croix, St. Thomas, and St. Bartholomew's.

Enjoining the criminal and commercial tribunals of Guadaloupe, their delegates in the different French colonies and elsewhere, the Rear-Admiral commandant on the West India station, and the head of the administration, to aid in executing the present decree, each in his respective department.

Done at Basseterre, island of Guadaloupe, the 13th Pluviose, 5th year (February 1, 1797) of the French Republic, one and indivisible.

VICTOR HUGHES & LEBAS.

No. 249.

FRENCH DECREE.

[Translation.]

EQUALITY. LIBERTY.

Extract from the Register of the Special Agency of the Executive Directory to the Windward Islands.

The special agents of the Executive Directory to the Windward Islands:

Considering that the laws, as well ancient as modern, forbid neutrals to carry to the enemy contraband or prohibited merchandises:

Considering that notwithstanding the complaints of the Minister Plenipotentiary of the French Republic near the United States of North America, of which he has informed us by his letter of the 2d of July, 1796, those States, and especially Virginia, have fitted out vessels loaded with horses for the English:

Decree, that from this day forward all vessels loaded with merchandises designated by the name of contraband, as arms, instruments, munitions of war, of what kind soever, horses and their furniture, shall be stopped by the ships of war and privateers, to be seized and confiscated for the benefit of the captors.

At Basseterre, Guadaloupe, August 1, 1796.

Signed on the register.

VICTOR HUGHES.
LEBAS.

Compared with the register.

VAUCHELET,
Secretary of the Agency.

No. 250.

G. R. [L. S.]

Additional instructions to the commanders of all our ships-of-war and privateers that have or may have letters of marque against France.

Given at our Court of St. James, the 6th day of November, 1793, and in the 34th year of our reign.

That they shall stop and detain all ships laden with goods, the produce of any colony belonging to France, or carrying provisions or other supplies for the use of any such colony, and shall bring the same, with their cargoes, to legal adjudication in our courts of admiralty.

By his Majesty's command.

H. DUNDAS.

No. 251.

G. R.

Instructions to the commanders of our ships-of-war and privateers that have or may have letters of marque against France.

Given at our Court at St. James, the 8th day of January, 1794.

Whereas by our former instructions to the commanders of our ships-of-war and privateers, dated the 6th day of November, 1793, we signified that they should stop and detain all ships laden with goods the produce of any colony belonging to France, or carrying provisions or other supplies for the use of any such colony, and should bring the same with their cargoes to legal adjudication. We are pleased to revoke the said instruction, and in lieu thereof we have thought fit to issue these our instructions, to be duly observed by the commanders of all our ships-of-war and privateers that have or may have letters of marque against France:

1st. That they shall bring in for lawful adjudication all vessels, with their cargoes, that are laden with goods the produce of the French West India islands, and coming directly from any port of the said islands to any port in Europe.

2d. That they shall bring in for lawful adjudication all ships, with their cargoes, that are laden with goods the produce of the said islands, the property of which goods shall belong to subjects of France, to whatsoever ports the same may be bound.

3d. That they shall seize all ships that shall be found attempting to enter any port of the said islands that is or shall be blockaded by the arms of his Majesty or his allies, and shall send them, in, with their cargoes, for adjudication, according to the terms of the second article of the former instructions, bearing date the 8th day of June, 1793.

4th. That they shall seize all vessels laden wholly or in part with naval or military stores, bound to any port of the said islands, and shall send them into some convenient port belonging to his Majesty in order that they, together with their cargoes, may be proceeded against according to the rules of nations.

No. 252.

Copy of a letter from Sir John Jervis to Thomas Griffith, Esq., Barbadoes.

SIR: The several French West India islands are to be considered as under blockade from the arrival of the armament at Barbadoes, the 6th of January; therefore all neutral vessels trading with these islands within that period are clearly intended to come within the King's order in council, dated the 6th of November, 1793.

J. JERVIS.

BOYNE, *in Port Royal Bay, Martinico, March* 18, 1794.

No. 253.

Instructions to the commanders of all ships-of-war and privateers that have or may have letters of marque against France. August 18, 1794.

GEORGE R.

Whereas by an article of our instructions to the commanders of our ships-of-war and privateers having letters of marque against France, given at our court at St. James, the 8th day of June, 1793, we thought fit to declare that it should be lawful to stop and detain all ships laden wholly or in part with corn, flour, or meal, bound to any port in France, or any port occupied by the armies of France, and to send them to such ports as should be most convenient, in order that such corn, meal, or flour, might be purchased on behalf of our Government, and the ships be released after such purchase, and after a due allowance for freight, or that the masters of such ships, on giving due security, to be approved by our Court of Admiralty, should be permitted to dispose of their cargoes of corn, meal, or flour, in the ports of any power in amity with us:

We, not judging it expedient to continue for the present the purchase of the said cargoes on behalf of our Government, are pleased to revoke the said article until our further order therein, and to declare that the same shall no longer remain in force. But we strictly enjoin all our commanders of our ships-of-war and privateers to observe the remaining articles of the said instructions, and likewise all other instructions which we have issued and which still continue in force.

No. 254.

Letter from Captain Nelson to the American and Danish Consuls at Cadiz.

HIS BRITANNIC MAJESTY'S SHIP CAPTAIN, *off Cadiz, April* 11, 1797.

SIR: In consequence of the unprovoked declaration of war by the King of Spain against his Britannic Majesty and the British nation, it is thought right that Spain should no longer have any trade. I have therefore the honor to acquaint you that no neutral vessel will be permitted in future to enter or leave the port of Cadiz unless by leave obtained from me or the commander-in-chief of the British fleet, and that from this moment Cadiz is to be considered as a blockaded port.

I have the honor, &c., &c.,

HORATIO NELSON.

To the AMERICAN AND DANISH CONSULS *at Cadiz.*

No. 255.

G. R. [L. S.]

Instructions to the commanders of our ships-of-war and privateers that have or may have letters of marque against France, Spain, or the United Provinces. Given at our court of St. James, the 25th day of January, 1798, in the 38th year of our reign.

Whereas by our former instructions to the commanders of our ships-of-war and privateers, dated January 8, 1794, we signified that they should bring in for lawful adjudication all vessels, with their cargoes, that were laden with goods the produce of the *French West India islands*, and coming directly from any port of the said islands to any port in Europe; and likewise all ships, with their cargoes, that were laden with goods the produce of the said islands, the property of which goods shall belong to subjects of *France*, to whatsoever ports the same might be bound; and that they should seize all ships that should be found attempting to enter any port of the said islands that was or should be blockaded by the arms of his Majesty or his allies, and should send them in, with their cargoes, for adjudication; and also all vessels laden wholly or in part with naval or military stores, bound to any port of the said islands, and should send them into some convenient port belonging to his Majesty, in order that they, together with their cargoes, might be proceeded against according to the law of nations; and whereas, in consideration of the present state of the commerce of this country, as well as of that of neutral countries, it is expedient to revoke the said instructions, we are pleased hereby to revoke the same, and in lieu thereof we have thought fit to issue these, our instructions, to be observed from henceforth by the commanders of all our ships-of-war and privateers that have or may have letters of marque against *France*, *Spain*, and the *United Provinces:*

1st. That they shall bring in for lawful adjudication all vessels, with their cargoes, that are laden with goods the produce of any island or settlement belonging to France, Spain, or the United Provinces, and coming directly from any port of the said islands or settlements to any port in Europe, not being a port of this Kingdom, nor a port of that country, to which such ships, being neutral ships, shall belong.

2d. That they shall bring in for lawful adjudication all ships, with their cargoes, that are laden with goods the produce of the said islands or settlements, the property of which goods shall belong to subjects of *France*, *Spain*, or the *United Provinces*, to whatsoever ports the same may be bound.

3d. That they shall seize all ships that shall be found attempting to enter any port of the said islands or settlements that is or shall be blockaded by the arms of his Majesty, and shall send them in, with their cargoes, for adjudication, according to the terms of the second article of the former instructions, bearing date the 8th day of June, 1793.

4th. That they shall seize all vessels laden wholly or in part with naval or military stores, bound to any port of the said islands or settlements, and shall send them into some convenient port belonging to his Majesty, in order that they, together with their cargoes, may be proceeded against according to the rules of the law of nations.

By his Majesty's command.

PORTLAND.

No. 256.

Extract from a Convention between his Britannic Majesty and the Empress of Russia, signed at London, the 25th of March, 1793.

"ARTICLE 3. Their said Majesties reciprocally engage to shut all their ports against French ships; not to permit the exportation, in any case, from their said ports for France of any military or naval stores, or corn, grain, salt meat, or other provisions; and to take all other measures in their power for injuring the commerce of France, and for bringing her, by such means, to just conditions of peace.

"ARTICLE 4. Their Majesties engage to unite all their efforts to prevent other powers not implicated in this war from giving, on this occasion of common concern to every civilized State, any protection whatever, directly or indirectly, in consequence of their neutrality, to the commerce or property of the French, on the sea or in the ports of France."

No. 257.

Extract from a treaty between his Britannic Majesty and the King of Spain, signed at Aranjuez, the 25th of May, 1793.

"ARTICLE 4. Their said Majesties engage, reciprocally, to shut their ports against French vessels; not to permit that there shall, in any case, be exported from their ports for France either warlike or naval stores, or wheat, or other grains, salted meat, or other provisions; and to take every other measure in their power to distress the trade of France, and reduce her, by that means, to just conditions of peace.

"ARTICLE 5. Their said Majesties also engage, the present war being generally interesting to every civilized State, to unite all their efforts, in order to prevent those powers which do not take part in the said war from affording, in consequence of their neutrality, any protection, direct or indirect, on the seas or in the ports of France to the commerce or property of the French."

No. 258.

Extract from a Convention between his Britannic Majesty and the King of Prussia, signed at the camp before Mayence, the 14th of July, 1793.

"ARTICLE 3. The high contracting parties having already taken the resolution to shut all their ports against French ships, and not to permit the exportation, in any cases, from their said ports for France of any military or naval stores, or corn, grain, salt meat, or other provisions, they reciprocally engage to continue those measures, and promise to employ all other means which shall be in their power for injuring the commerce of France, and for bringing her, by such means, to just conditions of peace.

"ARTICLE 4. Their Majesties engage to unite all their efforts to prevent, on this occasion of common concern to every civilized State, other powers, not implicated in the war, from giving, in consequence of their neutrality, any protection whatever, directly or indirectly, to the commerce or property of the French, on the sea or in the ports of France."

No. 259.

Extract from a Convention between the Emperor of Austria and his Britannic Majesty, signed at London, the 30th of August, 1793.

"ARTICLE 2. Their said Majesties reciprocally engage to shut their ports against French vessels; not to permit, in any instance, warlike or naval stores, corn, grain, salted meat, or other provisions to be exported from their said ports for France; and to take all other means in their power to annoy the commerce of France, and thereby to reduce her to just conditions of peace.

"ARTICLE 3. Their Majesties engage to unite all their efforts to prevent other powers, who shall not take part in this war, from giving, on this occasion of common interest to every civilized State, any protection whatever, direct or indirect, in consequence of their neutrality, to the commerce or to the property of the French, at sea or in the ports of France."

No. 260.

Extracts of a letter from Mr. Pickering, Secretary of State, to Mr. Pinckney, Minister Plenipotentiary of the United States at Paris, dated Department of State, January 16, 1797.

"The next Executive act noticed by Mr. Adet is the letter of the 4th of August, 1793, written, by the President's command, by the Secretary of the Treasury to the Collectors of Customs, and accompanied by the rules which the President had adopted for preventing all armaments in favor of any of the belligerent powers. These rules were considered as just and necessary deductions from the laws of neutrality established and received among nations. The letter from the Secretary of the Treasury is explanatory of these rules, and, among other instructions, particularly points the Collectors to the 17th and 22d articles of our treaty with France; lest, by inattention or misconception of them, she might be injured and her enemies benefited. The letter concludes with enjoining the Collectors to execute those instructions 'with vigilance, care, activity, and impartiality;' 'because omissions would tend to expose the Government to injurious imputations and suspicions, and proportionably to commit the good faith and peace of the country.' How could such rules, with such reasons to enforce them, not escape censure? They were framed and required to be executed with *strict impartiality;* and, consequently, were to prevent Frenchmen continuing those aggressions on our sovereignty and neutrality which had been commenced under Mr. Genet's orders, and which were calculated to involve us in a war with Britain, Spain, and Holland; for at that time these were all combined against France. Frenchmen were to have no other preferences *than those secured to them by treaty,* (except that they were not forbidden to sell their lawful prizes in our ports,) and our own citizens were to be restrained from committing hostilities under the banners of France, as well as those of other powers."

"That we have given the exclusive admission to sell here the prizes made by France on her enemies in the present war, though unstipulated in our treaties, and unfounded in her own practice, or in that of other nations, as we believe.

"To this detail I have to add, that of all the loans and supplies received from France in the American war, amounting to nearly fifty-three millions of livres, the United States, under their late Government, had been enabled to pay not two millions and a half of livres; that the present Government, after paying up the arrearages and instalments mentioned by Mr. Jefferson, has been continually anticipating the subsequent instalments, until, in the year 1795, the whole of our debt to France was discharged by anticipating payments of eleven millions and a half of livres, no part of which would have become due until the second of September, 1796, and then only one million and a half; the residue at subsequent periods; the last not until the year 1802.

"There remains yet various passages of Mr. Adet's notes on which some observations are to be made.

"In my letter of the 1st of November last, in answer to Mr. Adet's note of October 27, in which he communicated the decree of the Executive Directory of the second of July last, declaring that the flag of the Republic of France should treat the flag of neutrals in the same manner as these shall suffer it to be treated by the English, I asked an explanation of the decree, mentioning the circumstances which excited doubts. There seemed to be sufficient cause for inquiry. Had the decree referred to the past captures by the English, our knowledge of *them* would have been some guide in forming our opinion of the threatened captures by the French; but the operation of the decree was to depend on the *future* conduct of the English; the French were to treat the flag of neutrals as these *shall* suffer it to be treated by the English.

As this could not be ascertained beforehand, we wished to know whether the restraints then exercised by the British Government were considered as of a nature to justify a denial of those rights which were pledged to us by our treaty with France? Whether the orders had actually been given to capture the vessels of the United States? And, if given, what were the precise terms of those orders? Mr. Adet, in his reply, says that I appear not to have understood either the decree of the Directory or his note which accompanied it. The meaning of the decree is certainly not very obvious. The manner of executing it was declared to depend on a contingency—the future conduct of the English. How were French cruisers in the four quarters of the world to determine what was the conduct of the English at any given time? If he could have furnished a copy of the orders actually given to French armed vessels, under the decree, we might have seen clearly what were the intentions of the Directory. If we are to take the practice of the French armed vessels and of some of the French tribunals as the true illustration of the decree, Mr. Adet's own explanations will be very defective. He has specified only two cases, the taking of English (or other enemy's) property on board American vessels, and the seizure of all the goods classed as contraband in our treaty with Great Britain. In the case of contraband goods, the seizure of them is lawful only when they are destined to the ports of their enemies; and the *contraband goods only* are liable to confiscation. But the special agents of the Directory, in the West Indies, order the seizure of all vessels having on board contraband goods, no matter whether destined to an enemy's, or to a neutral, or even to a French port; and when seized, they confiscate not merely the contraband articles but all other goods, and the vessel herself in which they are laden. They also assign in their decrees of confiscation another cause of capture and condemnation—that the American vessel has sailed to or from a port in possession of the English. We are not informed that the English take any neutral vessels from this cause. We have heard of several American vessels being captured and confiscated by the French, merely because they had not a sea letter, when no doubt could have been entertained of the property being American. Yet it is conceived that the want of a sea letter was never intended to exclude other proofs of property.

"Further, ought we to have imagined that the Executive Directory intended to leave it to the discretion of every privateer and of every inferior tribunal to judge what, at any time *subsequent* to their decree, was the *actual* treatment received by American vessels from the British? Ought we to have imagined that the decree was formed in such indefinite terms on purpose to give scope for arbitrary constructions, and consequently for unlimited oppression? Ought we to have imagined what Mr. Adet has himself declared to be the meaning of the decree, that the French armed vessels were not to content themselves with capturing American vessels having English property or contraband goods on board, and getting such property and goods condemned by their tribunals; but if any English commanders were to practice '*vexations*' towards Americans, that Frenchmen were to do the same? Ought we to have imagined that the Directory intended the citizens of France should be encouraged to take revenge on their friends for the outrages of their enemies? And what is to limit these vexations? If one English commander in a hundred perversely and wantonly abuse his power, is every French officer to become his rival in dishonor? Or if we are to suffer only measure for measure, (and surely the decree goes not beyond this,) who is to designate the every hundredth French officer who is to be the instrument of similar oppression?

"But French armed vessels are to make all these captures in violation of the treaty, and we are to suffer all these vexations in violation of reason and humanity, while we endure them from the English 'without an efficacious opposition!' And what opposition will be deemed *efficacious?* For all captures made by the British, contrary to the law of nations, we have, agreeably to that law, demanded satisfaction; the British have engaged to make us satisfaction, and commissioners are now sitting to liquidate those demands. What opposition could have been more efficacious? What further opposition can be lawful? Instead of further comments on this subject, let me present to you some passages in Mr. Adet's letter of the 14th of July, 1795. In this letter he communicated to the Secretary of State the decree of the Committee of Public Safety of the 3d* of January, 1795, repealing the 5th article of the decree of the 15th† of November, 1794. The latter violated our treaty by subjecting the property of the enemies of France on board American vessels to capture, and by adding to the list of articles contraband; it was, therefore, repealed by the former. Mr. Adet seized this occasion to make the following declaration: 'You will see, sir, (said he) in both [the decrees] the undisguised disposition and sincere desire of the French Government religiously to observe the engagements it has contracted with its allies, and its readiness to redress infractions which have never taken place but from the impulse of circumstances.' 'It is amidst her triumphs that the Republic loves to give this striking mark of its fidelity. Victorious France knows no other concern than that of justice, no other diplomatic language than that of truth' To this truth, to this justice, to this fidelity, we now make our appeal.

"From the style of Mr. Adet's complaint of the British being *suffered* to arm in our ports, it might be imagined the instances were numerous. None were *permitted;* the *actual* armaments were few, and are as old as the year 1793, and were represented by Mr. Genet to the Secretary of State. 'What answer (asked Mr. Adet) did the Government give to the representations of the minister of the French Republic in this respect? It said that these vessels sailed too suddenly; that it was not able to cause them to be stopped.' The answer was given by the Secretary of State in different words. ‡'Those from Charleston and Philadelphia have gone off *before it was known* to the Government, and the, former indeed, in the first moments of the war, and before preventive measures could be taken in so distant a port.' In the case of the Trusty, Captain Hale, at Baltimore, the Governor of Maryland having been informed that she had been *buying guns*, had given orders to examine the fact, 'but she got off before the officer could get on board, having cleared out three or four days before.' I have not observed that Mr. Genet ever renewed his complaint with regard to any of these vessels; whence I suppose he was satisfied with the answer, as indeed he ought to have been. The two English vessels that sailed from Philadelphia escaped even the vigilance of the French Consul;‖ both had departed many days before he had been informed of them. This is stated by the Consul himself, in his report of the 21st of June, 1793, to Mr. Genet, and yet the Government is now charged by Mr. Adet with violating the treaty, because it did not stop them! Although the officers of the United States had been required to be watchful, and to report all illegal armaments in our ports, yet it was natural for the Government to expect to derive information from the French Consuls, who doubtless were charged by their own Government to be particularly vigilant in regard to all attempts at such armaments by the enemies of the Republic. Mr. Adet remarks that 'some inhabitants of the United States had aided in these illegal armaments' of the enemies of France; and asks 'what measures

* 14th Nivose, 3d year.
† 25th Brumaire, 3d year.
‡State Papers, Vol. I, page 112, June 30, 1793,
‖State Papers, Vol. I, page 110.

were taken against them? Was any search made to discover them—to prosecute them? Never. Yet the very letter from Mr. Genet to the Secretary of State, in which, and its enclosures, Mr. Adet has found this subject of complaint, suggests a different conclusion. * 'I learn with pleasure (says Mr. Genet) by your letter of the 23d of this month [June, 1793] that the Government of Georgia have caused to be stopped a vessel armed in that State for the purpose of cruising against the French, *and that the persons interested in this vessel will be prosecuted.*

"I shall say but a few words on the subject of the letters of which Mr. Adet complained that they remained unanswered. The first (of September 28, 1795) contained those reproachful insinuations which were recited in my letter of the 1st of November last. Why were these introduced by him if they were not to be applied? An answer was draughted on the subject of his letter, with animadversions on those insinuations; but desiring to avoid irritations, the answer was not sent. It was deemed of the less consequence, seeing in my letter to Mr. Monroe of the 12th of September, 1795, the sentiments and reasonings of the Government on that and other subjects relating to France had been fully expressed, to enable him to make immediate communications to the French Government itself; and it was hoped that the information given in that letter and in others written to him the preceding summer would have furnished materials (and that these materials would have been timely used) for such representations as would have satisfied the French Government that the United States, in forming the treaty with Great Britain, had only exercised an indisputable right and neither by that treaty nor any other act had infringed a single article of our treaties with France.

"On the subject of the impresses of our seamen, mentioned in Mr. Adet's letters of March and April, 1796, I shall only add that nothing was more notorious than that those impresses had excited universal resentment in the United States, and been the subject of repeated remonstrance from our Government to the British court. Thus in Mr. Pinckney's note to Lord Grenville, in August, 1793, which was published here that year in the same collection of State Papers with Mr. Jefferson's letter of September †7th, which Mr. Adet has quoted, and on the 5th page next succeeding it we find the following: 'Under this head it may be observed that for want of arrangements being made for the security of American seamen in the ports of this country, (England,) they are subject to the various hardships Mr. Pinckney has *so frequently detailed* to Lord Grenville.' And in the next page, in his letter to Mr. Jefferson, Mr. Pinckney says, 'the protection afforded our seamen remains also on the same footing; they (the British Government) profess a willingness to secure to us all real American seamen when proved to be such, but the proof they will not dispense with.' To remove, as far as possible, the embarrassments arising from this cause, and more effectually to protect our seamen, was the object of a bill pending in Congress, and the subject of public debate at the time I received Mr. Adet's letters. This bill was passed into a law. All these acts demonstrated that the Government did not assent, but, on the contrary, that they resisted the impressment of American seamen, and this resistance has been continued; consequently, we cannot be charged on this ground with a violation of our neutrality.

"Among the former subjects of complaint, not now renewed by Mr. Adet, is that against the Government for permitting the purchase and exportation of horses by British agents in the course of the last winter and spring. The correspondence on this subject is lengthy, and yet the question lies within a very narrow compass.

"Perhaps no rule is now better established than that neutral nations have a right to trade freely with nations at war, either by carrying and selling to them all kinds of merchandise, or permitting them to come and purchase the same commodities in the neutral territory—in the latter case not refusing to one power at war what it permits another to purchase; with this exception, in respect to articles contraband, that if the cruisers of one of the belligerent powers meet at sea with neutral vessels laden with such articles destined to the ports of their enemies, the neutral vessels may be captured, and the contraband goods will be lawful prize to the captors, but the residue of their cargo and vessels themselves are to be discharged.

"But if there is any doubt on this point under the law of nations, there can be none in relation to France and the United States, because the matter is specially regulated by their treaty of commerce. This treaty, so far from restraining the trade of either party remaining neutral while the other is engaged in war, *provides regulations agreeably to which it should be conducted.*

"The 12th and 13th articles authorize either party that is at war to stop the neutral merchant vessels of the other, destined to the ports of an enemy, upon just grounds of suspicion concerning the voyage or the lading. If, on examining the ship's papers, it appears there are any contraband goods on board, 'consigned to a port under the obedience of his enemy,' she may be carried into port, and the contraband articles may, by regular proceedings in the admiralty, be confiscated, 'saving, always, as well the ship itself as any other goods found therein, which, by this treaty, are to be esteemed free; neither may they be detained on pretence of their being, as it were, infected by the prohibited goods; much less shall they be confiscated as lawful prize.' It further provides that if the master of the neutral ship shall be willing to deliver the contraband goods to the captor, and the latter receives them, then is the neutral ship to be forthwith discharged and allowed freely to prosecute her voyage. The 23d article goes further: if the neutral ship shall have on board the *enemies* of the other, 'they are not to be taken out unless they are *soldiers in actual service.*'

"These articles are so explicit, it may seem strange that a doubt should arise concerning them; I presume no doubt did arise, for Mr. Adet, overlooking these provisions of the treaty, demanded that the Government should stop the exportation of horses by the British, upon the principle that it was a neutral duty required by the law of nations. An answer was given to his demands, in which the regulations of our treaty with France were particularly brought into view, as well as the rules of the law of nations. Mr. Adet, however, after some time renewed his claims, but again kept the treaty out of sight. An answer was given to these renewed claims, and we heard no more on the subject until the French privateers, in the West Indies began to capture American vessels which had *horses* on board. You will find among the documents on this subject the copy of a decree of the citizens Victor Hughes and Lebas, the special agents of the Executive Directory in the Windward Islands, condemning an *American vessel* and her *entire cargo* for having a small number of *horses* on board, not bound to their *enemies*, but to a *neutral* port. And these special agents ground their decree *on the advice they received from Mr. Adet* under the date of 14th Messidor, being July 2, 1796. This vessel and cargo were thus condemned without the sight of a single paper belonging to her, the master had them in his pocket, and would have brought them home

* State Papers, Vol. I, page 110.

† Mr. Adet by mistake dates it September 13.

but for the recollection of the interpreter some hours after the sentence of condemnation had been passed. These citizens exercise, indeed, a very brief authority. The process in the case of a second American vessel which, to complete her lading, had taken on board nineteen horses, but which was also bound to a neutral port, was in this form: the captain having come before one of the agents, he, without any previous examination or hearing, addressing himself to the captain pronounced sentence in these words—'I have confiscated your vessel and cargo,' closing the sentence with opprobrious language.

Mr. Adet, on the 18th of May last, revived his predecessor's claim of *right*, by treaty, to sell their prizes in our ports. This occasioned the correspondence on this subject, which you will find among the documents collected on this occasion. He contents himself, however, with considering it as a right granted, not *positively*, but by *implication*. That is, because the treaty *forbids the enemies of France* to sell *their* prizes in our ports, therefore it *grants* to her a right of selling *her* prizes. As if my friend's *denial* of a favor to my *enemy* was, in fact, a *grant* of the same favor to *me*. The simple statement of the ground of the claim would seem sufficient to show that the treaty will not support it. That sales of French prizes have been at all permitted has been owing to the *indulgence* of the Government. This indulgence was continued until it interfered with a new positive obligation, an obligation precisely the same that France, herself, contracted eight years *subsequent* to her treaty with us, *and with the same power*. This obligation is found in the 24th article of our treaty, and the 16th of the French treaty with *Great Britain*."

No. 261.

Report of the Secretary of State on the memorial of sundry citizens of the United States, residing in the city of Philadelphia, referred to him by order of the House on the 7th of May, 1796.

FEBRUARY 27, 1797.

The Secretary of State, in pursuance of an order of the House of Representatives of the 7th of May, 1796, * * * as soon as it shall be translated. All which is respectfully submitted.

TIMOTHY PICKERING.

DEPARTMENT OF STATE, *February* 27, 1797.

(Vide volume 1, Foreign Relations, pages 748, 749.)

No. 262.

Secretary of State to Mr. King, Minister of the United States to Great Britain.

[Extract.]

DEPARTMENT OF STATE, *April* 6, 1797.

"I at first supposed the condemnation of American vessels for want of sea letters, in the West Indies, was an arbitrary act of the agents of the French Directory in their islands; but I find by General Pinckney's communication of the report of Mr. Montflorence that, on the same pretence, they condemn our vessels in France, whence we may conclude that it is a part of their *system* of unexampled aggression against a neutral power and their ally. All our accounts from the West Indies show that the French piracies are there continued, and with increasing outrage and abuse of our citizens."

No. 263.

Secretary of State to Mr. King, Minister of the United States to Great Britain.

[Extract.]

DEPARTMENT OF STATE, *April* 26, 1797.

"The depredations of the French in the West Indies continue. Mr. Adet, a few days since, expressed to me his opinion that they are not authorized by the French Government, remarking that it is impossible to restrain privateers from irregularities. But it happens unfortunately that nearly all the vessels or cargoes, or both, which are carried in by their privateers are condemned by the civil officers on shore. Besides, when he mentions unauthorized captures, he cannot refer to the multitude which we complain of, as made in direct violation of our treaty with France or of the law of nations, but which he himself declared would be made pursuant to the decree of the Directory on the 2d of July last."

No. 265.

Secretary of State to Mr. King.

DEPARTMENT OF STATE, *May* 9, 1797.

DEAR SIR: On the 6th, in the evening, I received your letter of the 12th of March. General Pinckney, on the 18th of February, at Amsterdam, wrote me his letter, No. 7, but, although he forwarded his No.

5 and No. 6, by quadruplicates, neither has come to hand, which I the more regret as the sitting of Congress will commence on the 15th, and his Nos. 5 and 6 must contain interesting details relative to the final orders of the French Directory that he should quit the Territories of the Republic.

The statement of affairs in relation to the French captures of American vessels at the date of your letter no doubt rendered your disapprobation of the project of a convoy very proper. I mean for vessels of the United States sailing from the ports of Great Britain; but the piratical conduct of their privateers in the American seas, and even on the coast of Spain, must render any measure of *protection* and *defence* both eligible and lawful. If, therefore, the British Government, on the request of the merchants trading to America, or of the underwriters, or on their own motion, order convoys for the American vessels, under a change of circumstances which show that our commerce is in more danger than when you expressed your disapprobation of the measure, the convoys are certainly not to be refused. In the West Indies, where the French Agents and privateers capture and condemn every American they meet, if bound to or from a British port, or even to their own ports, in a variety of instances, and strip and abuse our citizens, these have, for some months past, been in the practice of accepting British convoys. And what *legal* consequence can result from accepting a convoy in any case, except that of its being a cause of condemnation in case of capture, although the vessel should realy be neutral? It would then seem to be a matter of calculation whether to accept or decline a convoy.

If the French permit the trade between Great Britain (or rather the British dominions in Europe) and the United States to be carried on as heretofore, without making the commerce with that power a pretence for capturing and condemning our vessels and cargoes, then certainly a convoy should be declined, if the accepting a convoy is a lawful cause for capture. On this head I will mention the answer of Dr. Nicholl to a question proposed by Mr. Bayard, in the case of the American vessels laden with flour for France, which sailed under convoy of two French men-of-war, but were taken, carried into Halifax, their cargoes condemned, of course, and freight, and demurrage, and expenses denied, and the captured subjected to pay costs.

"Although (says Dr. Nicholl) a neutral ship may legally carry enemies' property, yet the belligerent has, on the other hand, a right to seize that property, paying the neutral his freight and expenses. If the neutral, in order to prevent the belligerent from exercising his legal right, puts himself under the enemies' convoy, the claim to freight and expenses is thereby forfeited. It is a departure from that impartiality which the neutral is bound to observe. The only question in this case would be, whether the ship itself was not, under the circumstances, liable to confiscation."

In another case, where the American vessel had been condemned with her cargo, Dr. Nicholl gave his opinion not to prosecute an appeal, because the circumstance of going under convoy was, in his judgment, a just cause of forfeiture. This latter opinion I have not in writing, but Mr. Wagner (the clerk charged with this business) well remembers it. But here the cause of forfeiture is not the simple act of going under convoy, but the attempting in a *neutral* vessel to shelter the goods of an *enemy* by means of the convoy; and, therefore, if this distinction be correct, an American vessel with an American cargo may innocently go under convoy.

But why do this with neutral property? Because a belligerent power, without regarding treaties or the law of nations, makes prize of such property. If, however, such unwarantable captures are not made, (and this I suppose you judge to be fact in respect to our vessels trading with Great Britain and Ireland,) there can be no reason for seeking convoys, and the doing it might give offence to the Government against which it was requested. But whenever that Government has no scruple to interrupt and injure our lawful commerce, by means of her armed vessels, we can have no scruple to accept protection from convoys of her enemies. The only question then will be, whether the Government shall formally request the convoy? This is a question of some delicacy, as it regards the foreign power to whom the request shall be made on the score of *obligation*. But if, for the sake of preserving a lucrative or necessary trade, that power voluntarily offers, or on the request of *individuals*, grants the requisite convoys, are we then to refuse them? Clearly not; and such is the sense of the President.

I have the honor to be, &c.,

TIMOTHY PICKERING.

No. 266.

Extract from the Inaugural Speech of the President of the United States, May 16, 1797.

"After the President of the United States received information that the French Government had expressed serious discontents at some proceedings of the Government of these States, said to affect the interests of France, he thought it expedient to send to that country a new minister, fully instructed to enter on such amicable discussions, and to give such candid explanations as might happily remove the discontents and suspicions of the French Government, and vindicate the conduct of the United States. For this purpose he selected, from among his fellow-citizens, a character whose integrity, talents, experience, and services, had placed him in the rank of the most esteemed and respected in the nation. The direct object of his mission was expressed in his letter of credence to the French Republic; being "to maintain that good understanding which from the commencement of the alliance had subsisted between the two nations, and to efface unfavorable impressions, banish suspicions, and restore that cordiality which was at once the evidence and pledge of a friendly union;" and his instructions were to the same effect, faithfully to represent the disposition of the Government and people of the United States, (their disposition being one,) to remove jealousies, and obviate complaints by showing that they were groundless, to restore that mutual confidence which had been so unfortunately and injuriously impaired, and to explain the relative interests of both countries, and the real sentiments of his own.

"A minister thus specially commissioned, it was expected would have proved the instrument of restoring mutual confidence between the two Republics. The first step of the French Government corresponded with that expectation.

"A few days before his arrival at Paris, the French Minister of Foreign Relations informed the American minister, then resident at Paris, of the formalities to be observed by himself in taking leave,

and by his successor preparatory to his reception. These formalities they observed; and on the 9th of December presented officially to the Minister of Foreign Relations, the one a copy of his letters of recall, the other a copy of his letters of credence, these were laid before the Executive Directory. Two days afterwards the Minister of Foreign Relations informed the recalled American minister that the Executive Directory had determined not to receive another Minister Plenipotentiary from the United States until after the redress of grievances demanded of the American Government, and which the French Republic had a right to expect from it. The American minister immediately endeavored to ascertain whether, by refusing to receive him, it was intended that he should retire from the Territories of the French Republic; and verbal answers were given that such was the intention of the Directory."

No. 267.

Secretary of State to Mr. B. H. Phillips, Consul at Curaçoa, dated Department of State, May 23, 1797.

SIR: I have seen the letters you transmitted to Mr. Hodgeton, relative to the American vessels captured by French privateers and carried into Curaçoa, and noticed your solicitude to afford assistance and relief.

It will be right to make all the efforts in your power for that end; but when *plunder* is the only object of the privateers, and *distressing the American commerce* the proposed means of *reducing* the *American* to *submission* to the *French Government*, without any regard to treaties, to the established rules and principles of the law of nations, or the most obvious dictates of justice, you will have but a miserable prospect of success.

And as the Dutch Government at home is, under the forms of deliberations and self-direction, in *real subjection* to the French, we cannot expect less subserviency in the Dutch colonies.

They are greatly to be pitied and entirely excusable, as their conduct is controlled by a foreign force. Of course, such Dutchmen are excepted from the last remark as *voluntarily* co-operate in the nefarious measures of their allies.

I am, with great regard, &c.,

TIMOTHY PICKERING.

No. 269.

Secretary of State to Mr. B. H. Phillips, Consul at Curaçoa, dated Department of State, June 21, 1797.

SIR: I have been informed of a vessel bound to Curaçoa, to sail to-morrow morning. I have before me only your letter of the 12th of May and its enclosures; but one of these is a copy of your letter of the 25th of March, to which you refer. The subject of your communications is apparent from these papers. *The French privateers and some Dutch ones, fitted out at Curaçoa, have captured, and continue to capture, the merchant vessels of the United States, in the most wanton and unjustifiable manner;* and you, with the laudable zeal of a public officer and friend to your country, are anxious to recover what has been taken, and to put a stop to such enormities; such are the wishes of all men who possess any clearness of conception, and any just moral sentiments. On account of these depredations, atrociously violating treaties as well as the law of nations, the President, at the opening of the present session of Congress, recommended the equipping of our frigates and the providing a number of inferior vessels-of-war, to convoy our trade, and also to regulate the arming of our merchant vessels, all for the exclusive purpose of *defence;* but Congress have, as yet, concurred only in the first proposal, and that of arming the merchant vessels, I understand is, at present, rejected. Yet it is generally considered that merchant vessels have a *right* to arm in their own defence; and the object of the President's recommendations was not to *license* but to *regulate* their arming, to prevent abuses. I still hope that they will be regulated in their arming. To your list of captures might be added three hundred that we have heard of, and probably all these unlawful captures amount to five hundred, for many have been carried into the ports of France and Spain, as well as into the ports of their West India colonies. Some may imagine these captures will be checked by the decree of the Directory of the French Republic, of the 2d of March last, of which I enclose a copy in the Directory's official newspaper, the Redacteur, and such would have been its natural effect, if it had not required a variety of documents for ship papers not before demanded, and in the want of which many of our vessels will be *surprised*, and consequently condemned, where not a shadow of doubt remains on the minds of judges or tribunals of the property being American. The decree is a palpable violation of our treaty with France, which the Directory, without our participation, undertake to modify, professedly to make it conform to our treaty with Great Britain; but you will see, in comparing their decree and that treaty, that they have essentially perverted the latter, and especially in regard to American seamen. By the British treaty it is stipulated that the taking a privateering *commission* shall subject *the person accepting the commission* to be treated as a pirate, but the Directory, though referring to this same article, (21st,) and pretending to make their regulations conform to it, extend to the *common seamen* what in the British treaty is confined to *commissioned officers*, and the *former*, as well as the *latter*, are to be treated as *pirates*, and even, too, when they are found on board a British vessel in consequence of *impressments*.

In such a state of things, you will see that I can give you no instructions corresponding with your wishes. If there were a tribunal in your island where trials were had, and where you were allowed to appear, I should request you to aid your fellow-citizens in their defences. I believe you have no such court, and if you had probably you would not be allowed to interfere, or your interference would be fruitless; for such is the case at the French ports where we have any public agents. All, then, that I can say, your own understanding, your knowledge of business, and your humanity, will lead you to do: aid your

fellow-citizens *distressed* by captures, advise them, and where you can do it, assist them in obtaining evidence to establish future claims for their losses.

I am, with much esteem and respect, &c.,

TIMOTHY PICKERING.

No. 270.

Extract of a Report of the Secretary of State, respecting depredations committed on the commerce of the United States since the 1st of October, 1796, dated June 21, 1797.

"In order to present a clearer view of French depredations * * * American owner, master, or supercargo."

(Vide volume 2, Foreign Relations, pages 28, 29.)

No. 271.

Secretary of State to Mr. Adams, Minister United States to Berlin, dated Department of State, July 15, 1797.

[Extract.]

"The principle that free ships make free goods is also found in the treaty with Prussia, (article 12.) It is a principle that the United States have adopted in all their treaties, (except that with Great Britain,) and which they sincerely desire might become universal; but treaties formed for this object they find to be of but little or no avail; because the principle is not universally admitted among the maritime nations. It has not been regarded, in respect to the United States, when it would operate to their benefit, and may be insisted on only when it will prove injurious to their interests. You will, therefore, propose to abandon it in the new treaty, which you are empowered to renew and negotiate with Prussia. On the like ground, you are to propose to admit of articles contraband of war, and among them to enumerate timber for ship-building, tar, pitch, turpentine, and rosin, copper in sheets, sails, hemp, and cordage, and, generally, whatever may serve directly to the equipment of vessels, unwrought iron and fir planks only excepted."

No. 272.

Secretary of State to Mr. Jacob Mayer, Consul at Cape François, dated Department of State, Trenton, September 22, 1797.

SIR: I have lately received your letter of August 13, and, not long before, that of the 5th. I have to acknowledge, also, the receipt of many former letters, communicating useful information concerning the American commerce with St. Domingo, since you went thither as Consul from the United States. I can only lament that the hostile proceeding of the French Government and its agents, while bringing unparallelled distress on that commerce, did not admit of any effectual interference on your part for its relief. By intelligence from France we learn that the agents, Santhonax and his associates, are re-called, to render an account of their mission. Their conduct and the conduct of the Directory towards the United States is reprobated in strong terms by sensible, moderate, and just men in France, particularly in the Council of Five Hundred. Their conduct will fill many dark pages in history. Their resentment for pretended wrongs, and which, therefore, may more properly be resolved into certain other passions, has been measured, not by any rule of justice, but by the idea of their power. And, in estimating their power, they combined the force of the French Republic with the supposed weakness of the United States; a weakness arising from our divisions, which, by their own agents and some American traitors, who impudently pretend to be patriots, they have been taught to believe would throw a majority of our citizens into the arms of France. But this will be found to be a mistaken calculation The atrocities and piracies which have been causelessly committed on our defenceless commerce have inflicted a wound in American breasts which cannot soon be healed, and only by an entire change of conduct in the French Government and its agents, and reparation for their unexampled injuries. When I call their captures of our vessels *piracies*, I only repeat the name given to them through all America, and lately in the two Legislative Councils of France. Nevertheless, animated as we always have been with sincere desires to maintain peace, you will have seen by the newspapers that our Government have instituted a special commission, composed of highly respected citizens, to proceed to Paris, for the purpose of representing our just complaints, of hearing all that can be made by the French Government, and, by friendly negotiations, to conclude on an equitable mode of adjusting all our differences. And considering the change of sentiment in the people of France, who have remained ignorant, or been grossly deceived in respect to the United States; and, especially, considering the happy preponderance of wisdom and moderation in the two Councils since the new third have taken their seats, I am authorized to hope that our Commissioners will be successful. If they are not, the American Government will not be in fault; our citizens will themselves be convinced of it, and consequently prepared with a union of opinion and force to meet the alternative. The United States, who, with half their present numbers, dared resist the power of their mother country, and patiently endured the

evils of a seven years' war, will not tamely submit to be trodden under foot by any foreign nation. But, for the reasons above mentioned, I trust we shall not be driven to this shocking alternative.

I have dropped these few reflections for your information and consolation amidst the wrongs and miseries of your countrymen, to which you have been so long the unhappy witness. Before the year closes I hope you will see a period to their calamities, and find yourself in a situation to fulfil the objects of your appointment with honor to yourself and advantage to your fellow-citizens. About a month since, with the President's approbation, I despatched the United States brigantine Sophia, Captain Maley, to Guadaloupe, whence he was to proceed to Porto Rico, and thence to Cape François, to relieve and bring home distressed American seamen. If he had room for more he was to proceed to Cuba.

In the mean time, and until effectual relief can be administered to all our suffering seamen, I must request you to continue your care towards them, observing all the economy which will consist with the necessary offices of humanity. You had no public funds in your hands for this purpose. You had better, therefore, transmit me an account of your expenditures, that measures for a reimbursement may be adopted. The provision in the consular act is so inadequate I hope Congress at the next session will increase it.

I am, sir, with great regard and esteem, &c.,

TIMOTHY PICKERING.

No 273.

Secretary of State to Mr. Marshall, one of the Ministers to France, dated Department of State, Trenton, September 30, 1797.

[Extract.]

"I think it was Mr. Lee who left the following memorandum from you. If there have been seizures of American goods in British bottoms let me know it."

"No case has come to my knowledge but the one mentioned by Mr. Jefferson in his letter, dated the 24th of July, 1793, to Mr. Genet. Holland and Mackie, citizens of the United States, had laden a cargo of flour on board a British vessel, which was taken by the French frigate Ambuscade, and brought into Philadelphia. Mr. Jefferson claimed a restoration of the flour on the ground that the shippers were ignorant of the declaration of war when it was shipped. But Mr. Genet observed that, by the 14th article of the treaty of 1778, the plea of ignorance could not be urged after two months from the declaration of war; and Mr. Jefferson, finding that this term had elapsed by a few days, abandoned the claim. You will find this letter from Mr. Jefferson among the State Papers published in 1793."

No. 274.

Secretary of State to Jacob Mayer, Esq.

DEPARTMENT OF STATE, *Trenton, October* 6, 1797.

SIR: Yesterday I received your letter of September 21, covering an interesting pamphlet exhibiting ——— of Santhonax, as disclosed to General Toussaint.

It is a pleasure to learn that there is any abatement of the depredations committed by the French on our commerce. The measures and decrees of the Directory, as well as of their Colonial Agents and Consuls, have received, in the Council of Five Hundred, severe and just animadversions. The result, I hope, will be the abolition of their decrees, so ruinous to the commerce of the United States. The motion and speech of Pastoret, in the Council of Five Hundred, I now enclose. The perusal will give pleasure to you and to all Frenchmen who retain their ideas of justice, honor, and the right of independent nations.

I am, with great regard, sir, &c.,

TIMOTHY PICKERING.

No. 275.

Secretary of State to Mr. King, Minister to Great Britain.

[Extract]

DEPARTMENT OF STATE, *January* 13, 1798.

"The depredations of the French continue in the West Indies, notwithstanding a late decree of Raimond, sole Commissioner at Cape François, affects to soften ("adoucir") measures towards neutrals by orders (as set forth) from the Executive Directory. Accordingly, a decree of the commission, passed about a year since, for capturing and declaring good prize all neutrals (or rather Americans) bound to or from British ports, is pronounced to be repealed; nevertheless, if such vessels contain any provisions, (comestibles,) they are to be captured and brought in; and, to encourage the privateers to vigilance in this business, they are promised a reward of a dollar a barrel for each barrel of meal and salted provisions so brought in. What is to be the fate of the residue of such cargoes and the vessels is not said; but with respect to the neutrals bound to or from the "rebel ports," or "ports delivered to the English and defended by emigrants," they, as before, are to be condemned as good prize.

The persons of our fellow-citizens are also, as heretofore, treated with insult and cruelty. Such

monstrous outrages may at length excite that just and general resentment which our safety, as a nation, demands. A letter of October 13, from our Consul in Cadiz, this day received, informs that the depredations in that quarter, both by French and Spanish privateers, continue with increased rigor and outrage."

No. 276.

Letter from Mr. Peter Odlin to Messrs. Smith and Ridgway.

CAPE NICHOLA MOLE, *March* 9, 1798.

GENTLEMEN: I wrote you from Curaçoa under date of the 16th of February, and 22d, enclosing sales of cargo at that place, which I hope came duly to hand. On the 23d of February I sailed for Acquin with 60 barrels of beef, 20 of pork, and two boxes of platillas, of outward cargo, and 70 barrels of salt, which I bought on your account for ballast, and five thousand one hundred and eighty-eight dollars in specie, being the net proceeds of your sales. On the 26th of February was taken by the British frigate Aquilon, and my money all taken from me on board the frigate, and my papers, and sent in here. They took $6,000 from me.

I have been here four days, but the frigate has not arrived with my papers, and nothing has been done yet—only my hatches sealed up, and a guard on board. I demanded of the captain of the frigate what I was detained for; he answered, for being bound to an enemy's port with provisions.

There is a great number sent in here under similar circumstances, and detained two months for trial, and then condemned.

I was in court yesterday, and there was a schooner condemned with 400 barrels of flour, being bound to the Cape; but I hope it will not be my case. I shall act with the greatest caution, and shall do everything in my power for your interest. They take all vessels bound to French ports with provisions, and there have been eight or ten condemned. I have not got a dollar to help myself—they took all from me.

I shall be obliged to give bonds to pay the cost if she is libelled, which we cannot as yet—the papers are not come.

If she should be condemned I shall be obliged to draw on you for the cost, which, in the last case that was tried, was $700, besides losing the vessel and cargo. If the vessel should be condemned I shall appeal, if I can possibly get a security. As I am not much known here, I am afraid I shall find it difficult. I wish you to write me on the subject.

There are so many trials to come on before mine that if I am libelled I shall not get away under three months at least.

There cannot be any vessel's papers more regular than mine are. If I am cleared I shall be obliged to come home from here, after selling the remainder of the cargo. If I attempt to go from this to a French port, I shall be a prize to the French; so I hope to be able to give you a more agreeable account in my next.

I remain, with respect, yours,

PETER ODLIN.

No. 277.

Letter from Peter Odlin to Messrs. Smith and Ridgway.

CAPE NICHOLA MOLE, *March* 20, 1797.*

GENTLEMEN: I wrote you from Curaçoa the 19th and 22d of February; also from this port the 9th, of which I sent a duplicate, informing you of my misfortune in being brought in here by the frigate Aquilon, which I hope were duly received; since which I have been libelled here, under pretence that I had osnaburgs on board, which I sold in Curaçoa. They say that osnaburgs is a substitute for sails for French cruisers. If there is no plea for condemnation they will make one. There have five or six been condemned here since I arrived, and there is not the least prospect of my being cleared; for they have no money for the support of the navy, and they are obliged to do it through policy to support their navy. There is scarce an instance of a vessel's being libelled but what they are condemned.

I have given security for the cost, and laid in my claim for the property, damages, and detention; but there are so many cases come on before mine that I am afraid that it will not be tried under three weeks at least. I shall do everything in my power to expedite the business, and act with the greatest caution, and have everything as regular as possible; but there is nothing to be done without money, and they robbed me of all I had.

I have borrowed of Mr. Thomas $300 to pay lawyer's fees and other expenses, which I could not avoid, and have drawn on you at thirty days' sight for the amount, which I have no doubt will meet due honor. The frigate that took my money out has not yet arrived, and my people are on board of her. They are going to unload the vessel, now she is libelled, and I suppose they will turn me out of her, as it is their general practice as soon as the vessel is libelled. If they do so, it will be very expensive for me ashore. If I am condemned I shall appeal, if I can get security, which I hope to be able to obtain here; but if you write me on the receipt of this it is very probable I shall be here. (Direct your letter to the care of Mr. Tissiere, for me.)

I must refer you to the bearer, Mr. Thomas, for further information; as he has been with me ever since I left Curaçoa, can give you every information with respect to me.

I remain, with respect, yours,

PETER ODLIN.

* This ought to be 1798, but is 1797 in the original.

Copy of a list of American vessels lying at Cape Nichola Mole, on the 1st day of April, 1798, sent in for adjudication.

Brig Malabar, Philadelphia, Da Costa; bound from Philadelphia to Petitguare, laden with provisions, dry goods, and iron ware; condemned for three casks of nails, and for having osnaburgs, which are esteemed contraband.

Schooner Friendship, Philadelphia, Odlin; bound from Curaçoa to Acquin, having sold the cargo at Curaçoa, and proceeding from thence with cash to Acquin to purchase a cargo, was captured, sent in, and is libelled for having cash and going to a French port, which the judge esteems contraband.

Sloop Driver, Philadelphia, Cushman; bound from Philadelphia to Cape François, laden with provisions; sent in for adjudication.

Brig Nancy, Baltimore, Jemmil; bound from Baltimore to Cape François, laden with wine, dry goods, and soap; sent in, is libelled and expected to be condemned, having osnaburgs.

Schooner Adeline, Baltimore, Tear; bound from Baltimore to Cape François, laden entirely with flour, sent in and is condemned, because the owners (McFarden & Co.) were British subjects, and carrying on a trade to French ports; the judge, likewise [in the] condemnation said that the Cape was in a state of blockade, which the owners might have known.

Schooner Polly, Baltimore, Hains; bound from Gonaives to Baltimore, laden with coffee and cotton; sent in for adjudication.

Schooner Sisters, Baltimore, Smith; from Baltimore to Jeremie; cleared for a French port, has nothing contraband on board; sent in for adjudication and libelled.

Ship Harry, New York, Bunker; bound from Gonaives to New York, laden with coffee and cotton; sent in and libelled, because she came out to Cape François a cartel ship, and brought cash for the purchase of a homeward cargo.

Schooner Nancy, New York, Norton; bound from New York to Cape François, laden with provisions; sent in for adjudication.

Brig Sally, Charleston, Huston; bound from Charleston to this port, but cleared for a Spanish port in Cuba—arrived safe at this port; after her arrival, she was seized by the collector of customs, by order of the judge, for a pretence of a breach of the laws of trade, having naval stores on board.

Schooner Fanny, Charleston, Mills; bound from Charleston to St. Thomas; sent in by a man-of-war, and condemned, vessel and cargo, on suspicion of French property.

Sloop Polly, Charleston, Pendleton; bound from Charleston to the Havana; taken by a frigate in sight of Moro; sent in and libelled, and will be condemned, having contraband articles.

Sloop James, Charleston, Johnson; seized at Jeremie, on suspicion of gunpowder, and carrying it to the enemy; having been cleared for a French port, but voluntarily went into Jeremie, to which port she was bound; she was tried at Jeremie by the marshal and condemned; the captain appealed to this court, and is libelled as French property, not finding any gunpowder.

Schooner Fanny, Newburyport, Ganderson; bound from Jacmel to Aux Cayes, having touched at the former port and could not sell; proceeding from thence to Aux Cayes, was taken, sent in, and is libelled.

Schooner William, Wilmington, Burr; bound from Wilmington to Montecristo, laden with provisions; sent in for adjudication.

The above mentioned vessels were sent in here from the 20th of February to the 1st of April, and their cargoes, according to their invoices, amount to two hundred and fifty thousand dollars, and there is no great prospect of either of them being cleared.

P. O.

No. 278.

Secretary of State to Mr. Adams, Minister to Prussia.

No. 2.] DEPARTMENT OF STATE,
Philadelphia, March 17, 1798.

SIR: A letter from Mr. Fenwick, the American Consul at Bordeaux, dated the 25th of January last, to a merchant of this city, contains the following message:

"Enclosed is a law just passed. I leave you to judge its effects. The preamble gives room to believe it is meant principally at the Americans, and is an invective and reproach against them.

"Many think the Danes, Swedes, and Prussians, are engaged in concert to the measure, on certain conditions, and its effects will only operate against the Americans." Unfortunately, the preamble was not transmitted; the law enclosed consists of these two articles:

[Translation.]

"ARTICLE 1. The condition of vessels, in relation to their equality as neutrals, shall be determined by the cargoes; consequently, all those that shall carry goods, taken from England, or from her colonies, shall be declared lawful prizes, to whomsoever they may belong.

"ARTICLE 2. Every vessel which, in the course of the voyage, shall enter into the ports of England, shall not be permitted to enter into those of the French Republic, unless she be compelled to put in, and she shall be bound to depart as soon as the necessity ceases."

As the war continues, and as it now seems scarcely possible for the United States to avoid becoming a party in it, you will doubtless be determined by your instructions of the 15th and 17th of July last, in renewing our treaties with Prussia and Sweden, and to reject the article, in each, which stipulates that free ships shall make free goods. With this prospect before us, no considerations occur which should induce its admission. But the reasons suggested in those instructions are now strongly enforced by the law of the French Republic, before cited, if, as Mr. Fenwick supposes, though general in its expressions, it is really and exclusively intended to operate against the Americans. In this case, a renewal of that

stipulation is positively to be refused. The Swedish and Prussian commerce will then be only on the footing of the commerce of Denmark, with whom we have no treaty; and if we must be involved in the war, it will be desirable that the commerce of those three powers, in relation to the United States, should rest on one and the same principle.

But, if this iniquitous French law exists, (and we have no room to doubt it,) will all the northern powers submit to it? We hope not. We hope that the inordinate ambition of France, and avowed design to subjugate all Europe, (of which she already calls herself "*the* great nation," and "the conqueror,") will excite the resistance of all the powers whom her arms have not reached, and arouse anew those whom the course of events have induced to submit. At present, Britain appears to be the only bulwark against the universal domination of France, by sea as well as by land. It is plain that those powers who have avoided becoming parties in the present war, and have congratulated themselves on their superior policy and good fortune, will finally have no reason to rejoice; they were only reserved for future plunder and oppression. This is now strikingly verified in respect to the United States. Her exactions are as unexpected as her victories have been unexampled. Instead of stipulating for even *future* compensation for the many millions of which she has authorized her cruisers to rob us, she demands immediate contributions to the enormous amount of her depredations; making then [them] the measure, not of rendering justice, but of increasing her oppressions!

A full knowledge of her treatment of our envoys, and of the propositions made to them, would confound her partisans among us; convince our citizens, in general, of the impossibility of preserving their property and independence but by resistance, and produce general unanimity in the measures requisite for that end; or, if I am mistaken in this opinion, we are already under the yoke of foreign domination.

I have the honor to be, &c.,

TIMOTHY PICKERING.

No. 280.

Extract of a document published in France in 1798, *commenting upon the communications made by the President of the United States to the American Congress, on the* 14*th Germinal,* 6*th year, (April* 3, 1798.*)*

[Translation.]

"The American and English papers have lately resounded with the publication of the most strange communications which the envoys of the United States have thought it their duty to made to their Government.

"It is with respect to those envoys a deplorable monument of credulity and contradictions; and it is, with respect to that Government, a provocation still more deplorable.

"It is requisite, by the evidence of facts and the very words of the envoys themselves, to show their inconceivable error. It is requisite, by the force of reason and the mere sentiment of the happiness of the two Republics, to answer to the provocation so visibly suggested by the British Government.

"That Government, indeed, after so many and such ridiculous efforts against the French Republic, endeavors to organize corruption around it.

"Grown desperate on account of so many glorious treaties of peace which the latter has concluded, it has flattered itself by its peculiar perfidies to rekindle the former wars in Europe, and to excite against it a new war in America; but all this system of British corruption shall be exposed and confounded, and the American people shall know the height of the precipice to which they are urged by the servile friends of their former oppressors. For a long time the French Republic complained, and certainly it had a right to do so, against the inexecution of the most important parts of the convention of 1788, concluded between France and the United States. The maritime hostilities were soon followed by the most aggravating injuries. It was in vain that the Republic made a sacrifice of armaments which might compromit the American neutrality.

"The most legitimate of its armaments was soon after contested. The French vessels experienced a thousand vexations. Their prizes were no longer under the protection of the treaties. The courts of justice arrogated a jurisdiction over them; lengthy and ruinous chicaneries discouraged the captors; the French ports in the two worlds were soon declared to be blockaded by British proclamations; the vessels which departed from them were stopped on a loose suspicion of being enemies' property; those which carried provisions thither were turned back.

"On the other hand, the British ships-of-war entered the ports of the United States, after seizing French property, or property claimed to be such.

"By degrees they became stationary there, and made of them military stations, whence they attacked both the French and the Americans in connexion with France. The Republic, however, confined itself to appealing to its treaties with the United States, and to pressing their Government to cause their own neutrality to be respected.

"They answered it with a treaty clandestinely negotiated and concluded with Great Britain.

"Does this treaty, however, secure the neutrality of the United States? No. It renders the presence of the English forces in their ports lawful; it gives to England rights which, in the midst of war, ameliorate its situation to the prejudice of France; it allows the facility of again starving France and its colonies; it sacrifices the generous principles established in favor of the liberty of the seas in former treaties.

"France makes complaints; the American Government eludes and wanders from them; it multiplies official notes without approaching the main point of the question. Reparations are demanded; they are not made. It speaks of nothing but wrongs experienced by the United States; it skips over those which it makes France suffer. The treaty of 1778 is rendered more and more insignificant; and the last blows are struck at the French cruisers in the American seas by the prohibition to sell their prizes. The Republic is under the necessity, in order to manifest its too long suspended resentment, and bring about a negotiation, to appropriate to itself the same clauses of the English treaty. At length the United States, sensible only to the disagreeable consequences which have resulted therefrom to themselves, appeared to wish a reconciliation.

"Three Commissioners have been sent for that end to the French Republic; two of them, General Pinckney and Mr. Marshall, manifesting against France prejudices brought from America, or imbibed from the nature of the connexions which they lost no time in forming here; and the third, Mr. Gerry, announcing more impartiality, and manifesting himself more disposed to lend a favorable ear to everything which might reconcile the two Republics.

"From this ill suited union, which disclosed dispositions not very conciliatory, there must needs result, and there has, in fact, resulted a crooked and embarrassed career on the part of those Commissioners; hence their constant aversion to do what might reconcile their eagerness to write what might disgust.

"At first they manifested a desire to be acknowledged; but explanations of some expressions evidently insulting to the Republic, which were contained in the opening speech of the President of the United States, were demanded from them as a previous condition. They did more than to refuse; they did not even comprehend this demand, and had recourse to groundless recriminations. Soon afterwards a willingness appeared to spare them the embarrassment of the disavowals; and in order to detach them from England, and restore in a small degree the balance so strongly inclined in favor of that power by the last treaty, it was wished that an unequivocal proof of attachment to our cause, which so recently was their own, might be obtained from them; it suited the finances to exchange at that period, for specie, some Batavian inscriptions at gradual instalments; the Minister of Foreign Relations gave them to understand that their offering to purchase a certain quantity of them would be considered as a friendly act.

"They said that they did not possess the power, and they showed that they had not the will. To come at some accommodation, some friendly explanation, frequent communications with the Minister of the Exterior were necessary.

"The latter complained publicly that he did not see them, and they avowed that he caused them to be often informed of this reproach; but two of the Commissioners, shielding themselves under ceremony, refused to comply with the desire. Mr. Gerry at length resolved to go, spoke twice with the minister, and whether from embarrassment in explaining himself or fear of compromitting himself, he said but little, and did not venture to decide on anything.

"In the meantime the envoys thought themselves bound to transmit to the President of the United States a very voluminous account of their negotiation. Of what, then, could this account be composed? It was necessary to fill it with the despicable manœuvres of all the intriguers, who, seeing the Commissioners charged with the most important interests, secluding themselves from the Government with which they ought to treat, hastened together round them, and infatuated them with the idea of their credit and the opinion of their importance.

"One of these intriguers appears to have grounded himself on some acquaintance which, as a foreigner having a recommendation, he had succeeded in obtaining with the minister; another (and it is the one who is the most active) grounds himself solely upon the acquaintance which he had with the first intriguer; for he declares that he does not even know the minister. Such, moreover, is the situation of the man, whoever he may be, who is placed at the head of this department, that he is obliged to receive and listen to many persons who are far from having any share in his confidence, and he has no means of preventing the abuse they may make in his absence of the most insignificant visits, of which they avail themselves, as suits their interests, with men of no experience.

"In the publication which the American Government has made of the report of its envoys, these persons, without being avowed, are designated each by a letter. The minister, impatient to know their names, demanded them with importunity, and finally obtained the communication, which he immediately handed to the proper authority. It will be learned with pleasure that they are foreigners; and it will be readily believed that they did justice to themselves by hastening to quit the territory of the Republic. Only one of these letters, Z, designates a Frenchman, who hastened to declare himself. The language he held is irreproachable. He is presented as having sometimes served as interpreter; but it is clearly seen that he interpreted none but honorable propositions.

"As to the foreigners who are seen figuring in this negotiation, it appears that the object of their whole intrigue was to obtain from the Americans a sum of 1,200,000 livres, to be distributed for correct purposes.

"Hence begin and end all the bustle, all the conversations, all the proceedings, minutely detailed in the report of the envoys.

"It will be forever inconceivable that men, authorized to represent the United States near the French Republic, could have been for an instant deceived by manœuvres so evidently counterfeit, and that there should exist a temptation to convert the error in this respect into bad faith.

"What! Three men are sent envoys from America to France to negotiate there a reconciliation between the two Republics; embarrassed in a preliminary matter, they cannot at once confer with the minister as Commissioners; but they have a thousand ways of seeing him as individuals, either at his own house or elsewhere; and two of them constantly refuse all the facilities which are offered to them.

"This is not all: we see them present the details of their negotiations as if persuaded that the disgusting propositions which they say were made to them were addressed by a man clothed with the confidence of the Government; and, nevertheless, in the course of their recital, they suffer an avowal to escape that they several times suspected these clandestine communications, and that they finally decided to reject them for the future.

"Mr. Gerry even declares positively that these meddlers *did not produce any authority, or any documents of any kind whatever.*

"At the same time they continued to decline the direct communications which were offered to them continually by the minister. Is not all this a labyrinth of contradictions?

"And when we examine by what a series of intermediate persons they thought to approach the minister, whom it was so easy to them to consult immediately, is it not rendered impossible for us to think that they have seriously adopted the consequences of their recital?

"*Here* it is a lady, known to be connected with Mr. Pinckney, who holds with him the most innocent discourse, which has been repeated to him from one end of France to the other; *lend us* (says she to him one day) *money in our war; we lent it to you in yours;* and a conversation thus simple is taken up by Mr. Pinckney, who finds it necessary to write everything and to poison everything; it is mysteriously sent by him to his Government, as if it had any relation to the clandestine propositions made by the intriguers; thus minute is distrust! Thus is prejudice led astray in its reasonings! In this manner are the politics of some men a pest to social intercourse!

"*There* it is one *W*, whom we have not succeeded in discovering, who introduces to General Pinckney *one X*, a very hasty fellow, who, says he is charged with a message from the minister; who, being soon afterwards pressed to answer whether he is personally known to him, is forced to say no; but that he has the propositions which he made from *Y*, who, he says, has connexions with the minister; and, nevertheless, when they want to entrust *Y* with the negative answer to his proposition for the 1,200,000 livres, he declines being charged with it, and is compelled to avow, through a kind of shame, and at the risk of discrediting the part he was playing, that the proposition did not come from the Directory, nor even from the minister; and that it came solely from him, *Y*, who was desirous of saving the envoys the mortification of the disavowals. If these same men have afterwards held a different language, was it not natural for the envoys forever to mistrust their reports, and, above all, to endeavor to reach the source? They have not done so. How can this conduct be reconciled either with reason or good faith?

"In the same report they manifest themselves desirous of informing their Government with the utmost detail of everything which passed in relation to their commission; and while with such a scrupulous care they collect so many absurdities and miserable puerilities, they are silent upon the official communications which the persons employed in the office of exterior relations had with them on behalf of the minister. It is, without doubt, because those communications, agreeing with the few which the minister himself made, were pure, upright, and calculated to do honor to the French Government. It was part of their plan to pass them over in silence.

"The others, so suspicious in their origin, were defamatory in their object; they had the utmost impatience to make them known.

"They had just presented a voluminous memorial setting forth their grievances; they well knew that the minister was about to address a note to them in answer, which ought to have formed one of the authentic documents of the negotiation, and which, in fact, was sent to them in the month of Ventose last, (March 19.) They hastened to publish everything that evidently did not come from the minister, and which they endeavored to impute to him, in order, doubtless, to weaken thereby the very different impression which must have been produced by the note, wherein everything breathes a sincere desire to conciliate.

"This group of facts presents such a tissue of incongruities and contradictions that the mind is lost in it. One is at a loss to specify, with precision, the reproaches to be made to the American envoys. But it is very evident that they have been most strangely deceived if they did believe, and that they are most prefidious if they did not believe, what they relate. (In the expression of these reproaches, which escape from indignation, it is requisite to hasten to except Mr. Gerry, who, doubtless, may have been deceived, both by the foreign intriguers, and, perhaps, also by his very colleagues, but to whom no suspicion of bad faith or insincerity can attach.) Now, what could be the secret motive which caused such puerile communications to be circulated with so much eclat? How, then, can they justify the pompous affectation by which the American people has been prepared to hear them? How can we conceive that it was hoped to render the farce more imposing by fasts and public prayers?

"Doubtless a great object caused them to hazard the holding up, as discoveries of the greatest importance, the incoherent prating of two intriguers, who were foreigners with respect to France. Perhaps it was supposed that the citizens of the United States would judge of the French Government by these caricatures, and that the French Government would be sensible to such a mark of provocation.

"The effect of the outrage was calculated from the malignity of the intention, and not from the littleness of the means.

"In one word, they flattered themselves with exciting indignation instead of pity. They wish for war; and they wished that insulted France might declare it against a people whose cause she defended, and that it might be restored by her to the arms of England.

"By that war the British cabinet would gain an ally who would labor for its interests, second its projects upon the French and Spanish colonies, and retard the moment of its humiliation. By that war, too, the British Government would accelerate the execution of a favorite plan of which it has never lost sight.

"It is known that since it despaired of reuniting to the triple crown the States whose independence it was obliged to acknowledge, it aspired at least to prejudice them in favor of a limited monarchy; that it endeavored to fortify, by the similarity of constitutional forms, the habits common to the English and American people; and that it took care to keep for a long time one of the sons of George III in the vicinity of the United States. Can it then be true that, to the disgrace of the human mind, many citizens of the United States should be found who are seriously reconciled to the English form of government? Can it then be true that men, called by the public confidence to the head of the Government of the United States, have written in favor of the British constitution merely to prepare its adoption in their own country? Can it be true that a thirst for honors, greediness of wealth, and a desire of perpetuating power, have already ripened this conspiracy against liberty? If this ought to be no longer considered as a suspicion, all is explained.

"War is necessary in order to raise troops and obtain supplies. An unnatural war against old friends, against brothers, against republicans, is more especially necessary. It is necessary that this war should excite civil commotions, shock every idea of morality, and rouse to resistance the true sons of America. And pretences will arise in abundance for stigmatizing with sedition the honorable defenders of principles, and for substituting a monarchical in the room of a representative government.

"It would be hereafter unnecessary to dissemble. Such are the criminal practices of the English cabinet. Such is the blind propensity of a Government which it influences; and it is the French Republic which sacrificed the blood and fortune of its citizens in the cause of liberty; it is the French Republic that is instigated to strike the fatal blow! But, superior to the influence of her resentments, she will be actuated by nothing but the happiness of the two Republics; and she will appeal to the whole universe to judge of the sincerity of the dispositions which she has never ceased, and which she will never cease, to manifest for living in peace with America."

No. 281.

Secretary of State to Mr. Wm. Vans Murray, Minister of the United States at the Hague.

DEPARTMENT OF STATE, *Philadelphia, April* 20, 1798.

DEAR SIR: On the 11th instant I received your letters numbered 25, 26, 28, 29, and 30. Your numbers 20 and 27 are still missing; the numbers 25 and 28 are duplicates. You have given a very interesting detail of the late revolution in Holland. I regret exceedingly that your No. 27, in which the detail was begun, is not arrived.

In case of a rupture between the United States and France (an event we fully expect) the absolute dependence of the Dutch upon the latter will probably draw them also into the war, unless France can find a greater advantage in allowing Holland to abstain from hostilities; seeing that all the resources which Holland can derive from our trade will, in reality, be at the disposal of the French Government, and that it is little in the power and less in the disposition of the Dutch to annoy us. It has not yet been determined what orders shall be given you in the event of a rupture with the Dutch as the allies of France.

We have yet no letters from our envoys to the French Republic since their No. 5 of the 8th of January. We are distressed at their continuing at Paris so long after, by their own declaration, there existed no hope of a negotiation on admissible terms. I shall very soon write you again. In the meantime,

I remain, &c.,

TIMOTHY PICKERING.

No. 282.

Mr. Pickering, Secretary of State, to Frederick Jacob Wichelhausen, Esq., Bremen, dated Department of State, Philadelphia, June 3, 1798.

"You suggest the idea of giving to our vessels destined to Europe certificates to show that their cargoes do not consist of the manufactures or produce of the British dominions, to guard them against the decree of the French Government passed last January. We had some time ago been apprised of the decree; but, as it is a violation of the law of nations and of every principle of justice, we shall not think ourselves bound to guard by certificates against its effects. Arms alone can secure our rights against a nation whose Government makes its power the sole rule of its conduct."

No. 283.

French Minister of Exterior Relations to Mr. Skipwith, Consul General of the United States at Paris, dated Paris, 19th Thermidor, 6th year of the French Republic.

[Translation.]

AUGUST 6, 1798.

CITIZEN: You will have seen in No. 961 of the Redacteur a copy of a decree made by the Directory, in order to cause the privateers to return within the rules and limits, whence they ought never to have departed.

By this measure foreign powers will be convinced that the Executive Directory, when informed of the abuses which may be directed against them, takes every pains to stop them, and to prevent their return.

You will doubtless see, in the intention and the acts of the Directory, cause for feeling a security with respect to the commerce of your fellow citizens, so long as it shall be confined within just bounds.

I wish, citizen, that for the good of the two countries the conduct of the Federal Government may correspond with that of the Directory. In this supposition the friendly relations of the two people would be soon re-established.

C. M. TALLEYRAND.

No. 284.

[Translation.]

French Minister of Marine and the Colonies to the agents of the marine in the ports of the Republic, dated Paris, the 24th Thermidor, 6th year, (August 11, 1798.*)*

[CIRCULAR.]

I observe, citizen, by the correspondence of the greater part of the administrators of the ports that the embargo recently laid upon the American vessels has occasioned the detention of the crews. The intentions of the Government were very badly understood when a measure was adopted which, in the first place, hazards the safety of these vessels, and, in the second place, appears to place us in a hostile attitude with respect to the United States, whilst the acts of the Government evince, on the contrary, that it desires a good understanding between the two Republics.

I therefore charge you, citizen, immediately upon the receipt of this, to order the discharge of all the Americans who may have been considered as prisoners of war in consequence of the embargo of their vessels.

You will be pleased to render me a prompt account of the execution of this order.

The Minister of Marine and of the Colonies,

E. BRUIX.

For a true copy, the Minister of Exterior Relations,

CH. MAU. TALLEYRAND.

True and exact copies,

FULWAR SKIPWITH.

No. 285.

Minister of Marine and the Colonies to all the principal officers of the ports, civil and military, dated the 29th Thermidor, 6th year, (August 16, 1798.)

[Translation.]

Our political situation with regard to the United States, citizen, not having as yet undergone any change which can affect the respect due to neutral nations, I do not think I have need to remind you that no injury should be done to the safety and liberty of the officers and crews of any American vessel found to be in order, and that the same conduct ought to be observed towards all passengers and other citizens of the United States furnished with the necessary passports or protection. You will be pleased to use a vigilant attention that the intentions of the Government in this respect may be pursued by all those under you; and when any of them has departed from them you will do justice upon the complaints which may be addressed to you, after ascertaining their validity.

The Minister of the Marine and of the Colonies,

E. BRUIX.

For a true copy, the Minister of Exterior Relations,

CH. MAU. TALLEYRAND.

No. 286.

Secretary of State to Mr. Letombe, late Consul General of the French Republic.

DEPARTMENT OF STATE, *Trenton, October* 25, 1798.

SIR: This evening I received your letter marked with the date of *to-morrow, the 26th*, covering an arrêt of the Executive Directory of France, of the 14th of last May, ordaining "that vessels bearing the *American flag* should no more be admitted, under any pretext, into the military ports of Brest, L'Orient, Rochefort, Toulon, and Dunkirk." You express your regret that a despatch of such importance, sent to you by Mr. Talleyrand, Minister of Foreign Affairs, under date of June 9, should have been so long in coming to you. But there was no cause for this regret. The Congress of the United States, four days after the date of Mr. Talleyrand's letter, having forbidden all commercial intercourse of the vessels of the United States with any *French ports whatever*, without discrimination. I thank you for the trouble you took to furnish me with a copy of the decree of the French Convention of the 1st of October, 1793, referred to in the arrêt of the Directory of the 31st of July last. But as this arrêt is perfectly illusory, seeing it leaves all the other arrêts of the Directory and decrees of the Convention, and the interpretations of the Minister of Justice, Merlin, in consequence of which such abominable depredations have been committed on the commerce of the United States, in full force, so the decree of the Convention of October 1, 1793, to which your privateers are *especially* required to conform, will not produce the smallest change in their conduct towards neutral nations, its object being merely to effect the speedy condemnation of prizes, and to regulate the distribution of the prize money among the captors.

I am, with much regard, &c.,

TIMOTHY PICKERING.

N. B.—This letter having been mislaid, a fair transcript was not sent to Mr. Letombe till November 5.

No. 288.

Mr. King to the Secretary of State.

LONDON, *November* 28, 1798.

Annexed I send you a copy of a note from Lord Grenville respecting the French arrêt, transmitted to you with my No. 9. A late French paper contains a second arrêt, which postpones the execution of the first.

Lord Grenville to Mr. King.

The undersigned, his Majesty's Secretary of State for Foreign Affairs, has the honor of communicating to Mr. King, Minister Plenipotentiary for the United States of America, for the information of his Govern-

ment, that, by a decree published officially at Paris, it appears to have been declared, in the name of the French Directory, that every person being a native of or originally belonging to neutral countries, or to such as are in amity and alliance with the French Republic, who shall bear any commission under his Majesty, or who shall form a part of the crews of any British ships-of-war or other vessels, should, on the proof of that fact alone, be considered and treated as a pirate; and that it has been ordered that this resolution shall be notified to the neutral powers and to those in alliance with France.

Even this decree, contrary as it is to the usages of every civilized nation, cannot excite any surprise as proceeding from those in whose name it has been published. To the different powers who are thus insulted, and whose innocent subjects are exposed to the most cruel treatment on the part of the Government professing friendship or alliance with them, his Majesty must leave it to adopt such measures as they will, without doubt, judge necessary, in the case of an outrage hitherto unexampled in the history of the world.

The King, however, feels that protection is also due from him to those who sail under his flag, either in his Majesty's ships-of-war or in other British vessels; his Majesty has therefore not hesitated to direct it to be signified to the Commissary for French Prisoners, in Great Britain, that the first instance of the execution of this decree shall be followed by the most rigorous retaliation against the French prisoners whom the fortune of war has already, or may hereafter, place at the King's disposal.

It would certainly never be but with extreme reluctance that the King could yield to the painful necessity of exposing so many unfortunate individuals to the fatal but inevitable effects of this atrocious decree; but his Majesty will have at least the satisfaction of feeling that nothing has been omitted on his part to prevent its execution, and that the authors of it can alone be considered responsible for all its guilt and all its consequences.

GRENVILLE.

DOWNING STREET, *November* 27, 1798.

No. 289.

Extract from the Speech of the President of the United States to both Houses of Congress, December 8, 1798.

"The course of the transactions in relation to the United States and France, which have come to my knowledge during your recess, will be made the subject of a future communication. That communication will confirm the ultimate failure of the measures which have been taken by the Government of the United States towards an amicable adjustment of differences with that power.

"You will at the same time perceive that the French Government appears solicitous to impress the opinion that it is averse to a rupture with this country, and that it has, in a qualified manner, declared itself willing to receive a minister from the United States for the purpose of restoring a good understanding. It is unfortunate for professions of this kind that they should be expressed in terms which may countenance the inadmissible pretension of a right to prescribe the qualifications which a minister from the United States should possess, and that, while France is asserting the existence of a disposition on her part to conciliate with sincerity the differences which have arisen, the sincerity of a like disposition on the part of the United States, of which so many demonstrative proofs have been given, should even be indirectly questioned.

"It is also worthy of observation that the decree of the Directory, alleged to be intended to restrain the depredations of French cruisers on our commerce, has not given and cannot give any relief; it enjoins them to conform to all the laws of France relative to cruising and prizes; while these laws are themselves the sources of the depredations of which we have so long, so justly, and so fruitlessly complained.

"The law of France, enacted in January last, which subjects to capture and condemnation neutral vessels and their cargoes, if any portion of the latter are of British fabric or produce, although the entire property belongs to neutrals, instead of being rescinded, has lately received a confirmation by the failure of a proposition for its repeal. While this law, which is an unequivocal act of war on the commerce of the nations it attacks, continues in force, those nations can see in the French Government only a power regardless of their essential rights, of their independence and sovereignty; and if they possess the means, they can reconcile nothing with their interest and honor but a firm resistance."

No. 290.

Secretary of State to Mr. King, Minister of the United States to Great Britain, dated Department of State, December 13, 1798.

SIR: Mr. H. R. Pierpont, who has a cause of magnitude depending in Great Britain, has furnished me with the opinion of his council, of which a copy is enclosed. As there is no shadow of foundation for the claim set up by the French Government, of the necessity of our vessels being provided with a rôle d'équipage; as the Government of the United States never hesitated a moment in forming its opinion that this requisition, so evidently invented for the purpose of giving a color to French depredations, can be justified by no part of our late treaties with that power, and as it is represented that much property is depending in the courts of Great Britain, on questions of insurance, in which the necessity of that document, to give to American vessels the character of neutrals, is involved, it is the President's direction that you accordingly signify to the British Government, in the most suitable manner, the sentiments of this Government upon the subject, to the end that they may officially be notified to the judges, if such a notification be admissible, by corresponding with their constitutional forms.

I have the honor to be, &c.,

TIMOTHY PICKERING.

No. 292.

Secretary of State to H. G. Otis, Esq., District Attorney, Boston, dated December 31, 1798.

DEAR SIR: I do not know who is chairman of your committee whom I saw this morning, and therefore enclose to you three letters from our Consul at Curaçoa, dated May 12, 1797, June 15, 1797, with two enclosures, and August 3, 1797, showing that the members of the Dutch Council there were owners of the privateers sailing from that island under French colors. Please to return me the papers.

I am, respectfully, &c.,

TIMOTHY PICKERING.

No. 293.

Extracts from the Report of the Secretary of State, on the transactions relating to the United States and France, since the last communications to Congress on that subject, dated January 18, 1799.

"On the 24th of May, the minister sent * * * to pay the money directly to them."
(Vide volume 2, Foreign Relations, page 232.)

"On the 27th of June, the minister again writes * * * source of all the differences between the two nations."
(Vide volume 2, Foreign Relations, page 232.)

"It is necessary to make a few observations * * * With this, I will close my observations on the preamble of the directorial decree of the 31st of July.
(Vide volume 2, Foreign Relations, pages 233, 234, 235.)

Extract of a letter from Rufus King, Esq., Minister of the United States in London, dated September 3, 1798, *to the Secretary of State of the United States.*

"The pretence of this arrête (the decree of the Directory of July 31) is of a piece with the vindication of Talleyrand respecting X, Y, and Z, and the justice and sincerity of the Directory should be ascertained, not by their word, but by the following contemporaneous fact:"

"Hayley, an American citizen, master of the American ship Hare, lying in the port of London, laden with a rich cargo, the property of Americans, and bound to New York, went with my passport from London to Paris, where, in a personal interview, not with the agents of the Minister of Marine, but with *the Minister himself*, he disclosed his plan of bringing the ship Hare and her cargo into France; and to enable him to receive the profits of the fraud, without risking the punishment of piracy, he demanded and received from the Minister of Marine a commission, naming him the commander of a privateer that did not exist; with which in his pocket he returned to London, and soon after carried the ship Hare and her cargo as a prize into France."

"The ship and cargo were both claimed by the American owners; and upon the unveiling of this infamous proceeding before the lower tribunals, the judges hesitated, and finally refused to sanction so unheard of a fraud; though, instead of restoring the property to its lawful owners, they, on some frivolous pretence, adjudged both ship and cargo to be good prize to the *nation*. Lately, the tribunal, in the last resort, upon the appeal of Hayley, has reversed the judgment of the lower court, and 'decreed the ship and cargo to be condemned as good prize to this renegado.'

"If a transaction more grossly corrupt and infamous has occurred in the West Indies, I have not heard of it; and yet, with this case of unequalled infamy and corruption before them, sanctioned by the highest tribunals of the nation, the Directory expect to amuse us with a disavowal of the conduct of a few subaltern agents in a remote part of their dominions."

Besides the communications from Mr. Gerry, I have received from Fulwar Skipwith, Esq., Consul General of the United States at Paris, three letters, dated the 4th, 8th, and 22d of August, copies of which, and of the papers therein referred to, are herewith presented, excepting the decree of July 31, which appears among the communications from Mr. Gerry. Mr. Skipwith's letter of August 22, with its enclosures, was delivered to me by Dr. Logan; I had previously received the original, which had been brought over by Mr. Woodward, of Boston.

Doctor Logan having been the bearer of the last mentioned communication from the French Government, and his embassy having not only engaged the attention of the public, but been made the subject of debate in Congress, I trust it will not be deemed improper to introduce into this report some circumstances respecting it.

On the 12th of November, the Doctor came to me at Trenton; he advanced with eagerness, and handed me the packet from Mr. Skipwith. On examining its contents I told the Doctor that I already possessed the same papers.

I made some remarks on the decree of the Directory of the 31st of July, to show that it was only ostensible and illusory, and that it would not give any relief to the commerce of the United States. The Doctor, not contesting my arguments or opinions, said that more was intended to be done; but that the Directory could not accomplish it of themselves, seeing it depended on the *laws* which the *Legislative Councils* alone could change.

I answered that this was easy to be done; that as the Directory, on the 18th Fructidor, (September 4, 1797,) had garbled the two councils, and banished some and dismissed others of the best members, all

who were firmly opposed to their views; and as on the new elections to supply the vacancies and the new third of the councils, the Directory sent home every new member who was not agreeable to them, everybody must see that the Directory had but to declare its *will*, and it would be obeyed. The Doctor said that the Directory was very well disposed towards the United States, and desired a reconciliation; that they would promote a revision of the laws in regard to privateering, so as to put the rights of neutral nations on a just footing, but that it would take some time to bring this about, "*the people concerned in privateering having gained a very great influence in the two councils.*" Is it necessary to inquire how this very great influence has been obtained? Are the leading members owners of privateers, or do they receive their shares of prize money from those who are? Do the Legislative Councils really act independently of the Directory? Or does the same "influence" actuate both? The printed despatches of our envoys, under the date of October 29, 1797, state, on the information of Mr. Talleyrand's private agent, X, that Merlin, one of the members, and now or late President of the Directory, was to receive no part of the *douceur* demanded of the envoys, *because he was paid by the owners of privateers*, and in respect to the *loan* then demanded, on which subject it was suggested that one of the envoys should go to America to consult the Government, the envoys asked Mr. X if, in the mean time, the Directory would order the American property not yet passed into the hands of the privateersman to be restored? He said explicitly that they would not. The envoys asked him whether they would suspend further depredations on our commerce. He said they would not; but Mr. Talleyrand observed, that on this subject we could not sustain much additional injury, because the winter season was approaching, when few additional captures could be made. Here we see our envoys inquiring not whether the *two councils* would suspend those depredations, but whether the *Directory* would do it; and Mr. Talleyrand's agent, X, without intimating that the Directory *wanted power*, or that they could only "endeavor to provoke in the Legislature a revision of their maritime laws," answered peremptorily *that the Directory would not suspend the depredations.* The truth is, that it was an act of the *Directory alone*, (their decree of the 2d of March, 1797,) which authorized and produced more extensive depredations on the commerce of the United States than any other decree or law of the French Republic. To effect a repeal of that decree, no application to the Legislative Councils could be necessary. They could also have repealed another of their own decrees, that of the 2d of July, 1796, which subjected neutral property, and particularly that of American citizens, to the discretion of their consuls and cruisers in the European seas, as well as of their privateers and agents in the West Indies, and on which these agents have founded other numerous decrees, which have occasioned those shocking depredations and abuses there and on the coast of the United States, which the Directory, by their decree of the 31st of July last, *affect to restrain.*

When the Executive Directory wished to enlarge the field of depredations on neutral commerce, and on the fourth of January, 1798, proposed to the two councils the project of the iniquitous law "to declare to be good prize every vessel and cargo, to *whomsoever belonging*, if any part of the cargo came from England or her possessions," there was a ready obedience. "The Directory thinks it *urgent* and necessary to pass the law. The plan of a decree is reported to the Council of Five Hundred on the 11th; and 'urgency' being declared, is immediately and unanimously adopted. It goes to the Council of Ancients; that council approves the act of urgency, and on the 18th of January the project of the Directory becomes a law.

This law was necessary for the French Government; so many American vessels had been entrapped by the Directory's decree of March 2, 1797, requiring the *rôle d'équipage*, that the residue were now generally provided with that paper; some new pretext was, therefore, requisite for fleecing the people of the United States of their property; and an ordinance of one of the Kings of France, made near a century past, having declared lawful prize the vessels and their cargoes in which was found English merchandise, *belonging to enemies*, the Directory declare that the provisions of this ordinance *ought to be extended* to comprehend the vessels and cargoes of *friends;* that is, of allied and neutral nations.

This Directory knew that the United States, whose inhabitants were chiefly *cultivators*, required a greater supply of English manufactures than any other neutral country of equal population; and those manufactures too were, from the course of American commerce, combined with almost all our mercantile operations, and pervaded entirely our great coasting trade.

Hence, it is evident that this law was chiefly aimed at *them.*"

No. 295.

Secretary of State to the American Consul, Havana, dated Department of State, January 25, 1799.

SIR: A Mr. Dickrick, residing in Philadelphia, and calling himself a citizen of the United States, has a son-in-law named Peter Brabandt, a Frenchman, now in Havana, who writes to him that he is unable to obtain a passage to this country, on account of the opinion prevailing there among the masters of American vessels that it is unlawful to bring Frenchmen to the United States. As this opinion is erroneous, there being no law at present existing to prohibit them coming hither, I have desired Mr. Dickrick to write to his son-in-law to apply to you, who would explain away the scruples on this point of the master of the vessel in which he might choose to take his passage.

I am, sir, &c.,

TIMOTHY PICKERING.

P. S. It will be desirable, however, to avoid any encouragement, generally, to the coming of Frenchmen to the United States.

No. 296.

Secretary of State to Letombe, late Consul General of France in the United States.

DEPARTMENT OF STATE, *Philadelphia, February* 4, 1799.

SIR: I have received your letter of the 29th ultimo, occasioned by my introducing into my late report on French affairs, relative to the United States, your repeated declarations to me, of your collecting and transmitting to your Government the account of the depredations committed by French privateers on the commerce of the United States, as a proof that the Directory of the French Republic had been, not *recently*, as they pretend, but long since, acquainted with them, the fact of your repeated declarations to me, as stated in my report, you do not call in question; but you say you always told me that you believed your Government was not informed of them. This addition I do not remember. But whether you did, or did not, so express *your belief*, is of no consequence; I stated a fact; you admitted it; the public will, from that and other concurring facts, draw their own inferences It was impossible that I should believe, as you say *you* always professed to me to believe, that the Directory were uninformed of the depredations of which we are speaking; nobody will believe that your letters, for two or three years past, have not reached Paris, when you have yourself sent to France several flags of truce, and American vessels have all that time been going from the United States to France. I do not, therefore, think "my justice at all concerned to give publicity to your letter." If I had erroneously stated any fact respecting you, be assured I would most readily correct the statement, and with the same publicity; it is by the force of truth alone that I ever expect to establish my positions.

The rest of your letter, about your writing to a member of the Directory, and to the minister of Foreign Relations, and inviting your colleague, Dupont, to *inform your Government* of those depredations, and your letters to Hedouville, the agent in Saint Domingo; these things are also of no consequence. Doubtless, the principal object of the "information was to convince the Directory that we would no longer patiently bear their insults and injuries; and that they must change their measures; or, at least, profess to change them to prevent a rupture." Hence, as you inform me in your letter, Mr. Dupont "felicitates himself on his return to France," because "it has not a little contributed to prevent a rupture so fatal to the two Republics."

As to Hedouville's arrêt of the 18th of July last, to which, and his arrêt of the 17th, you refer me, telling me that you think I shall therein see "the rights of neutrals, and the laws of nations respected," the very suggestion is an insult. His arrêt of July 18, in declaring that American (as well as other neutral) vessels, *destined to the ports of St. Domingo remaining faithful to the Republic*—that is, to *French ports*, in distinction from the ports of other nations, and especially *English ports*—shall not be seized by the vessels-of-war or privateers of the Republic, is a confirmation of former decrees violating the law of nations, and the rights of the United States in particular. Who gave to the French Republic and its agents a right to regulate the commerce of the world? Whence does it derive its pretensions to prescribe to neutrals the ports and nations with whom they may trade, and the ports and nations independent of France with which neutrals shall have no commerce? Inordinate ambition, whose success will gratify so many other passions, is the source of those pretensions. The justice or injustice of a measure has long since ceased to be a point of any consideration with the French Government; this is demonstrated by its acts towards neutral nations in general, and especially towards the United States.

I am, sir, your obedient servant,

TIMOTHY PICKERING.

No. 296½.

Secretary of State to General Etienne Desfourneaux, particular agent of the French Executive Directory at Guadaloupe and its dependencies, dated Department of State, Philadelphia, March 16, 1799.

SIR: Your letters to the President of the United States should have been addressed to the Department of State; they have, however, been submitted to his consideration. The Retaliation being on the point of departure with French prisoners, in exchange for the Americans you liberated, I must reply in a few words.

I can only observe that the depredations committed on the commerce of the United States by French armed vessels, in violation of the law of nations, obliged the United States to take such measures as they judged best adapted to protect their commerce and to cause their rights to be respected. One measure has been to restrain and prohibit all commercial intercourse between the United States and every part of the French dominions. These restraints and prohibitions cannot be withdrawn, unless their cause be first removed. The depredations of French armed vessels must wholly cease. Their conforming to the *laws* of the *French Republic* will not satisfy. The depredations of which we have so long conplained have originated in those laws. But when the French Republic, or any island belonging to it, shall cease to violate our rights by such depredations, so that the President of the United States may deem it safe, expedient, and for their interest, to remit and discontinue the restraints and prohibitions above mentioned, our commercial intercourse may be renewed. For your further information, I take the liberty of enclosing the law of the United States for suspending the commerce between the two nations.

I am, with due consideration, sir, &c.,

TIMOTHY PICKERING.

No. 297.

Secretary of State to Messrs. Adams and Loring, Boston, dated State Department, March 30, 1799.

"I now enclose the passports of Messrs. William Rice Apthorp and Charles Ward Apthorp, and return to you the certificates from Mr. Cooper, concerning their nativity, with the date of my certificates to the latter corrected.

"Without being apprised of the allegation against the sufficiency of the papers on board of your vessels, I feel some embarrassment in giving a formal opinion upon them, since the question embraces considerable detail and is influenced by circumstances. I think it probable the defect of the rôle d'équipage is what you wish to obviate by my certificate; and in that supposition it may be useful to inform you that having before, upon the application of a person having an insurance cause depending in England, given a certificate, importing that such a document was not requisite to American vessels, either by the treaties or laws of the United States, it was not deemed by the court *legal evidence*. But the counsel of the insured having advised, in consequence of an intimation thrown out by the court, that a request should be made to Mr. King, our minister in London, to communicate to the British Minister of Foreign Affairs the opinion of the American Government that the rôle d'équipage was not necessary, to the end that the latter might notify it to the judges, in which form that opinion would meet with due attention, Mr. King was instructed to make the communication accordingly."

No. 298.

Secretary of State to Mr. King, dated Department of State, Philadelphia, May 8, 1799.

DEAR SIR: I have again to represent to you how much the American trade is harassed by British cruisers, by what I conceive to be a perverse construction of the 18th article of the commercial treaty relating to articles contraband.

The ship General Washington, of this port, is taken by the British armed vessels, the Lynx and Pheasant, and carried into Bermuda. The pretences for the capture, as it is understood, are, that she had on board some bales of ticklenburgs and osnaburgs, and about thirty casks of 6d, 8d, 10d, 12d, and 20d nails.

The ship was destined for New Orleans, which is the *depot* of the cotton raised in our Mississippi Territory and of the skins and furs collected in traffic with the Indians. The cotton and indigo raised and the skins collected in Louisiana also find there a market. The trade between us and New Orleans is very much increased, and is daily becoming more and more important to us. Osnaburgs and ticklenburgs are essential to the summer clothing of the slaves and laborers, and for bags for the cotton. The nails are necessary for house building. The 18th article of the treaty declares "sails" to be contraband; but those coarse linens are neither "sails" nor *sail cloth*. And although in extreme necessity, when the proper cloth is not to be obtained, some of the highest and most trifling sails might be made of ticklenburg; yet that is not, every one knows, the use for which it is imported and to which it is *generally* applied; and a reasonable construction of the words "whatever may serve *directly* to the equipment of vessels," must exclude all three of the articles in question. It cannot be the *contingent* and *possible* application of articles in the equipment of vessels, but the *direct* and *principal use* and destination for that object, which must determine them to be contraband.

So far have perverse constructions of the 18th article been carried, that leather (as I am informed) has been pronounced contraband because used in fixing the boxes of ships' pumps, and perhaps one pound in a thousand or two may be so used.

It is really important to come to an understanding with the British Government on this subject, as well for political as commercial considerations; and I hope, if not already done, that you will find an early opportunity to converse with Lord Grenville upon it, and that orders will be issued to put a stop to the mischief.

I must not omit to mention another refinement in some of the Colonial Vice Admiralty Courts. I am informed that they make a distinction between *flat* and *square* bars of "unwrought iron," declaring the *latter contraband* because they may be easily converted to ships' bolts! I will only observe upon this that square bars of iron are wanted for common domestic uses by *every farmer* in the country. I speak from my own knowledge; and I believe that our forges never deliver a ton of iron without a proportion of it in square bars. A few tons of bar iron were on board the General Washington.

I am, sir, &c.,

TIMOTHY PICKERING.

No. 299.

Secretary of State to Doctor Bouvier, New York, dated Department of State, Philadelphia, May 21, 1799.

SIR: I have just received your letter of yesterday. You flatter yourself that you can persuade General Desfourneaux to put an end to all privateering against American vessels. Of this there does not appear to me a shadow of probability. He knows by the letter I some time since sent him that commercial intercourse can be renewed with Guadaloupe only on that condition; but he has yet given no answer. He will answer, or rather he would have answered before this time, if he felt any disposition to cease his licensed piracies. But he is so far from manifesting such a disposition, that, by his arrêt of the 14th of March, he has directed the capture of *all* American vessels without exception.

He no more regards the real interest of Guadaloupe than his masters, the Directory, do that of France; both prefer the *plunder* to the *commerce* of *neutral nations*. Under these circumstances, I do not think it proper to accept of your overtures for a flag of truce and permission to export and import merchandises, under the idea of thereby defraying the expenses of your voyage.

I am, sir, &c.,

TIMOTHY PICKERING.

No. 300.

Secretary of State to Mr. King, dated Philadelphia, May 22, 1799.

[Extract.]

"The British men-of-war cruising off Cuba and the Bahamas are too much occupied in capturing American vessels trading to the Havana and New Orleans. Whether the climate enervates the crews, or whatever may be the cause, we think the British cruisers in the West Indies display very little activity against the French or Spanish armaments."

No. 301.

Secretary of State to Mr. Regis Leblanc, French Consul.

DEPARTMENT OF STATE, *Philadelphia, May* 30, 1799.

SIR: I have received your letter dated the 22d of this month and the one dated this day. In the former you enclosed a project of a decree, which, if adopted by General Desfourneaux, you imagine might be a sufficient ground on which the President might open the commercial intercourse between the United States and Guadaloupe. The preamble to your project is extremely exceptionable. I demonstrated in my report of the 18th of January last that the decree of the Directory of the 31st of July, 1798, had not given, could not give, nor was intended to give, any protection or relief to the American commerce, vexed, pillaged, and destroyed by French cruisers. Yet you present this decree as an evidence of the desire of the French Government to live in peace with the United States. After the example of the Directory, too, you affect to consider the aggressions of which the people of the United States complain as having been committed by *foreigners* or *pirates*. You do, indeed, allow that even French privateers have given to the Government of the United States just causes of complaint. But the fact is, that the piracies, plunderings, and captures, of which we complain, have been made by armed vessels *commissioned* by the *French Government;* and if foreigners or pirates, in the appropriate sense of the word, have, under cover of the French flag, vexed our commerce, their acts and piracies have been *approved* and *sanctioned* by the *French Government*, whose tribunals have acquitted and released no American vessels on the ground of their having been captured by pirates. The first article of your project, to repeal General Desfourneaux's arrêt of the 14th of March, is of no consequence, as that arrêt only contained a formal declaration of doing what French cruisers had done for two years preceding. Your second article proposes that the arrêt of the Executive Directory of the 31st of July, 1798, should be executed in all its parts towards American vessels. That is, all the laws of the French Republic, and all the arrêts of the Directory, authorizing the capture of American vessels, are to be fully executed, while those laws and arrêts are the sources of the injuries complained of. It is not necessary to notice any other article, as these, which constitute the basis of your project, are utterly inadmissible. Nothing short of an absolute exemption from capture will give that security to the American commerce which will authorize the opening of the trade between the United States and any part of the French dominions. When that shall be fixed, the other regulations necessary to the safety of our trade with French islands, or any of them, will be considered If the French colonies discern their true interest, they will wholly break up privateering; for, without the unjust captures and confiscations of neutral property, more especially the property of citizens of the United States, their prizes will not indemnify the owners for the expense of equipping privateers. So long, therefore, as the French Government and its agents allow of privateering, particularly in the West Indies, so long we must presume, whatever professions are made, that they mean to make a prey of neutral commerce.

I am, sir, &c.,

TIMOTHY PICKERING.

No. 302.

Secretary of State to Mr. Samuel Williams, United States Agent at London, dated Department of State, June 1, 1799.

"I am happy to find that all the blank commissions and instructions for private armed vessels, transmitted to Mr. King, reached his hands. The number and force of the vessels to which you have issued commissions excite my surprise. By the present opportunity I send you ten more commissions, with the necessary blanks."

No. 303.

Proclamation by the President of the United States, renewing commerce with St. Domingo, dated June 26, 1799.

Whereas, by an act of the Congress of the United States, passed the 9th day of February last, entitled "An act further to suspend the commercial intercourse between the United States and France, and the

dependencies thereof," it is provided that, at any time after the passing of this act, it shall be lawful for the President of the United States, if he shall deem it expedient and consistent with the interests of the United States, by his order, to remit and discontinue, for the time being, the restraints and prohibitions by the said act imposed, either with respect to the French Republic or to any island, port, or place belonging to the said Republic, with which a commercial intercourse may safely be renewed, and also to revoke such order, whenever in his opinion the interest of the United States shall require; and he is authorized to make proclamation thereof accordingly.

And whereas the arrangements which have been made at St. Domingo for the safety of the commerce of the United States, and for the admission of American vessels into certain ports of that island, do, in my opinion, render it expedient and for the interest of the United States to renew a commercial intercourse with such ports:

Therefore, I, John Adams, President of the United States, by virtue of the powers vested in me by the above recited act, do hereby remit and discontinue the restraints and prohibitions therein contained, within the limits and under the regulations here following, to wit:

1st. It shall be lawful for vessels which have departed or may depart from the United States to enter the ports of Cape François and Port Republicain, formerly called Port au Prince, in the said island of St. Domingo, on and after the first day of August next.

2d. No vessel shall be cleared for any other port in St. Domingo than Cape François and Port Republicain.

3d. It shall be lawful for vessels which shall enter the said ports of Cape François and Port Republicain after the thirty-first day of July next to depart from thence to any port in said island between Monte Christi on the north and Petit Goave on the west; provided it be done with the consent of the government of St. Domingo, and pursuant to certificates or passports expressing such consent, signed by the Consul General of the United States, or Consul residing at the port of departure.

4th. All vessels sailing in contravention of these regulations will be out of the protection of the United States, and be moreover liable to capture, seizure, and confiscation.

[L. S.] Given under my hand, and the seal of the United States, at Philadelphia, the twenty-sixth day of June, in the year of our Lord 1799, and of the independence of the said States the twenty-third.

JOHN ADAMS.

By the President:

TIMOTHY PICKERING, *Secretary of State.*

No. 304.

Chief Clerk in the Department of State to Samuel Williams, Esq., United States Agent at London, dated Department of State, June 11, 1799.

SIR: By the Secretary of State's direction, I have the honor to enclose to you ten more commissions for private armed vessels, with the necessary instructions and bonds, and to be, &c.,

JACOB WAGNER.

No. 305.

Secretary of State to Mr. Samuel S. Cooper.

DEPARTMENT OF STATE, *Philadelphia, August* 3, 1798.

SIR: On the 13th of June, 1798, Congress passed an act entitled "An act to suspend the commercial intercourse between the United States and France and the dependencies thereof." By the fifth section of this act it was provided, That if, before the next session of Congress, the Government of France, and all persons acting by or under their authority, should clearly disavow, or should be found to refrain from the aggressions, depredations, and hostilities, which had been and were by them encouraged and maintained against the vessels and other property of the citizens of the United States, and against their national rights and sovereignty, in violation of the faith of treaties and the law of nations, it was made lawful for the President of the United States, being well ascertained of the premises, to remit and discontinue the prohibitions and restraints imposed by that act. But no such disavowal and refraining from aggressions, depredations, and hostilities, having taken place, Congress, in their late session, passed "An act further to suspend the commercial intercourse between the United States and France and the dependencies thereof." By this act it is provided, "That at any time after the passing of this act, it shall be lawful for the President of the United States, if he shall deem it expedient and consistent with the interest of the United States, by his order, to remit and discontinue, for the time being, the restraints and prohibitions aforesaid, either with respect to the French Republic, or to any island, port, or place belonging to the said Republic, with which a commercial intercourse may safely be renewed."

The President having received such information of the general conduct of the Government and people of the Isle of France towards the citizens of the United States as induces an expectation that a commercial intercourse with that island may be renewed on terms compatible with the act of Congress last above recited, he has been pleased to appoint you the agent of the United States, to repair immediately to the Isle of France, to make to the Government thereof a proposal to renew the commercial intercourse between it and the United States.

The first act of Congress above recited exhibits the causes of the prohibition of commercial intercourse with the French dominions. But it is understood that the Isle of France has not committed such

aggressions, depredations, and hostilities, as are chargeable to the French Republic and to her West India colonies; and that the Government of that island will probably be disposed to adopt such measures as may render our commerce secure. These are:

1st. To admit the vessels of the United States into the port or ports of the Isle of France, to give them protection there, and a perfect freedom of trade, in the sale of their cargoes, and in the purchase of the produce of the island.

2d. To exempt all vessels of the United States from capture by any armed vessels of the island; and if captured by any other armed vessels and brought within its jurisdiction, to give no asylum to the latter, and to cause the American citizens to be set at liberty and their vessels and other property to be restored.

The Government of the Isle of France, adopting these propositions for the safety of our commerce, and making adequate regulations to enforce their observance, the President will think it expedient and for the interest of the United States to remit and discontinue the existing restraints and prohibitions on the commercial intercourse between the United States and that island.

The propriety and utility of these arrangements will be apparent from the following considerations:

1st. The actual state of the marine and navigation of the mother country, and the war in which it continues to be engaged in Europe, forbid the hope of obtaining from thence the supplies essential to the accommodation, the well-being, and prosperity of the colony.

2d. These circumstances, and the remote situation of the Isle of France, have obliged the Colonial Government, during several years past, to consult its own safety, and to make divers regulations not conformable to the general laws of the French Republic, but adapted to its own wants and condition, and necessary to its prosperity. The latter can by no means be so effectually promoted as by encouraging a commerce by which all its wants would be supplied, and great profits be attained in a fair and honorable exchange of merchandise. By these means, too, the colony will be rendered more interesting and useful to the mother country at the conclusion of the war. It would seem, indeed, that a state of *perfect neutrality* would be most beneficial to the Isle of France. That was the state in which the United States long continued and flourished; it was the state in which they anxiously wished to remain during the present war, and they bore countless injuries rather than depart from it; but the unexampled aggressions and depredations committed by the armed vessels of the French Republic, which she refused to discontinue or relax, at length compelled us to arm in our own defence.

The foregoing considerations may be mentioned and urged, on your part, to the Government of the Isle of France, as inducements to adopt the pacific and friendly plan of intercourse now proposed; to which you will add such others as shall occur, and circumstance may enforce, to obtain and secure freedom to our commerce with that island, with the southern parts of Africa and the East Indies; and we confidently expect you will succeed. We cannot imagine that a colony whose prudence, sound policy, and energy, rejecting wild theories, have hitherto saved it from massacre and devastation, will now abandon its wise principles, and prefer the uncertain gains of privateering to the regular, sure, and honorable profits of a fair trade. The system of depredations allowed and encouraged by the Government of the French Republic, while it has annihilated its trade and navigation, bringing ruin on its commercial towns and cities, and general distress on the nation, has stamped with indelible ignominy the name of the Republic.

That system, profitable only to a few, and detested by the body of the nation, must shortly be changed; and particularly towards the United States, whose envoys, named last February by the President to adjust all differences with France, the French Government have now engaged to receive in their official character, promising that they shall enjoy all the prerogatives belonging to it by the law of nations; and that one or more ministers shall be duly authorized to treat with them. The words of Mr. Talleyrand, Minister of Exterior Relations, in his letter of May 12, 1799, to Mr. Murray, our minister at the Hague, are as follows, viz:

"Le Directoire Executif informé de la nomination de Mr. Oliver Ellsworth, de Mr. Patrick Henry, et de vous même, en qualité d'Envoyés Extraordinaires et de Ministres Plenipotentiaires des Etats Unis pres de la Republique Française, pour discuter et terminer tous les differends qui subsistent entre les deux pays, voit avec plaisir que sa perseverance dans des sentimens pacifiques ait tenu les voies, ouvertes à une conciliation prochaine. Il a manifesté depués long tems ses intentions à ce sujet. Veuillez transmettre à vos collegues et acceptez vous même l'assurance franche et explicite, qú'il recevra les envoyés des Etats Unis dans le caractère officiel dont ils sont attachées par le droit des gens, et qú'un ou plusieurs ministres seront duement autorisés à traiter avec eux."*

But if this negotiation with the French Government should fail of closing all disputes between the two nations, the Government of the Isle of France will evidently consult its own honor, and the best interest of that colony, by acceding to the pacific and friendly overtures which you are now authorized to make. If you should find at the Isle of France any American vessels already captured, and not condemned, you will use your best endeavors to obtain their release. The causes set up by the French Government for capturing and condemning American vessels are not warranted by the law of nations, or by the treaties between France and the United States.

Indeed, not one cause occurs to my recollection which has not been a clear violation of the law of nations or of an existing treaty.

1. The order for capturing neutral vessels, including American, which had enemies property on board, in direct violation of the 23d article of the commercial treaty.

2. The order for treating neutrals, as these suffered the British to treat them, an indefinite rule, framed on purpose to subject American vessels to indiscriminate depredation. It being impossible for French cruisers and tribunals to know how the British conducted towards us; and even if the British violated the law of nations, it could not justify the French in similar violations.

3. The order for capturing and condemning American vessels for the want of a rôle d'équipage on board, under pretence that the treaty required it, whereas the treaty does not require it.

* The Executive Directory being informed of the nomination of Messrs. Oliver Ellsworth, Patrick Henry, and of yourself, in the capacity of Envoys Extraordinary and Ministers Plenipotentiary of the United States near the French Republic, to discuss and terminate all the differences which subsist between the two countries, sees with pleasure that its perseverance in its pacific views has kept open the way to a speedy reconciliation. It has for a long time manifested its intentions upon this subject. Be pleased to transmit to your colleagues and accept the full and explicit assurance that it will receive the envoys of the United States in the official character which they possess; that they shall enjoy all the prerogatives that are attached to by the law of nations, and that one or more ministers shall be duly authorized to treat with them.

4. The order declaring good prize all neutral vessels having on board any articles of the produce or manufacture of Great Britain, although the indisputable property of neutrals. This is so flagrant a violation of the law of nations, and of the rights of neutrals, as no one can, without ignominy, attempt to justify or excuse. For all losses and damages to American citizens, occasioned by captures under those orders, compensation will be demanded and insisted on. And if you find at the Isle of France any American vessels on which sentences of condemnation have been passed, and whose release you cannot obtain, they must be left on this footing of future compensation when the differences between the United States and France shall be adjusted. Wishing you success in this enterprise, I remain, with much respect, sir, your most obedient servant,

TIMOTHY PICKERING.

SAMUEL S. COOPER, Esq.

No. 306.

Mr. Marshall, Secretary of State, to Mr. King.

[Extract.]

WASHINGTON, *September* 20, 1800.

"The aggressions, sometimes of one and sometimes of another belligerent power, have forced us to contemplate and to prepare for war as a probable event. We have repelled, and we will continue to repel, injuries not doubtful in their nature, and hostility not to be misunderstood. But this is a situation of necessity, not of choice; it is one in which we are placed, not by our own acts, but by the acts of others, and which we change so soon as the conduct of others will permit us to change it.

"The regularly accumulating injuries sustained from France had, in 1798, progressed to such a point as to leave to the United States no reasonable ground of doubt that war was to be expected, and that force, and force only, could be relied on for the maintenance of our rights, as a sovereign and independent nation. Force, therefore, was resorted to; but in the very act of resorting to it, our preference for peace was manifest, and it was apparent that we should return to our natural situation so soon as the wrongs which forced us from it should cease, and security against their repetition be offered. A reasonable hope that this state of things may be attained has been furnished by the recent conduct and overtures of the French Government; America meets these overtures, and in doing so only adheres to her pacific system."

No. 307.

Instructions to Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, Esquires, Envoys Extraordinary, and Ministers Plenipotentiary from the United States of America to the French Republic, dated July 15, 1797.

GENTLEMEN: It is known to you that the people of the United States of America * * *.

7. The correspondence with the French Consul General Lètombe, relative to the consular convention.

TIMOTHY PICKERING, *Secretary of State.*

DEPARTMENT OF STATE, *Philadelphia, July* 15, 1797.

(Vide volume 2, Foreign Relations, pages 153 to 157.)

No. 308.

FULL POWERS.

John Adams, President of the United States of America, to all to whom these presents shall concern, greeting:

Know ye, that for the purpose of terminating all differences between the United States of America and the French Republic * * * to be hereunto affixed.

(Vide volume 1, Foreign Relations, page 153.)

No. 309.

Mr. Marshall, Envoy Extraordinary and Minister Plenipotentiary of the United States, to Mr. Lee, Attorney General, dated Paris, October 12, 1797.

[Extract.]

"Some of the owners of privateers have been in Paris since our arrival, and I think it not improbable that their object has been to exert their influence, which, unfortunately, is very considerable, to prevent

any accommodation which may rescue from them the specie they have not yet received. I greatly fear they will be successful. It is said that Merlin, when Minister of Justice, received four thousand louis from the owners of privateers for the direction concerning the rôle d'équipage; and it is said publicly by them that money influences the tribunals. However this may be, I am entirely persuaded that the courts, even in the last resort, are political, and will carry into effect the will of the Directory, without any respect to its legality. This is insured on by the nice appointment made since the last revolution. The members of the tribunals who judge, in the first instance, are, generally speaking, themselves the captors."

"It is notorious that a greater number of privateers are now fitting out than have been employed in any former period of the war, and the Government is consigning to the merchants the national ships-of-war for the purpose of cruising."—*No.* 1.

No. 310.

Messrs. Pinckney, Marshall, and Gerry, Envoys Extraordinary and Ministers Plenipotentiary of the United States, to Timothy Pickering, Secretary of State, dated Paris, October 22, 1797.—*No.* 1.

[Extracts.]

"The subject of the rôle d'équipage was also mentioned, and we asked what assurance we could have if France insisted on the right of adding to the stipulations of our treaty, or of altering them by municipal regulations, that any future treaty we could make should be observed. M. Bellamy said that he did not assert the principle of changing treaties by municipal regulations, but that the Directory considered its regulation concerning the rôle d'équipage as comporting with the treaty. We observed to nim that none of our vessels had what the French termed a rôle d'équipage, and that if we were to surrender all the property which had been taken from our citizens in cases where their vessels were not furnished with such a rôle, the Government would be responsible to its citizens for the property so surrendered, since it would be impossible to undertake to assert that there was any plausibility in the allegation that our treaty required a rôle d'équipage."

"Since our arrival at Paris the Tribunal of Cassation has rejected Captain Scott's petition, complaining of the condemnation of his vessel by the Civil Tribunal, for the want of a rôle d'équipage. Mr. Duclos, the advocate employed in behalf of the owners of the American vessels who have appealed, in the last resort, to the Tribunal of Cassation, informs that notwithstanding all the arguments he made use of to the Reporter and Commissary of the Executive Directory to put off the hearing of the Rosanna, as a diplomatic case, till the issue of our negotiations is known, that case is set down for hearing, and will come on the 29th or 30th instant.

"The same advocate also says that it is obvious that the tribunal have received instructions from the officers of the Government to hasten their decisions, and that it was hardly worth while to plead, for all our petitions in Cassation would be rejected. Our advocates, however, decline giving their sentiments on this subject in writing, under an apprehension of committing themselves."

No. 311.

Copy of exhibit A, enclosed in a letter from the Envoys Extraordinary and Ministers Plenipotentiary of the United States to the French Republic, to the Secretary of State, dated November 8, 1797.—*No.* 2.

1st. The American envoys shall remain * * * until the return of the deputy.

(Vide volume 2, Foreign Relations, page 165.)

No. 312.

Copy of exhibit B, enclosed in a letter from the Envoys Extraordinary and Ministers Plenipotentiary of the United States to the French Republic, to the Secretary of State, under date of November 8, 1797.—*No.* 2.

The Envoys Extraordinary and Ministers Plenipotentiary * * *. No diplomatic gratification can precede the ratification of the treaty.

(Vide volume 1, Foreign Relations, page 165.)

No. 314.

Messrs. Pinckney, Marshall, and Gerry, to Mr. Fulwar Skipwith, Consul General of the United States, dated Paris, December 20, 1797.

[Extract.]

"Although we have very little hope that a certificate of the seamen and passengers on board can be of any service to our oppressed and injured commerce, yet we think it advisable to give such certificates

if requested; we conceive that no injury can result from it, and we are more inclined to advise it, as such a practice has, we understand, prevailed in some of the ports of the United States; and although we give this opinion, we deem it unquestionable that our treaty with France dispenses with the necessity of any such paper, and therefore care must be taken to avoid any expression which might be construed to imply such necessity."

We are, &c.

No. 315.

Extract of a note transmitted in a letter from Messrs. Pinckney, Marshall, and Gerry, to the Secretary of State, under date of December 24, 1797.—No. 4.

"He said that the information M. Bellamy had given me was just, and might always be relied on, but that he would reduce to writing his propositions, which he accordingly did; and after he had shown them to Mr. Gerry he burnt the paper. The substance was as follows:

"That the envoy should come forward, generally, and say France has been serviceable to the United States, and now they wish to be serviceable to France. Understanding that the French Republic has sixteen million of Dutch rescriptions to sell, the United States will purchase them at par, and will give her further assistance when in their power.

"The first arrangement being made, the French Government will take measures for reimbursing the equitable demands of America, arising from prizes, and to give free navigation to their ships in future."

No. 316.

Extract from a document marked B, transmitted in a letter from Messrs. Pinckney, Marshall, and Gerry, to the Secretary of State, under date of December 24, 1797.—No. 4.

EXTRACT FROM GENERAL MARSHALL'S JOURNAL.

"December 17, 1797, I stepped into Mr. Gerry's apartment * * * General Pinckney was against admitting the claim at any rate."

(Vide volume 2, Foreign Relations, page 167.)

No. 317.

Extract of a letter from Messrs. Pinckney, Marshall, and Gerry, to the Minister of Foreign Affairs of the French Republic, dated Paris, January 17, 1798.

"Desirous of establishing, not the dependence of a weak on a powerful nation * * * on the principle of modifying the treaty between the two nations by that with England, to have been restored to the owners."

(Vide volume 2, Foreign Relations, pages —.)

No. 318.

Messrs. Pinckney and Marshall to the Minister of Foreign Affairs of the French Republic, endorsed

"Letter from the envoys to M. Talleyrand, prepared prior to the receipt of his answer to their memorial of January 17, 1798, signed by General Pinckney and Marshall, but which Mr. Gerry, after promising, finally refused to sign."

[*Without date.*]

CITIZEN MINISTER: Since their letter of the 17th of January was prepared, the undersigned are informed by the journals that the legislative councils of the French Republic have decreed that—

1st. The condition of ships, in everything which concerns their character as neutrals or enemies, shall be determined by their cargo; consequently, every vessel found at sea laden in the whole or in part with merchandise coming out of England or its possessions shall be declared good prize, whoever may be the proprietor of such commodities or merchandise.

2dly. No foreign vessel which, in the course of its voyage, shall have entered into an English port, shall be admitted into any port of the French Republic but in the case of necessity; in which case such vessel shall be obliged to depart from such port so soon as the cause of entry shall have ceased.

This decree too deeply affects the interest of the United States to remain unattended to by their ministers. They pray you, therefore, Citizen Minister, to receive their respectful representations concerning it.

The object of the decree is to cut off all direct intercourse between neutrals and Great Britain or its possessions, and to prevent the acquisition, even by circuitous commerce, of those articles which come from England or its dominions.

The right of one nation to exchange with another the surplus produce of its labor for those articles which may supply its wants or administer to its comfort is too essential to have been ever classed among those admitted to be in any degree doubtful. It is a right in ceding which a nation would cede the privilege of regulating its own interests and providing for its own welfare. When any two nations shall choose to make war on each other, they have never been considered, nor can they be considered, as thereby authorizing themselves to impair the essential rights of those who shall choose to remain at peace. Consequently those rights, the free exercise of which is essential to its interests and welfare, must be retained by a neutral power, whatever nations may be involved in war.

The right of a belligerent to restrain a neutral from assisting his enemy by supplying him with those articles which are defined as contraband has been universally submitted to; but to cut off all intercourse between neutrals and an enemy; to declare that any single article which may have come from the possessions of the enemy, whoever may be its owner, shall, of itself, be sufficient to condemn both vessel and cargo, is to exercise a control over the conduct of neutrals which war can never give, and which is alike incompatible with their dignity and their welfare.

The rights of belligerents are the same. If this might be exercised by one, so might it be exercised by every other. If it might be exercised in the present, so might it be exercised in every future war. This decree is, therefore, on the part of France, the practical assertion of a principle which would destroy all direct or circuitous commerce between belligerent and neutral powers; which would often interrupt the business of a large part of the world, and withdraw or change the employment of a very considerable portion of the human race.

This is not all. It is the exercise of a power which war is not admitted to give, and which, therefore, may be assumed in peace as well as war. It essentially affects the internal economy of nations, and deranges that course of industry which they have a right to pursue, and on which their prosperity depends.

To acquiesce, therefore, in the existing state of things, under a principle so extensive and so pernicious, is to establish a precedent for national degradation which can never cease to apply, and which will authorize any measures which power may be disposed to practice.

France, therefore, will perceive that neutral Governments, whatever may be their dispositions towards this Republic, are impelled by duties of the highest obligation to remonstrate against a decree which, at the same time, invades their interests and their independence; which takes from them the profits of an honest and lawful industry, as well as the inestimable privilege of conducting their own affairs as their own judgment may direct.

It is hoped that the remonstrances of the United States on this subject will derive additional force from their subsisting engagements with France, and from a situation peculiar to themselves.

The twenty-third article of the treaty of amity and commerce of the 6th of February, 1778, is in these words: "It shall be lawful for all and singular the subjects of the most Christian King and the citizens, people, and inhabitants of the said United States, to sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandises laden thereon, from any port to the places of those who now are, or hereafter shall be, at enmity with the most Christian King or the United States. It shall likewise be lawful for the subjects and inhabitants aforesaid to sail with the ships and merchandises aforementioned, and to trade with the same liberty and security from the places, ports, and havens, of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy aforementioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same prince or under several. And it is hereby stipulated that free ships shall also give a freedom to goods, and that everything shall be deemed to be free and exempt which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship with this effect, that although they be enemies to both or either party, they are not to be taken out of that free ship unless they are soldiers, and in actual service of the enemy."

The two nations, contemplating and providing for the case when one may be at war and the other at peace, solemnly stipulate and pledge themselves to each other that, in such an event, the subjects or citizens of the party at peace may freely trade with the enemy of the other; may freely sail with their ships in all manner of security to and from any port or place belonging to such enemy. Nor is this all. Not only goods coming from the hostile territory, but the very goods of the enemy himself may be carried with safety in the vessels of either of the contracting parties.

You will perceive, Citizen Minister, without requiring the undersigned to execute the painful task of drawing the contrast, how openly and entirely the decree of the councils opposes itself to the treaty between France and the United States.

In addition to the hitherto unceded rights of a sovereign and independent nation, in addition to the rights stipulated by compact, the undersigned will respectfully submit other considerations growing out of the peculiar situation of the United States, manifesting the particular hardships the decree complained of must impose on them.

In possession of a rich, extensive, and unsettled country, the labor of the United States is not yet sufficient for the full cultivation of its soil, and consequently but a very small portion of it can have been applied to manufactures. Articles of the first necessity and comfort are imported in exchange for provisions and for those raw materials which are the growth of the country, and which its inhabitants are accustomed to raise. It is at any time extremely difficult, nor is it practicable without great loss, to change suddenly the habits of a whole people, and that course of industry in which the state of their population and their real interests have engaged them.

An agricultural cannot suddenly and at will become a manufacturing people; the United States cannot instantaneously, on the mere passage of a decree, transfer to the manufacture of articles heretofore imported such a portion of their labor as will at the same time furnish a market for the surplus commodities, and a supply for the wants of the cultivator of the soil. It is therefore scarcely possible for them to surrender their foreign commerce.

Independent of the right they possess, in common with others, to search for and choose the best markets, it is believed that the supplies they need could, with difficulty, in the actual state of the world, be completely furnished without the aid of England and its possessions. It is not pretended that France manufactures at present for foreign consumption; nor do the undersigned suppose that there exists a

market where the citizens of the United States can obtain in exchange the articles they need and are accustomed to consume, if those coming out of England and its possessions be entirely excluded.

A variety of other considerations, and especially the difficulty individuals must encounter in suddenly breaking old and forming new connexions, in forcing all their commerce into channels not yet well explored, in trading without a sufficient capital to countries where they have no credit, combine to render almost impossible an immediate dissolution of commercial intercourse between the United States and Great Britain.

If, then, the decree complained of shall be executed on American vessels, it can only increase grievances already but too considerable, and transfer the carriage of English manufactures for American consumption from their own to British bottoms, sailing under the protection of a convoy. Instead of wounding England, it will probably aggrandize its marine by sacrificing the remnant of that of the United States, and by destroying that system of policy by which they have heretofore sought to give their own vessels that portion of their own carrying trade which would otherwise be enjoyed by British merchants.

A very essential object of the mission with which the undersigned are charged is to obtain a cessation of hostility against the commerce of their country. While, under circumstances of painful humiliation, they are soliciting this cessation, a decree is passed, the necessary tendency of which is nearly to destroy that which they are deputed to save.

They can no longer resist the conviction that, under existing circumstances, the demands of France render it entirely impracticable to effect the objects of their mission.

Not being permanent ministers, but envoys extraordinary, with full powers for particular purposes, they deem it improper to continue in Paris after the impossibility of effecting those purposes has been demonstrated. A due respect for the Government of the United States commands them to retire from France until the Government of the French Republic shall be willing to consider and receive them as the representatives of their country, and shall be willing to enter upon an amicable discussion of the subjects of difference which unhappily subsists between the two nations. America has uniformly displayed, in a manner not to be misunderstood, too much solicitude for this discussion, and for the accommodation which might result from it, to render it necessary for the undersigned to give any assurances of the promptness with which they would themselves return from any part of Europe for the purpose, or with which any fit occasion for entering on it will be embraced by the United States.

They now request that passports for leaving France may be furnished them; and beg leave to add, that they are induced to this measure only by the conviction that their longer continuance in this Republic, while its Government refuses to hear or to accredit them as ministers, would be improper, unavailing, and inconsistent with the dignity of the United States. They trust, therefore, that their departure, which has become indispensably necessary, will not be considered as in any degree detracting from that earnest wish for reconciliation with France of which the Government of the United States has given so many proofs, and which it will still continue to feel.

Accept, Citizen Minister, the assurances of their respectful consideration.

CHARLES C. PINCKNEY.
J. MARSHALL.

No. 319.

Extract from a document, marked A, received with letter No. 7 of Messrs. Pinckney, Marshall, and Gerry, dated Paris, March 9, 1798, addressed to the Secretary of State.

"He [Mr. Talleyrand] observed that we had claims on the French Government for property taken from American citizens. Some of those claims were probably just. He asked, if they were acknowledged by France, whether we could not give a credit as to the payment—say for two years? We answered that we could. He then insisted that it was precisely the same thing; that, by such an act, we should consent to leave in the hands of France funds to which our citizens were entitled, and which might be used in the prosecution of the war. General Pinckney said there was a difference between the cases; that such prizes were now actually in the power of the French without our consent; we could not prevent it or get them out; but the granting or not granting a loan was in our own power. He repeated his observation; and General Marshall said that the property for which money was due to American citizens from the French Government was taken into the possession of that Government without any co-operation on the part of the United States. No act, of any sort, was performed by our Government which, in any degree, contributed to place those funds in the hands of France, nor was there any consent towards it; but, in the case proposed, the act would be the act of the Government; the Government would, itself, place funds in the hands of France, and thereby furnish means, which might be employed in the prosecution of the war. This was the distinction between the cases, and, in a question of neutrality, it appeared to us to be all important. The minister then proceeded to state the case of our assuming the debt of our citizens, and of paying the money in that manner; but General Pinckney and Mr. Gerry told him we were positively forbidden to assume the debt to our own citizens, even if we were to pay the money directly to them. He seemed surprised at this.

"General Pinckney observed that, contrary to usage, we had deemed it proper, in the existing state of things, to state candidly our powers to him, that he might know, certainly, that we could not secretly, or under any disguise whatever, make a loan which might be used during the war. Mr. Talleyrand said, he must resume his position, that there was a difference, which he must insist upon, between a loan payable immediately, and a loan payable in future; and he still insisted there was no difference between a loan payable in future, and a credit for the money which might be due to our citizens. Mr. Gerry observed that his colleagues had justly stated the distinction between the debt which will be due to the citizens of the United States from France, in case of her recognizing the claims which we shall make in their behalf, and a debt which might arise from a loan by the Government of the United States to that of France during the war. The one is the result of an arrest of their property without their consent, and the other would be a voluntary act of the Government of the United States, and a breach of their neutrality. There is an additional objection to the latter; if the United States should make such a loan it would

give too much reason to suppose that their Government had consented, in a collusive manner, to the capture of the vessels of their citizens, and had thus been furnishing France with supplies to carry on the war. Our instructions are express, not to stipulate for any aids to France, either directly or indirectly, during the war. With respect to a secret stipulation, a loan cannot be made without an act of the Legislature; but, if the Executive were adequate to it, we have had an instance of an injunction of secrecy on members of the Senate, on an important subject, which one of the members thought himself warranted in publishing in the newspapers, and of frequent instances of secrets which have otherwise escaped; secrecy, in this instance, might, therefore, be considered, if the measure was, in itself, admissible, as being impracticable. General Marshall observed that we had considered the subject with great solicitude, and were decidedly of opinion that we could not, under any form, make a loan which could be used during the war; that we could not tell what our Government would do if on the spot; but were perfectly clear that, without additional orders, we could not do what France requested."

No. 320.

Mr. Talleyrand, Minister of Foreign Relations of the French Republic, to Messrs. Pinckney, Marshall, and Gerry, Paris, 28th Ventose, 6th year, (18th of March, 1798.)

[Translation.]

The undersigned, Minister of Foreign Relations of the French Republic * * * He concludes by renewing to the Commissioners and Envoys Extraordinary the assurance of his consideration.

CH. MAU. TALLEYRAND.

PARIS, *28th Ventose, 6th year, (March* 18, 1798.*)*

Faithfully translated.

JACOB WAGNER.

(Vide volume 2, Foreign Relations, pages 188, 189, 190, 191.)

No. 321.

Messrs. Pinckney, Marshall, and Gerry, to the French Minister of Exterior Relations, dated 1798.

CITIZEN MINISTER: Your letter of the 28th Ventose, (18th of March,) * * *. that perfect security to which the laws and usages of nations entitle them.

They pray you, Citizen Minister, to receive the renewal of their assurances of profound respect and consideration.

CHARLES C. PINCKNEY.
JOHN MARSHALL.
E. GERRY.

A true copy.

HENRY M. RUTLEDGE, *Secretary.*

(Vide volume 2, Foreign Relations, pages 191 to 199.)

No. 322.

Messrs. Pinckney, Marshall, and Gerry, to the French Minister of Exterior Relations, presented to him April 3, 1798.

[Extract.]

"You suppose that the 2d article of the treaty between France and the United States justifies the arrêtés of which the latter power complains. But that article only entitles either of the contracting parties to a participation of any particular favor in respect of commerce or navigation, which might, thereafter, be granted by the other to other nations, on allowing the same compensation, if the concession was conditional.

"It has never been pretended to extend to pre-existing rights held and exercised under the law of nations, and barely recognized by any subsequent treaty.

"If this could be insisted on still, it was shown incontestably by the undersigned that the arrêté particularly complained of, so far as it professes to found itself on the treaty with England, greatly transcends that treaty; and, in its most noxious article, that requiring a rôle d'équipage, has no relation to it.

"This all-essential circumstance you have not been pleased to notice, and it is with infinite regret the undersigned observe that the discussions at which you hint are to be limited to the abuses of the principle established by the arrêté, and not extended to the compatibility of the principle itself with justice, the laws of nations, or existing treaties.

"It is well known that such a discussion, if indeed the undersigned could be permitted to enter upon it, could avail but little, since the vast mass of American property, captured by the cruisers, and condemned by the courts of France, has been found in vessels not furnished with a rôle d'équipage."

No. 323.

The Secretary of State of the United States to Messrs. Pinckney, Marshall, and Gerry.

MARCH 23, 1798.

GENTLEMEN: On the 4th instant came to hand * * * in no event, be made public.

I have the honor to be, &c.,

TIMOTHY PICKERING.

DEPARTMENT OF STATE, *Philadelphia.*

(Vide volume 2, Foreign Relations, pages 200, 201.)

No. 324.

Copy of a letter from the Secretary of State of the United States to Mr. Gerry, dated June 25, 1798.

SIR: By the instructions, dated the 23d of March, * * * you are to consider it as a positive letter of recall.

I am, respectfully, sir, &c.,

TIMOTHY PICKERING.

(Vide volume 1, Foreign Relations, page 204.)

No. 325.

Mr. Gerry to Mr. Pickering, Secretary of State of the United States, dated Nantasket Road, October 1, 1798.

[Extract.]

"On the 20th of April, considering the unpleasant situation in which I was placed, * * * we should have united in opinion on every point of dispute between the Republics."

(Vide volume 1, Foreign Relations, pages 205, 207.)

No. 326.

The Minister of Exterior Relations of the French Republic to Mr. Gerry.

[Translation.]

No. 14.] PARIS, 22*d Prairial, 6th year, (June* 10, 1798.*)*

You could hitherto have remarked, sir, * * * a situation to proceed towards this important object.

Receive, sir, the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

(Vide volume 1, Foreign Relations, pages 211, 212.

No. 327.

The Minister of Exterior Relations of the French Republic to Mr. Gerry.

[Translation.]

No. 16.] PARIS, 30*th Prairial, 6th year, (June* 18, 1798.*)*

I have received, sir, your answer of the 27th of this month, * * *. The French Government being, besides, penetrated with the same sentiments which you testify, will hereafter wait for what may be addressed to it, and with pleasure will behold you as the organ.

Accept, sir, the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

(Vide volume 2, Foreign Relations, pages 212, 214.)

No. 328.

The Minister of Exterior Relations of the French Republic to Mr. Gerry.

[Translation.]

PARIS, *9th Messidor, 6th year, (June* 27, 1798.*)*

In answering, sir, your letter of the 4th of this month, * * * we will endeavor to come to an agreement.

Accept, sir, &c.

CH. MAU. TALLEYRAND.

(Vide volume 2, Foreign Relations, pages 214, 215.)

No. 329.

The Minister of Exterior Relations of the French Republic to Mr. Gerry.

[Translation.]

No. 21.] PARIS, 18*th Messidor, 6th year of the French Republic, (July* 6, 1798.*)*

I have received, sir, your answer of the 13th of this month, * * * breaking off the negotiation. Receive, sir, the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

(Vide volume 1, Foreign Relations, pages 216, 217.)

No. 330.

Exterior Relations. Note upon the 12*th article of the convention between France and the United States, of the* 14*th of November,* 1788. *(July* 6, 1798.*)*

[Translation.]

This article has been executed in France * * * in the manner most consonant with the forms used in the country.

PARIS, 18*th Messidor, 6th year, (July* 6, 1798.*)*

The Minister of Exterior Relations.

CH. MAU. TALLEYRAND.

(Vide volume 2, Foreign Relations, pages 21 . 218.)

No. 331.

MINISTRY OF EXTERIOR RELATIONS.

The Minister of Exterior Relations of the French Republic to Mr. Gerry.

[Translation.]

No. 23.] PARIS, 24*th Messidor, 6th year of the French Republic, (July* 12, 1798.*)*

As long as I could flatter myself, sir, * * * it means to wait until it be irresistibly forced to it by real hostilities.

Since you will depart, sir, hasten at least to transmit to your Government this solemn declaration.

CH. MAU. TALLEYRAND.

(Vide volume 1, Foreign Relations, pages 218, 220.)

No. 332.

[Translation.]

LIBERTY. EQUALITY.

No. 25.—*The Minister of Exterior Relations of the French Republic to Mr. Gerry, Paris, 4th Thermidor, 6th year of the French Republic, (July* 22, 1798.*)*

Allow me, sir, to confine myself to the two last paragraphs * * * persuaded as I ever am that you were fully authorized.

Accept my wishes for your happy passage, and the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

(Vide volume 1, Foreign Relations, page 222.)

No. 333.

No. 27.—*The Minister of Exterior Relations of the French Republic to Mr. Gerry.*

[Translation.]

LIBERTY. EQUALITY.

Exterior Relations, Paris, 16th Thermidor, 6th year of the French Republic, (August 3, 1798.)

The Minister of Exterior Relations to Mr. Gerry, Envoy of the United States:

Presuming, sir, that you have not yet embarked, I address to you a decree of the Executive Directory, wherein you will find a part of the measures which I announced to you the fourth of this month. Its solicitude will not be confined to that. Neutrals, in general, will have reason soon to be convinced of its firm attachment to the principles to which it is desirous that all the maritime nations might agree. It depends upon the United States in particular to cause every misunderstanding immediately to disappear between them and the French Republic.

Accept, sir, the assurance of perfect consideration.

CH. MAU. TALLEYRAND.

No. 334.

Consulate General of the United States of America.

The Minister of Exterior Relations of the French Republic to Citizen Skipwith, Consul General of the United States of America.

[Translation.]

PARIS, *19th Thermidor, An. 6me. (August* 6, 1798.)

CITIZEN: You have seen, in the 961st number of the Redacteur, a copy of an arrêt taken by the Directory to make privateers observe the rules and restrictions beyond which they should never have gone.

By this measure, foreign powers will be convinced that the Executive Directory, informed of the abuses that may be directed against them, makes use of every exertion to put a stop to them, and prevent a recurrence of them.

You will see, beyond a doubt, in the intentions and acts of the Directory, a motive to effect the commercial security of your fellow-citizens, as long as it shall be kept within just limits.

The welfare of the two countries, citizen, induces me to wish that the conduct of the Federal Government corresponds with that of the Directory. Agreeably to this hypothesis, the amicable relations of both nations will soon be re-established.

C. M. TALLEYRAND.

No. 335.

Circular letter written by the Minister of Marine and the Colonies to the Agents of Marine at the ports of the Republic.

[Translation.]

PARIS, *the 24th Thermidor, 6th year, (August* 13, 1798.)

I remark, citizen, by the correspondence of the greater part of the governors of the ports, that the embargo laid recently upon American vessels has produced the detention of their crews. The intentions of Government have been ill understood, by the adoption of a measure that, in the first place, compromits the safety of those vessels, and in the second, seems to place us in a hostile attitude against the United States; when, on the contrary, the acts of Government evince the desire to maintain a good understanding between the two Republics. You are therefore required by me, citizen, to order, on the receipt of these presents, the discharge of all American prisoners, who might have been considered as prisoners of war, in consequence of the detention of their vessels.

You will give me, speedily, an account of the execution of this order.

The Minister of Marine and of the Colonies.

E. BRUIX.

A correct copy.

The Minister of Exterior Relations.

CH. MAU. TALLEYRAND.

No. 336.

Circular written by the Minister of Marine and of the Colonies to the principal officers, civil and military, of the ports.

[Translation.]

The 29th Thermidor, 6th year, (August 18, 1798.)

Our political situation with regard to the United States, citizen, not having undergone, up to this day, any change that might have an influence upon the attentions due to neutral nations, I think it unnecessary to bring to your recollection that no attempt should be made against the security and liberty of persons composing the (Etats-Majors) officers and (equipages) crews of every American vessel that is found regular, and that the same course should be observed towards all passengers and other citizens of the United States furnished with passports or necessary protections. You will use the strictest vigilance that the intentions of Government, in this respect, be followed by all persons under your command, and if any of them have failed in the due execution thereof, you will do justice to the demand which will be addressed to you, as soon as you shall have ascertained their validity.

The Minister of Marine and the Colonies.

E. BRUIX.

A correct copy.
The Minister of Exterior Relations.

CH. M. TALLEYRAND.

No. 337.

[Translation.]

LIBERTY. EQUALITY.

The Minister of Foreign Relations of the French Republic to Mr. Skipwith, Consul General of the United States.

PARIS, *3d Fructidor, 6th year of the French Republic, (August 20, 1798.)*

I send you, sir, copies of two letters written by the Minister of Marine to all the principal officers, civil and military, of the ports of the Republic.

Their contents will prove to you the attention of the Government to remedy the abuses committed against its intentions.

With respect to the persons detained in the civil prisons of Orleans, because they are not possessed of papers to prove that they are not English, and who claim to be Americans, be pleased to call upon the Minister of General Police, to whose functions belong all the measures of safety.

The Minister of Marine informs me that he has transmitted their petition to him, and I am going to write to him myself, in order to request him to admit your declaration in their favor, in the absence of other proofs.

Receive, sir, the assurance of my consideration.

CH. MAU. TALLEYRAND.

No. 338.

Mr. Skipwith, Consul General of the United States near the French Republic, to Mr. Pickering, Secretary of State of the United States.

PARIS, *August* 22, 1798.

SIR: With a copy of a letter I have just received * * * which are operating against their success.

I have the honor to be, &c.,

FULWAR SKIPWITH.

(Vide volume 1, Foreign Relations, pages 227, 228.)

No. 339.

No. 22.—*Mr. Skipwith, Consul General of the United States, to the Secretary of State of the United States, dated Paris, January* 23, 1799.

SIR: As every circumstance expressive of the present disposition or intentions of this Government towards neutral nations in general and the United States in particular must, at the present juncture, prove acceptable to our Government to know, I hasten to transmit you a copy of the message lately addressed to the Council of Five Hundred, by the Directory, concerning the actual system of privateering. The object of that message is, first, to place in the hands of Government the immediate control of all prize

business, instead of the commercial and civil tribunals; and, from the evident necessity of repressing the violence and rapacity of French privateers, I have reason now to think that the system suggested by the Directory will be soon approved by the Legislature, and that, in consequence, the rights and property of neutral nations will be considerably more respected than they have hitherto been. In hope, as I am also, of this change proposed by Government of the mode and principles of judging prizes, proving favorable to some, if not all the American vessels lately captured and now under trial, I deem it expedient to follow where I am charged with the defence of such vessels, and to recommend to all others charged with the same the system of procrastination.

I deem it not uninteresting also to enclose to you, under cover hereof, an exact translation of a letter lately provoked by me from the Minister of Foreign Relations to the Minister of Justice, in consequence of some representations which I had just before made of the absurd and iniquitous application of the laws and arrêtés concerning the rôle d'équipage, which shamefully continue to be practiced by many of the tribunals. I beg to observe that the copy of the letter above alluded to was privately procured and furnished me by Mr. Victor Dupont, formerly French Consul at Charleston, and whose aid and zeal in rendering my countrymen service I cannot too much commend. At this gentlemen's request, I likewise transmit to you an example of a letter lately published and written by him to the Commissary of the Directory near the tribunal of cassation on the subject above mentioned.

I enclose to you at the same time a copy of a declaration made by three American seamen before the American Consular Agent at Ostend, concerning the loss of the ship Polly, Captain Stewart, and her cargo, near that port and on their passage from New York to Hambro; and at foot you have the names of American vessels which have been captured by French privateers and brought into ports since my last respects.

Respectfully, I have the honor to be, sir, your most humble servant,

FULWAR SKIPWITH.

Brig Tryal, of Philadelphia, Captain Talbot; brought into Bordeaux.
Ship Pigou, of Philadelphia, Captain Green; L'Orient.
Ship Patapsco, Captain Hill; Dieppe.
Ship The American, of New York, Captain Burger; Dieppe.
Ship The Amsterdam, Captain Adam Scott; Cherbourg.
Ship The Ami and Susan, of Charleston, Captain Pickett; Cherbourg.
Brig Adventure, of Philadelphia, Captain Brioren; Brest.
Ship Statira, of Norfolk, Captain Seaward; L'Orient.
Brig Maria, of Norfolk, Captain Jeffery; Roscoff.
Brig Ruby, of Charleston, Captain, Riof; Concameau.

No. 340.

Mr. Pickering, Secretary of State of the United States, to Mr. Skipwith, Consul General of the United States at Paris, dated Philadelphia, June 10, 1799.

[Extract.]

"You speak very justly of 'the violence and rapacity of French privateers, and of the iniquitous application of the laws and arrêtés which shamefully continue to be practiced by many of the tribunals;' you would have spoken still more justly had you called the *laws* and *arrêtés* themselves *iniquitous*. These are the sources, the shameful sources, of the 'violence and rapacity of the French privateers,' and of the 'iniquitous' decisions of their tribunals. And it is not because the Directory wish to stop those fountains of iniquity that, in their message to the Council of Five Hundred, (which you have enclosed,) they propose that judgment in the last resort should belong to themselves. In their message they describe the injury which arises to France by its system of privateering; and hence, not from any regard to justice and the rights of neutral nations, they intimate their wishes that power might be vested in the Directory to *relax* the execution of their iniquitous laws and arrêtés, when *political motives* may indicate such relaxation. In other words, that they may *plunder*, or forbear to *plunder*, a neutral nation, as they shall think *terror* or *soothing* may best promote their views.

"Other motives may easily be imagined of the wish of the Directory to get into their own hands the ultimate decision of prize causes.

"The letter of the Minister of Foreign Relations (of which you sent me a translation) to the Minister of Justice, relative to the rôle d'équipage, is valuable for its confession that our treaty with France did not require it. Mr. Dupont's letter to the Directorial Commissary, with the tribunal of cassation, truly states that it was a document unknown in the United States, when the decree of the 2d of March, 1797, declared that every American vessel destitute of it should be good prize. I trust we shall not know it hereafter but as a monument of French rapacity and injustice, and that ultimately we shall not consent that France shall arbitrarily prescribe what documents our vessels shall be furnished with to identify their character and the property of their cargoes. If *justice* ever again revisits her tribunals, such proofs of property as our own laws and principles of right universally admitted shall prescribe will be admitted to establish the claims of our captured vessels.

"Mr. Dupont, in his letter before mentioned, has made some very just reflections; but if he desires the least credit for any efforts he may make to obtain right and justice for the citizens of the United States, let him retract his insult on their Government, and let him no more say that it is 'influence par les conseils, les intrigues, et la conduite astucieuse de l'Angleterre.' He has been too long a resident in the United States, and is too well acquainted with the character and principles of its Government and the men who administer it, to believe that such an 'influence' exists or has ever existed. In addressing that sentiment to the Directory's Commissary, he has made a sacrifice to their power, and that and similar sacrifices may be necessary to secure or to promote his interest with that power; but being capable of making them, he can look, whatever in other respects may be his disposition, for no regard on this side of the Atlantic. We are not inclined to receive a benefit at the expense of truth and honor."

No. 341

The Minister of Foreign Relations of the French Republic to the Minister of Justice.

[Translation.]

No. 22.] PARIS, *the 22d Frimaire, 7th year, (December 13, 1799.)*

DEAR COLLEAGUE: The Consul General of the United States has transmitted me a copy of the letter he addressed to you the 4th instant, relative to the American vessel *The Polly*, taken and brought into Bordeaux by the privateer *The Bonaparte*. He has, at the same time, informed me of your wishing to know my opinion on the matter therein treated.

The question, my dear colleague, is this, whether the *rôle d'équipage* of an American ship, in order to be valid, must be conformable to the maritime regulations of the Republic, or to the treaty of commerce, concluded in 1778, between France and the United States? In my mind, dear colleague, the conformity of the *rôle d'équipage* to the regulations must be alone sufficient. To support the contrary opinion, the treaty itself should prescribe a rôle d'équipage to the American vessels.

You know to what controversies that question of the *rôle d'équipage* has given birth, when the arrêt of the 12th Ventose obliged for the first time the Americans to furnish themselves with that piece. The different tribunals did not agree on the point, and the Government itself was not of the same opinion at different times.

According to the fourth article of the prescribed arrêté, it is *in consequence of the old regulations that the Americans are obliged to have a rôle d'équipage conformable to the treaty.* The Consul General of the United States, then the only authority in Paris from the United States, complained of that arrêt, and all the strength of his arguments tended to prove that the treaty not prescribing a *rôle d'équipage* to the vessels of his nation, they could not be held to that formality in virtue of our laws.

In his answer of the 4th Floreal, 5th year, the Minister of Justice, your predecessor, tries to confute that induction, and to prove, by reasoning and examples, that the silence of the treaty on the subject of a *rôle d'équipage* does not prevent the effects of the regulations, which in a formal manner put the neutrals under the obligation of being furnished with that piece.

Here are, as you see, in each case, a contradictory doctrine; in the arrêt, to prescribe a *rôle d'équipage* on board, the regulation is invoked, and for its forms, the treaty, which at least implies the supposition, that the *rôle* is prescribed by the treaty. In the ministerial letter, the treaty only is cited, and in both cases it is agreed, at least impliedly, that the treaty keeps an absolute silence on a *rôle d'équipage* being on board the American vessels. The most considerable opinions given on that matter rolled within this circle of contradictions. The treaty, indeed, does not prescribe the presence of a *rôle*, but it is there impliedly supposed; in every case, the regulations bind the American to have it, and its form is found in the model of passport annexed to the treaty.

To endeavor to conciliate those opinions, and reduce them to a basis by which the practice could be directed, would be a very hard task; but it seems natural to conclude, from all this, that we acknowledge that the Americans are not bound by the treaty to have on board their vessels an expedition of that list signed and certified by two witnesses, which list, according to the test of the passport annexed to the treaty, they must have remitted to the marine officers of the place of departure, acknowledge that the treaty does not prescribe that list. Take out of the treaty the obligation for the American to have a *rôle*, and then pretend that the list mentioned in the treaty must be the model of that *rôle*, is it not a manifest intention to find infringers everywhere, and trust the equity, which after all must be a guide when no positive law is against it?

A *rôle d'équipage* on board has been demanded of the Americans; where was that obligation taken? In the regulations; then they must have opened those regulations and conformed themselves to them, in order to escape the confiscation. So they did, and now-a-days they would be condemned for so having done.

They would be condemned for not having done the thing according to formalities, whose obligation appeared dubious, and which afterwards was confessed not to exist. The clearest point on the matter is, that the regulations have totally taken the place of that part of the treaty and explained it; which part at least wants to be cleared, and will undoubtedly be, when the friendly relations between the two countries are renewed; until that time, to be just and to agree with ourselves, we must confine our reasonings in the regulation of which we have made a law to the Americans.

This is, dear colleague, the manner in which I consider the question. I shall add, that it is not in the moment when the Directory is together, the fruits of the conciliatory measures they have taken to prevent hostile combinations between England and America, it would be politic to support the new difficulty raised up by our privateers, which, if consecrated, (and it could not be but by authority, and by no means after the spirit nor the meaning of the laws of treaties,) would occasion numbers of new confiscations, and revive in the United States the general discontent, hitherto the greatest, and I could say, the only force of the American Government against us.

CH. M. TALLEYRAND.

A true translation.

F. SKIPWITH.

No. 342.

Exterior Relations, third division, Paris, the 29th Thermidor, year 9, (August 17, 1801.)

[Translation.]

The Minister of Exterior Relations to Citizen Callet Descoutils, member of the Council of Prizes, performing, *ad interim*, the functions of Commissary of Government, near the council.

The motives, citizen, which had rendered necessary the postponement of every decision upon American prizes have at length ceased to exist. The convention concluded between the French Republic and the United States on the 8th Vendemiaire last, has been ratified by both powers, and the exchange of ratifications

concluded on the 12th of this month. I send you a copy of this convention; you will receive it printed, presuming that it will be more agreeable to the council to have it under that form.

The convention had in view, not only the termination of the misunderstanding that had taken place between the two nations, but also to repair, as far as possible, the injuries to which it has given existence. It has, therefore, stipulated as well for the future as for the past, by embracing in the past the whole period previous to the exchange of ratifications. As regards the future, it has determined the relations which should exist between the two nations. It has created in their favor a particular right, to the rules whereof all differences that shall arise must at the time be submitted. Concerning the past, it could not change the relations which had existed between both nations, or the right from which they of necessity proceeded.

This right must consequently be either in force in favor of, and at the risk of, the contracting parties, or all pretensions thereto must be mutually relinquished; the last condition they adopted.

That which had been previously decided was held irrevocable; and that which was undecided was settled by the convention itself. It declared null, void, and of none effect, all that, (with but a single exception,) up to the exchange of ratifications, had been or could be a legitimate cause of seizure and confiscation.

Although the two powers have not yet been able to agree upon the treaty of 1778, and that for this reason it is of no effect as regards the present, they, notwithstanding, were desirous to renew, respecting prizes already made, and not condemned, or those that shall be made before the exchange of ratifications, a principle made sacred by the following treaty, and which has in like manner been rendered inviolable by the 14th article of the new convention, to wit: That a free ship makes free goods, even of an enemy, when on board. The two nations have accordingly guarantied the one to the other the restitution—

1. Of national ships.

2. Of armed or unarmed ships that shall be known to belong to their citizens, according to the proofs specified in the 4th article, and that without any exception, restriction, or reserve.

3. Of all property forming part of the cargo of said ships, with the only exception of merchandise specified by the 13th article, under the denomination of contraband of war, and which shall be destined for the enemy. The Council of Prizes required me to ask, in Brumaire last, if in the restitution of American armed ships were to be included *those which shall have refused to obey on being summoned, and to permit a search; those even that shall have given battle; and those whose crews shall have on board revolted against French citizens.*

Although it was evident to me that no exception could be made, as the convention made none, I communicated the demand of the council to the French plenipotentiaries. The letter which they wrote to me on this subject, a copy whereof I hereto annex, leaves no doubt as to the true spirit of the convention, and obligations which grow out of it. Restitutions have not been agreed upon, but to be advantageous. They will be the less so the more they are delayed. By great delays they may even become delusive, and thereby furnish the Americans with a pretext to demand indemnities of Government. You will therefore solicit the council to apply, as soon as possible, the provisions of the convention to American prizes in all that relates to them.

CH. MAU. TALLEYRAND.

No. 343.

Mr. Skipwith, United States Consul at Paris, to Mr. Livingston, Minister of the United States to France, dated Paris, December 19, 1801.

SIR: I have thought that the subjoined sketch would be sufficient to give you an idea of the nature of such claims of our countrymen upon the French Government as have been for a long time deposited in my office in order that I might pursue the payment of them.

Some, as you will see, are liquidated; some in part; others are yet in suspense, but are submitted to the different administrations which they concern; others could not be maintained for want of sufficient or authentic documents, or because they were of such a nature that diplomatic negotiations could alone determine their degree of validity; in short, all have been thrown into what is called *Arrièré*, where they may remain forever dormant, without the intervention of the Government of the United States through you.

The scarcity of 1793 and 1794 obliged France to give orders to her ships-of-war and privateers to stop all vessels of our nation found loaded with provisions, and conduct them into their ports. Many of them that were put into requisition have not yet been paid for; some have been at very low prices, and the vessels have generally been detained six, eight months, and more, in the hope, often vain, of their payment.

The proprietors of these vessels have incontestible rights to indemnities proportionate to the time of their detention, as also for the expenses occasioned by the long residence of the captains and crews, and the injury and repairs of their vessels. These indemnities, (of which some few are liquidated,) joined to what remains due for cargoes delivered by contract or taken forcibly by the Government, form a considerable branch of the debt, the legitimacy of which cannot be disputed.

There may be also ranged in this class a number of cargoes furnished by our merchants in the French West India islands, and which have not yet been paid in any kind of value.

A branch of debt not less sacred, nor less incontestible, is that which is composed of bills given by the Administrators, Governors, or other French agents, in payment of supplies afforded by Americans in the French colonies, particularly at St. Domingo. Of these bills drawn upon the National Treasury, or upon the Department of Marine at Paris, the greatest part have not yet been acquitted; and those which I have in my possession amount to about one million and a half.

Our vessels have been at different periods detained in the ports of France by embargoes, which the Government conceived necessary for its security or projects. Considerable losses have thereby resulted to the proprietors, for which they demand to be indemnified—a demand as natural as well founded.

There is also a numerous class of reclamations on which some difficulties may arise in consequence of the interpretation the French Government has been pleased to give to the suppression of the 2d article of the convention. This is composed of the vessels captured by the French privateers in the East and

West Indies, and condemned by the Tribunals of Commerce, and oftentimes by Governors and Commanders of the different colonies.

No one is ignorant of the fury with which those privateers have harassed our commerce, and the facilities they have had from the constituted authorities to appropriate to themselves the vessels and cargoes belonging to our citizens that unfortunately fell in their hands.

The ignorance of the French laws, the distance from the seat of Government, have been the cause that the interested here, generally speaking, have not appealed from these judgments, and have contented themselves to prove by protest the spoliations of which they have been the victims.

It is necessary to decide whether or not these judgments are to be considered valid. As to the subdivision traced out in the extract of your instructions which you have been pleased to communicate to me, I shall take the liberty to refer to the list of the judgments rendered by the Council of Prizes which I have presented to you. The dates will suffice to point out to you the judgments rendered since the 30th September, 1800. A few vessels only have been judged since your arrival, or some days previous to it. I have already called your attention to the fate of the *Rodolph*, *Frederick*, and *Winyaw*, whose judgments appear to me an infraction of the treaty. Those which the council has lately condemned, the *Ann* and *Commerce*, confirm the judgments rendered in Spain by the French Consuls. These Consuls, upon the prohibition made to them by Admiral Bruix, then cruising upon the coasts of Spain, and at the same time Minister of the Marine, refused to admit the appeals of the captured, who had this refusal verified by our Consuls in Spain.

The privateersmen alleged that the appeal not having been made during the time prescribed, the right no longer existed; and notwithstanding the proof that the appeal was interdicted, the Council of Prizes have confirmed these judgments. Many are still in the same situation, and it is to be feared the same fate attends them.

If any of our vessels have fallen into the power of the corsairs without a legal judgment, they have not come to my knowledge, no more than the prizes posterior to the 30th September, 1800. I shall have the honor to communicate to you what I may learn on this subject.

The moment approaches, without doubt, when the French Government, just towards neutrals, and particularly towards Americans, will repair wrongs which must be attributed to the force of circumstances, and will acquit debts thus sacred. May your influence hasten this moment, and procure to our injured countrymen, creditors of France, a mode of payment which will compensate for the hardships of so long a delay.

FULWAR SKIPWITH.

No. 344.

Citizen Claret, Fleurieu, and Roederer, to the Minister of Exterior Relations of the French Republic.

[Translation.]

PARIS, 21*st Frimaire*, 9. (12*th December*, 1801.)

We have the honor to reply to the letter which you addressed to us on the 16th of this month (7th December instant,) on the subject of the difficulties that were communicated to you by the Council of Prizes on the application of the 4th article of the treaty of the 8th Vindemiaire to American vessels that were taken after having resisted.

The intention of the treaty is to effect a general restitution of all property acknowledged as American or as French which, at the time of the signature, was not condemned. The text to accomplish this object has announced the proofs of property that would be exacted on board merchant vessels, and afterwards on board armed vessels.

This distinction was necessary on account of the almost hostile state of the two nations, which all at once succeeded a state of perfect neutrality. The restitution of the last class of vessels, it is believed, was amply provided for by the clause which states that *proof of property, with respect to other than merchant ships, shall be the commission which they bear.*

Nothing is more clear and more positive than this passage; and it is evident that every ship carrying a French or American commission should thereby be restored.

As to the general principles relative to the summons without combat, which seem to have led to doubts that arise relative to the execution of this clause, although they cannot restrain a stipulation so general, it may be thought that by a false application they are brought into the case now under consideration.

In fact, the principles of maritime right, which require the condemnation of a vessel that fights or refuses to obey the summons, are understood only of neutral ships—they do not apply to enemy ships; and the resistance implying delinquency in the forms naturally proceeds from the state of the latter. American armed ships were the bearers of hostile commissions directed against us. This measure placed them on a footing with enemy ships. They cannot, therefore, be considered as ships entirely neutral; and by consenting to restore them, we have not departed from the practice, so early in its execution, observed in all the treaties of this country. You will moreover observe, with propriety, that this is the only point upon which the article of restitutions should produce effects truly reciprocal; and that if resistance could be made against American vessels it would equally be so by the United States against armed French ships taken by them from us; our intention notwithstanding was, by the clause of the 4th article, which we have just cited, to make sure the restoration of these vessels to their owners.

No. 345.

Mr. Pickering, Secretary of State, to Mr. Vans Murray, Minister of the United States at the Hague.

No. 22.] DEPARTMENT OF STATE, *Philadelphia, March* 6, 1799.

SIR: I enclose a commission constituting you * * * a Minister Plenipotentiary to the United States.

I have the honor to be, very respectfully, sir, your obedient servant,

TIMOTHY PICKERING.

WILLIAM VANS MURRAY, Esq., *Minister of the United States at the Hague.*

(Vide volume 1, Foreign Relations, page 243.)

No. 346.

Copy of the instructions to Oliver Ellsworth, William Richardson Davie, and William Vans Murray, Esquires, Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the French Republic.

GENTLEMEN: You have been witnesses of the enduring patience of the United States * * *.

26. Letter to Judge Ellsworth and Governor Davie, mentioning the names of Consuls and Agents of the United States in Spain, Portugal, and France.

(Vide volume 2, Foreign Relations, pages 301, 306.)

No. 347.

Mr. Pickering, Secretary of State of the United States, to Messrs. Ellsworth and Davie, marked "private," and dated Trenton, October 26, 1799.

GENTLEMEN: At Mr. Bingham's request I enclose a letter from Count Noailles, addressed to his sister at Paris, which the Count begs you to deliver.

In the pamphlet containing communications from General Pinckney, and in the despatches of the three envoys, you will see their proceedings preparatory to their expected reception.

According to the usual course, you will first wait on the Minister of Foreign Affairs, make yourselves known, and give him a *copy* of your letter of credence. He will take the orders of the Directory for the day on which they will receive you. When admitted, you will present to them the sealed letter of credence from the President.

At the first interview of Foreign Ministers, in ordinary cases, there is an exchange of expressions of good will and desire to maintain harmony between the two countries. In your case they will naturally glance at existing differences, a hope of adjusting them, and restoring peace and friendship. You will know, far better than I can suggest, how far you should go in this way; but I should be inclined to reserve, not to be absolutely cold, but certainly not warm and eager. The actual state of things, besides, at the moment, must be taken into the account.

I am, gentlemen, with sincere respect and esteem, your obedient servant,

T. PICKERING.

OLIVER ELLSWORTH and WM. R. DAVIE, Esqrs.

No. 348.

Messrs. Ellsworth and Davie to the Minister of Foreign Relations of the French Republic, dated Corunna, January 18, 1800.

The undersigned Envoys Extraordinary * * * as before mentioned with them.

They pray you, sir, to accept the assurances of their high respect.

OLIVER ELLSWORTH.
WM. R. DAVIE.

(Vide volume 2, Foreign Relations, page 307.)

No. 349.

The Minister of Exterior Relations of the French Republic to Messrs. Ellsworth and Davie, dated Paris, January 31, 1800.

GENTLEMEN: I have received the letter dated from Corunna which you did me the honor to write to me. I exceedingly regret that a tedious and painful voyage should have so long retarded your arrival in

France. You are expected with impatience; you shall be received with eagerness. The form given to your letters of credence will be no obstacle to opening the negotiations, of which I dare foretell the happy success. I have hastened to transmit to Mr. Murray the letter you addressed to me for him, and added the necessary passports, in like manner as I enclose those of which you stand in need. I confide this packet, agreeably to your wish, to the courier you sent me.

Receive, gentlemen, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

Messrs. ELLSWORTH and DAVIE,
Envoys Extraordinary and Ministers Plenipotentiary of the United States.

No. 350.

Mr. Pickering, Secretary of State of the United States, to Messrs. Ellsworth, Davie, and Murray, dated Department of State, Philadelphia, February 14, 1800.

GENTLEMEN: In your commissions, containing your full powers, you are named * * * minute attention to customary formalities.

I am, with great respect, gentlemen, your most obedient servant,

TIMOTHY PICKERING.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY,
Envoys Extraordinary and Ministers Plenipotentiary, &c.

(Vide volume 2, Foreign Relations, page 324.)

No. 351.

Messrs. Ellsworth, Davie, and Murray, to Mr. Pickering, Secretary of State of the United States, dated Paris, April 18, 1800.

SIR: Your despatches of the 6th and 20th of January * * * between Austria and France on the side of Italy.

We have the honor to be, sir, with high respect, your obedient humble servants,

OLIVER ELLSWORTH.
WILLIAM R. DAVIE.
WILLIAM V. MURRAY.

P. S. We shall be hard pressed to revive the old treaty to save its anteriority.

(Vide volume 2, Foreign Relations, pages 317, 318.)

No. 352.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, *April* 7, 1800.

CITIZEN MINISTERS: The undersigned appreciating the value of time, * * * ought never to have been shaken.

Accept, Citizen Ministers, their assurances, &c.

O. ELLSWORTH.
W. R. DAVIE.
W. V. MURRAY.

(Vide volume 2, Foreign Relations, page 314.)

No. 353.

The Ministers of the French Republic to the Envoys of the United States, dated Paris, 19th Germinal, year 8.

[Translation.]

The Ministers Plenipotentiary of the French Republic * * * both nations equally desire.

The undersigned pray the Ministers Plenipotentiary of America to accept, &c.

J. BONAPARTE.
FLEURIEU.
ROEDERER.

(Vide volume 2, Foreign Relations, pages 314, 315.)

No. 354.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, *April* 11, 1800.

CITIZEN MINISTERS: The undersigned have seen with pleasure * * * some details on that subject.

Accept, Citizen Ministers, the assurance, &c.

O. ELLSWORTH.
W. R. DAVIE.
W. V. MURRAY.

(Vide volume 2, Foreign Relations, page 315.)

No. 355.

The Ministers of the French Republic to the Envoys Extraordinary and Ministers Plenipotentiary of the United States, dated Paris, 23d Germinal, year 8.

The Ministers Plenipotentiary of the French Republic * * * that which is contained in these presents.

The undersigned pray the Envoys Extraordinary, &c., to receive the assurance, &c.

J. BONAPARTE.
FLEURIEU.
ROEDERER.

(Vide volume 2, Foreign Relations, pages 315, 316.)

No. 356.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, *April*, 18, 1800.

CITIZEN MINISTERS: The undersigned have been favored with your note of the 23d Germinal * * * of accommodation as well as of justice.

Accept, Citizen Ministers, the assurance of their high consideration.

O. ELLSWORTH.
W. R. DAVIE.
W. V. MURRAY.

(Vide volume 2, Foreign Relations, page 316.)

No. 357.

Project of Articles of a Treaty between the United States and France, proposed by Messrs. Ellsworth, Davie, and Murray, in their letter of April 18, 1800, *dated at Paris, to the Ministers Plenipotentiary of the French Republic.*

ARTICLE 1. There shall be a firm, inviolable, and universal peace * * *. A blank is also left for the title of the treaty, of which the proposed articles, if agreed to, may form a part.

(Vide volume 2, Foreign Relations, pages 316, 317.)

No. 358.

Messrs. Bonaparte, Fleurieu, and Roederer, Ministers Plenipotentiary of the French Republic, to Messrs. Ellsworth, Davie, and Murray, dated Paris, 16th Floreal, year 8, [*May* 6, 1800.]

The Ministers Plenipotentiary of the French Republic * * * and not as the preliminary of a new one.

The undersigned pray, &c.

J. BONAPARTE.
FLEURIEU.
ROEDERER.

P. S. We have the honor to transmit you, herewith, the acts which prove the zeal of the French Government to discontinue the causes of irritation which have for some time subsisted.

(Vide volume 2, Foreign Relations, pages 319, 320.)

No. 359.

Extract from the Journal of Messrs. Ellsworth, Davie, and Murray, dated [Paris,] May 7, [1800.]

"A conference was held to-day * * * from article 7 to article 36, inclusive."
(Vide volume 2, Foreign Relations, page 320.)

No. 360.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, *May* 8, 1800.

CITIZEN MINISTERS: The undersigned have been honored with your note of the 16th of Floreal. * * * as they hope, facilitate the progress of the negotiation.

Accept, &c.

O. ELLSWORTH.
W. R. DAVIE.
W. V. MURRAY.

P. S. The envoys of the United States have not had the pleasure to receive the copies referred to in the postscript of the note to which the above is an answer.
(Vide volume 2, Foreign Relations, pages 320, 321.)

No. 361.

Project of Articles of a Treaty between the United States and France, (in continuation from the 6th article,) proposed by Messrs. Ellsworth, Davie, and Murray, in their letter of May the 8th, 1800, dated at Paris, to the Ministers Plenipotentiary of the French Republic.

ARTICLE 7. All citizens and inhabitants of either nation * * *.

Nothing in this treaty shall be construed to operate contrary to former and existing public treaties with other sovereigns or States.
(Vide volume 2, Foreign Relations, pages 321, 324.)

No. 362.

Messrs. Ellsworth, Davie, and Murray, to Mr. Pickering, Secretary of State of the United States, dated Paris, May 17, 1800.

"Our success is yet doubtful * * * new court called 'Le Conseil des Prises.'"

"P. S. Since closing this letter we have heard of the capture of the Brig Eliza, of Norfolk, Evans master, taken by a French privateer and carried into St. Andero."
(Vide volume 2, Foreign Relations, page 325.)

No. 363.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States to the Ministers of the French Republic, dated Paris, May 19, 1800.

The Envoys Extraordinary of the United States have the pleasure to acknowledge the receipt of the two acts of the French Government, mentioned in the postscript of the note of the ministers of the Republic. These papers have been forwarded to the Government of the United States, who, as late as the 7th of March, had received no advices respecting the acts or measures of the present Government of France.

They request the ministers of the Republic to accept the assurance of their high consideration.

O. ELLSWORTH.
W. R. DAVIE.
W. V. MURRAY.

No. 364.

Extract from the Journal of Messrs. Ellsworth, Davie, and Murray, dated May 23, 1800.

"The French ministers had frequently mentioned * * * without sacrificing the honor or interests of the United States."

(Vide volume 2, Foreign Relations, pages 325, 326.)

No. 365.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States to the Ministers Plenipotentiary of the French Republic, dated Paris, May 25, 1800.

CITIZEN MINISTERS: The undersigned having bestowed the most mature consideration upon the subject so often mentioned, with so much interest, by the ministers of the French Republic, and being desirous of guarding against any misapprehension on that head, have thought it expedient to propose the clause enclosed as an addition to the 32d article of their project of a treaty.

Accept, Citizen Ministers, the assurance of their high consideration.

O. ELLSWORTH.
W. R. DAVIE.
W. V. MURRAY.

To be added to the 32d Article.

Nor will either of the said parties, while they continue in amity, make a treaty with any foreign sovereign or State, stipulating for the privateers and prizes of such sovereign or State an asylum in the ports of either, unless they shall have assured to each other such right of asylum for the privateers and prizes of each in the ports of the other.

No. 366.

B.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, *June* 1, 1800.

CITIZEN MINISTERS: Solicitous as are the undersigned to terminate happily and with promptitude a negotiation which is calculated to promote the interest of the two nations, they beg leave to invite your attention to their two last notes of the 8th and 25th of May. They trust, that while they avow a strong disposition to hasten the great object in view, they will not be charged with impatience. The frank development of their views will have been properly estimated.

Accept, &c.

O. ELLSWORTH.
W. R. DAVIE.
W. V. MURRAY.

No. 367.

C.

Messrs. Bonaparte, Fleurieu, and Roederer, to the Ministers Plenipotentiary of the United States, dated Paris, 16th Prairial, 8th year, 5th June, 1800.

[Translation.]

The undersigned ministers of the French Republic * * * they will hasten to send an answer to the Ministers Plenipotentiary and Envoys Extraordinary of the United States.

The undersigned pray, &c.

J. BONAPARTE.
FLEURIEU.
ROEDERER.

(Vide volume 2, Foreign Relations, page 327.)

No. 368.

D.

Messrs. Ellsworth, Davie, and Murray, to Messrs. Bonaparte, Fleurieu, and Roederer, Ministers Plenipotentiary of the French Republic, dated [Paris,] July 6, 1800.

CITIZEN MINISTERS: Presuming, as the undersigned Envoys Extraordinary and Ministers Plenipotentiary of the United States do, that you are now acquainted with the ulterior views of your Government respecting the negotiation between the United States and the French Republic, they request the honor of a conference on that subject at such time and place as may be most convenient for you. They trust that the unfortunate delays which have hitherto attended the business will justify their hopes of bringing it to a speedy issue.

Accept, &c.

O. ELLSWORTH.
W. R. DAVIE.
W. V. MURRAY.

No. 369.

E.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

PARIS, *July* 23, 1800.

CITIZEN MINISTERS: The envoys of the United States being apprehensive * * * and at any rate within seven.

Accept, &c.

O. ELLSWORTH.
W. R. DAVIE.
W. V. MURRAY.

(Vide volume 2, Foreign Relations, pages 328, 329.)

No. 370.

F.

Messrs. Bonaparte, Fleurieu, and Roederer, Ministers Plenipotentiary of the French Republic, to Messrs. Ellsworth, Davie, and Murray, dated Paris, 8th Thermidor, 8th year—[July 27, 1800.]

[Translation.]

The Ministers Plenipotentiary of the French Republic have received the note of the 23d of July, 1800, * * * provide for its return at a distant time.

They have the honor to assure the Ministers Plenipotentiary of the United States of their high consideration.

J. BONAPARTE.
FLEURIEU.
ROEDERER.

(Vide volume 2, Foreign Relations, page 330.)

No. 371.

G.

Messrs. Bonaparte, Fleurieu, and Roederer, Ministers Plenipotentiary of the French Republic, to Messrs. Ellsworth, Davie, and Murray, dated August 11, 1800.

[Translation.]

PARIS, *23d Thermidor, year* 8.

The Ministers Plenipotentiary of the French Republic have received from their Government * * * in a manner satisfactory to the United States.

The ministers of France have the honor to assure, &c.

J. BONAPARTE.
FLEURIEU.
ROEDERER.

(Vide volume 2, Foreign Relations, pages 331, 332.)

No. 372.

Extract from the Journal of Messrs. Ellsworth, Davie, and Murray, dated Paris, July 7, 1800.

"The next day the American ministers were invited to dine * * * as a similar provision had in the treaty of '78."

"JULY 15, 1800."

(Vide volume 2, Foreign Relations, pages 327, 328.)

No. 373.

Extract from the Journal of Messrs. Ellsworth, Davie, and Murray, dated Paris, August 15, 1800.

"An interview took place with the French ministers on the subject of their note of the 23d Thermidor, * * * French ministers on the 20th of August."

(Vide volume 2, Foreign Relations, page 333.)

No. 374.

Messrs. Ellsworth, Davie, and Murray, to the Secretary of State of the United States, dated Paris, August 15, 1800.

SIR: Having ascertained, by an interview with the French ministers, * * *. The despatches sent by him were duly received.

We have the honor to be, sir, with very high respect, your most obedient servant,

OLIVER ELLSWORTH.
W. R. DAVIE.
W. V. MURRAY.

Hon. SECRETARY OF STATE *of the United States.*

(Vide volume 2, Foreign Relations, pages 332, 333.)

No. 375.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States to the Ministers Plenipotentiary of the French Republic, dated Paris, August 20, 1800.

CITIZEN MINISTERS: The undersigned ministers have been honored with your note of the 23d Thermidor. * * *. The property so condemned shall be paid for without delay.

The ministers of the United States pray the ministers of the French Republic to accept the assurance of their high consideration.

O. ELLSWORTH.
W. R. DAVIE.
W. V. MURRAY.

(Vide volume 2, Foreign Relations, pages 333, 334.)

No. 376.

Extract from the Journal of Messrs. Ellsworth, Davie, and Murray, dated August 24, 1800.

As the French ministers dined to-day with Mr. Ellsworth and Mr. Davie, * * * was addressed to them and sent to Mr. Fleurieu.

(Vide volume 2, Foreign Relations, page 335.)

No. 377.

Messrs. Bonaparte, Fleurieu, and Roederer, Ministers Plenipotentiary of the French Republic, to Messrs. Ellsworth, Davie, and Murray, dated Paris, Fructidor 7th and 8th of the French Republic, (August 25, 1800.)

[Translation.]

The Ministers Plenipotentiary of the French Republic * * * the assurance of their distinguished consideration.

J. BONAPARTE.
C. P. CLARET FLEURIEU.
ROEDERER.

1st. The ancient treaties shall be continued * * * unless by a capital of ten millions.

J. BONAPARTE.
C. P. CLARET FLEURIEU.
ROEDERER.

(Vide volume 2, Foreign Relations, pages 334, 335.)

No. 378.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States to France to the Ministers Plenipotentiary of the French Republic, dated Paris, August 29, 1800, 7 o'clock P. M.

CITIZEN MINISTERS: The envoys of the United States have given the most serious attention * * * accept assurances of their high consideration.

OLIV. ELLSWORTH.
W. R. DAVIE.
W. V. MURRAY.

(Vide volume 2, Foreign Relations, pages 335, 336.)

No. 379.

Messrs. Bonaparte, Fleurieu, and Roederer, Ministers Plenipotentiary of France, to Messrs. Ellsworth, Davie, and Murray, dated Paris, 17th Fructidor, An 8, (September 4, 1800.)

[Translation.]

To the Ministers Plenipotentiary * * * the 11th article of the treaty of alliance.

BONAPARTE.
C. P. CLARET FLEURIEU.
ROEDERER.

(Vide volume 2, Foreign Relations, page 336.)

No. 380.

Extract from the Journal of Messrs. Ellsworth, Davie, and Murray, dated Paris, September 5, 1800.

"Mr. Roederer delivered at the same time a paper unsigned, containing the following observations:
"The ministers of the United States appear to have mistaken the sense of the last note of the French ministers * * *. As the most favored nation shall enjoy.

O. ELLSWORTH.
W. R. DAVIE.
W. V. MURRAY.

(Vide volume 2, Foreign Relations, pages 336, 337.)

No. 381.

Messrs. Ellsworth, Davie, and Murray, to the French Ministers Plenipotentiary, dated September 8, 1800.

To the Ministers Plenipotentiary of the French Republic:
The envoys of the United States * * * of their high consideration.

O. ELLSWORTH.
W. R. DAVIE.
W. V. MURRAY.

(Vide volume 2, Foreign Relations, pages 337.)

No. 382.

Extract from the Journal of Messrs. Ellsworth, Davie, and Murray, dated September 12, 1800.

The American Ministers met this morning * * * which she professes to pursue.
(Vide volume 2, Foreign Relations, pages 337, 338.)

No. 383.

Extract from the Journal of Messrs. Ellsworth, Davie, and Murray, dated September 13, 1800.

The American Ministers being now convinced * * * Commissioners of the French Republic the same day.

No. 384.

Extract from the Journal of Messrs. Ellsworth, Davie, and Murray, dated Paris, September 13, 1800.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic:

The undersigned had the honor of receiving * * * and offer them the assurances of their consideration.

O. ELLSWORTH.
W. R. DAVIE.
W. V. MURRAY.

(Vide volume 2, Foreign Relations, page 339.)

Extract from the Journal—September 19.

A conference was held to-day with the French ministers, at the opening of which they delivered the following articles as a kind of counter projet.
Then follows the note of Messrs. Roederer and Fleurieu, dated Paris, 2d Complementaire, An. 8.

No. 385.

Messrs. Bonaparte, Fleurieu, and Roederer, Ministers Plenipotentiary of France, to Messrs. Ellsworth, Davie, and Murray, dated Paris, 26th Fructidor, An. 8, *(September* 14, 1800.*)*

[Translation.]

The French ministers * * * which the most favored nation may enjoy."

J. BONAPARTE.
C. P. CLARET FLEURIEU.
ROEDERER.

(Vide volume 2, Foreign Relations, pages 338, 339.)

No. 386.

[Translation.]

PARIS, *2d Complementaire, 8th year.*

The French and American ministers * * * which this treaty could not exact.

C. P. C. FLEURIEU.
ROEDERER.

(Vide volume 2, Foreign Relations, page 339.)

No. 387.

Extracts from the Journal of Messrs. Ellsworth, Davie, and Murray.

"These articles were discussed * * * was finished under the title of a "Provisional Treaty." (Vide volume 2, Foreign Relations, page 340.)

No. 388.

Extract from the Journal of Messrs. Ellsworth, Davie, and Murray.

"The American ministers finally * * * in charge by Mr. Ellsworth and Mr. Davie.

OLIV. ELLSWORTH.
W. R. DAVIE.
W. V. MURRAY.

(Vide volume 2, Foreign Relations, page 342.)

No. 389.

Extract of a letter from Mr. Murray, Envoy Extraordinary and Minister Plenipotentiary of the United States to the French Republic, to Mr. Marshall, Secretary of State of the United States, dated at Paris, October 1, 1800.

"This will go by my colleagues, Mr. Ellsworth and Mr. Davie, who probably will leave Paris in two days. They will inform you of the whole history of the negotiation, which terminated last night in the signature of a provisional treaty of amity and commerce. We were all profoundly convinced that, considering the relations of the two countries politically, the nature of our demands, the present state of France, and the state of things in Europe, it was our duty, and for the honor and interest of the Government and people of the United States, that we should agree to that treaty, rather than make none.

"As the copy of our journal was not completely ready, I have requested Mr. Davie to do me the favor of signing it with my name for me."

No. 390.

Journal of Messrs. Ellsworth, Davie, and Murray, written in the form of a letter, addressed to Mr. Marshall, Secretary of State of the United States, dated Paris, October 4, 1800.

SIR: The undersigned have the honor to present to you * * * will not be drawn in question.

We have the honor to be, sir, with high respect, your most obedient,

OLIVER ELLSWORTH.
WM. R. DAVIE.
WM. V. MURRAY.

Hon. JOHN MARSHALL, *Secretary of State.*
(Vide Volume 2, Foreign Relations, pages 342, 343.)

No. 391.

Letter from the Minister of Exterior Relations of the French Republic to Messrs. Ellsworth and Davie.

[Translation.]

PARIS, 13*th Vindemiaire*, 9*th year of the French Republic, (October* 5, 1800.)

The Minister of Exterior Relations of the French Republic to Messrs. Ellsworth and Davie, Ministers Plenipotentiary of the United States, at Paris.

GENTLEMEN: I take the liberty of requesting of you the favor to take charge of the enclosed packet, directed to Citizen Letombe, who now, at the United States, fills the office of Commissary General of the Republic for Commercial Relations. The packet contains the copy of the convention; and Citizen Letombe receives therein the necessary instructions to issue commercial commissariats as soon as the Federal Government shall have ratified the convention.

I find it not necessary, gentlemen, to observe, that Citizen Letombe has received orders not to precede the Government of the United States in the publication of the treaty.

The Government intends to send despatches immediately to the colonies where it is most requisite that its signature should be known. I am about the necessary arrangement for this object, with the

Minister of Marine. In the mean time, I have deemed it proper to avail myself of the opportunity presented by your frigate to enable Citizen Letombe to transmit the information to those places. The instructions to be sent there will be conformable to the spirit and to the letter of the convention, and to those sentiments, of which proofs have been given by the First Consul. They will be sent without delay. On its part, the French Government confidently hopes that the United States will not hesitate to annul those relations which were formed with the colonies at the time of our misunderstanding; all of which led to discontent, as being contrary to usages and to treaties. It also entertains the hope that the Federal Government will be convinced of the propriety of ordering home those persons who, especially at St. Domingo, gave, by their conduct, just causes of complaint.

Receive, gentlemen, the assurance of my distinguished consideration.

C. MAU. TALLEYRAND.

No. 392.

Extract of a letter from the Minister of Marine and of the Colonies to the agents of the French Government in the Colonies, Paris, 21st Vindemiaire, year 9, (October 12, 1800.)

A convention, citizens, which re-establishes * * * at least 16 guns, if four-pounders, or 12 six-pounders.

FORFAIT.
L. A. PICHON.

A true extract.
(Vide volume 2, Foreign Relations, page 432.)

No. 393.

Copy of a letter dated Paris, 11th Fructidor, 6th year, (August 28, 1798,) from Mr. Talleyrand, as Minister of Exterior Relations, to Mr. Pichon, Secretary of Legation, Hague.

[Translation.]

I see, with pleasure, citizen, * * * to resume them with official elucidations, &c., &c., &c.

CH. MAU. TALLEYRAND.

(Vide volume 2, Foreign Relations, pages 241, 242.)

No. 394.

Mr. Murray, commissioned to exchange the ratifications of the Convention of 1800, with France, to Citizen Pichon, Secretary of the French Legation at the Hague, dated The Hague, September 23, 1798.

Mr. Murray avails himself of that handsome frankness which has marked all Mr. Pichon's conversations on the disputes between the United States and the French Republic, to offer a few remarks on the message of the President. These, as were the several conversations, he assures Mr. Pichon, expressly, are unauthorized by his Government, and entirely the opinion of an individual who wishes to see an amicable and honorable termination, immediately, to the disputes between the two Republics.

The President, in his message of the 21st of June last, has declared to Congress that all negotiation is ended, and that he never will send another envoy to France unless he receives assurances that he will be received and treated with that respect which is due to the representative of a great, powerful, free, and independent nation.

This sort of reception is expected, as of common right, between sovereigns equal and independent. Why is a declaration that it shall be accorded necessary in this instance?

The language of the President seems to have a meaning appropriate to two things: the subject of some of the disputes, and the circumstances of offence, under which his endeavors to negotiate upon them have been defeated by the Government of the French Republic. Hence it is presumed he uses terms which, to be found appropriate, must be measured by those rights of sovereignty "independence," and "freedom," and those usages which are accorded to a nation, acknowledged to be "powerful," but which have not been accorded to the United States, and, on the contrary, have been publicly and expressly refused to her ministers.

Mr. M. then thinks that France ought, with frankness, to make an explicit declaration that she will receive any envoy whom the American Government may send to treat, and to give him a respectful reception, &c., &c.

The refusal and rejection of the American envoys on two occasions gives the Government of the United States a right to this explicit declaration. If it be out of the common track, so are the circumstances, which render it just in France to give it, and fit and becoming in the American Government to wait for it. Without it the President has said he will not attempt to negotiate.

At the time of the refusals the instructions were not known to the French Government. A misunderstanding may have existed as to the real dispositions of the American Government. Those instructions demonstrate the sincerity of the United States, with a precision and a frank development of policy,

that must convince the French Government. It is remarkable, too, that since their publicity the spirit and views of France are more amicable.

If doubt was the basis of refusal, it would then appear to be no longer a sound one. France ought, then, to recur to an acknowledgment of a right, which is inherent in every sovereign nation, to be respectfully treated with when coming to treat with sincerity and good faith. What was refused under mistake ought to be given under a more enlightened conviction. A respectful reception is no favor, but a right; and an express declaration that this right shall be enjoyed becomes necessary only when it has been expressly refused. It has been twice refused; yet a subsequent conviction proves that it has been refused unjustly. It ought, one would suppose, then, to be expressly declared, and with a handsomeness equal in degree to the harshness with which it was denied.

Mr. Murray writes thus confidently to Mr. Pichon, he knows well, on a delicate subject. He protects himself, not from Mr. Pichon, whose delicacy he esteems and trusts, but from accident, by a solemn assurance that all he has said and written he has said and written as a private man unauthorized by his Government. He wishes Mr. Pichon health and prosperity in his career, and under the auspices of Mr. Talleyrand's very enlightened mind, he does expect important and mutually good consequences on the subject of this hasty paper.

He begs him to accept, with friendly recollection, his assurances of esteem, which are offered to him with cordiality.

No. 395.

Mr. Talleyrand, Minister of Exterior Relations of the French Republic, to Citizen Pichon, Secretary of Legation of the French Republic near the Batavian Republic.

[Translation.]

LIBERTY. [SEAL OF FRANCE.] EQUALITY.

EXTERIOR RELATIONS, 3D DIVISION.

PARIS, *the 7th Vindemiaire of the 7th year of the French Republic, one and indivisible.* (*September* 28, 1798.)

The Minister of Exterior Relations to Citizen Pichon, Secretary of Legation of the French Republic near the Batavian Republic.

I have received, successively, citizen, * * * to transmit them to his Government.

I presume, citizen, that this letter will find you at the Hague; if not, I ask it may be sent back to you at Paris.

Salut and Fraternity,

CH. MAU. TALLEYRAND.

(Vide volume 2, Foreign Relations, page 242.)

No. 396.

Copy of a letter, marked "private," from Mr. Murray, Envoy Extraordinary and Minister Plenipotentiary of the United States, to Mr. Pickering, Secretary of State of the United States, dated The Hague, October 12, 1798.

DEAR SIR: The enclosed paper I have the honor of submitting to your perusal, confidentially, for, as the informal interviews and conversations to which it relates and from which it springs were on my part unauthorized, I thought myself at liberty to promise Mr. Pichon, at first, that whatever paper he gave me should be so considered, and my motive, I hope, sir, will be apparent. In this way I thought I could get a sight of, and even possession of papers which might be of some service, if not now, at some other time. I have not, however, seen any that contained a concession which at all met the great and manifold evils and injuries of the United States.

The enclosed I have had the honor of sending a copy of to the President, with some remarks upon it.

Since, the more I have reflected, the more empty it appears to me. The renewal of "*the ties of friendship*" may have an allusion to what, for one, I hope can never be realized—a revival of the old treaty which has been so *fairly got rid of*, a piece of good fortune which money could not have purchased, and the like of which I do not remember to have happened in any other case of equal importance to any nation.

The enclosed was delivered to me from the French post on the 7th instant. Such as it is I thought it my duty to send it to you, sir, although one place has a little of "*the British*" in it, yet it is more free from that insult than any I have seen from the same hand. The assurances are not made in the manner which the message of the 21st June, I presume, indicated—"according to these bases"—are expressions that still seem to entangle the succeeding sentence, which else would be pretty explicit in the qualifying provisions mentioned in that letter of the 11th Fructidor; in that are these expressions: "The advantages which I have praised in him are common to all the Americans who have not a predilection for England. Can it be believed that a man who should profess hatred or contempt for the French Republic, or should show himself an advocate of royalty, could inspire the Executive Directory with an opinion in favor of the dispositions of the American Government?" These are "the rocks" which he says are "to be avoided." If these are "the bases," according to which he sanctions Mr. Pichon's declaration

to me, "that any minister of the United States should be received respectfully," the assurances to the *Secretary of Legation* are yet entangled, informal also as they are in revolting conditions—revolting, because prescribed. Very frequently, before and after the letter of the 11th Fructidor, I had attempted to show Mr. P, under a belief that what I said would be transmitted to Mr. Talleyrand, that any affectation of prescribing, indicating, or advice, or hint, as to the sort of men whom the President ought to appoint, would be considered as a repetition of the most offensive conduct; that if they were sincere in wishing for negotiation, they must make up their minds to enter upon it upon the principles on which independent nations always do treat, and that they must not pretend to use any hint even upon this subject.

As I consider these small informal endeavors on my part now at an end, I would beg leave to remark a little, in justice to myself, upon what passed when Mr. P. first showed me the letter of 11th Fructidor, relatively to the first four or six lines at the beginning. When I had read to the words, the impressions "which the British cabinet has given against us," inclusively, I put down the letter and told him that I never could for a moment make any use whatever of a piece containing a passage so offensive. He begged me to go on; was sorry they were there; but that, if I would proceed, I would find that these expressions were but a burst of feeling against the British, whom they considered as having taken universal pains to hurt their reputation, and that I should find, by the subsequent sentences, that they could not be taken as intended in the sense I had taken them, for that Mr. T. said in the next sentence that Mr. M. was neither French nor British.

In truth, sir, though I trust that I was not caught by this truth, nor by the flattery of some of the expressions, yet it did so soften the passage and explain it, as to determine me in not rejecting the whole on that account. Hence I sent it.

As this is the last time, I hope, that I shall trouble you on this small subject, I will state the principal motives why I did anything at such a period of our affairs. The temper of the citizens in our country had demonstrated a deep-laid sensibility to the wrongs and insults which France had heaped on the Government and nation. That conviction appeared to me solid, not to be shaken by words; France had appeared to me, from March and April, to have dreaded a rupture, and relied, till May, on a powerful party in the United States. In proportion as we rose, she sunk, in her tone at least. I thought that if anything could be done that would lead them into any act which implicated them in an acknowledgment of error and injustice, it would be an important point for Government, whether negotiation or war followed. That if something of this sort could be gained, the United States were in a situation so strong, as to be free to choose to act in it or not. When the message of the 21st of June came, I thought I saw in it something to encourage that idea. I thought I saw in it this: we are strong, prepared for war, and determined to have it if we cannot have justice speedily. We shall make no more efforts to revive negotiation, "unless, &c., &c.;" so that I concluded it would be agreeable if a declaration conformable to the language of the President were properly made; that it would be agreeable to the President to have offers, explicit and respectful, come from France; that in the meantime all that I did was private, always under a solemn assurance of having no authority to open my lips; always, too, on the solicitations of Mr. Pichon for interviews, and merely as conversations; except that, before he went, the day before, I wrote the enclosed note, principally to protect myself on the ground of being unauthorized to talk or act in this subject with any one. Besides, sir, to you and to the President only have I written a word on it in America; to Mr. King but a hint confidentially; and to Mr. Adams, at Berlin, confidentially.

The *total* defeat of the French fleet near Alexandria is very important to us, as it diminishes the few means in their power to hurt us. The Russian fleet which passed the Dardanelles the first week last month passed under a particular convention between Russia and the Porte. Bonaparte's army has reached Cairo, and is believed to be greatly weakened and distressed.

I am, with great respect and sincere esteem, dear sir, faithfully yours, &c.,

W. V. MURRAY.

Hon. TIMOTHY PICKERING, *Secretary of State of the United States.*

No. 397.

Mr. Pickering, Secretary of State of the United States, to Mr. Murray, Minister Plenipotentiary of the United States at The Hague, dated Philadelphia, April 24, 1799.

[Extract.]

"Our vessels trading to the West Indies are generally convoyed home by the public armed vessels which are cruising in that region. We have not heard of a French privateer on our coast since the capture of one last summer."

No. 398.

Mr. Murray, Envoy Extraordinary and Minister Plenipotentiary of the United States to the French Republic, to Citizen Talleyrand, French Minister of Foreign Relations, dated The Hague, May 5, 1799.

CITIZEN MINISTER: It is with the greatest pleasure * * * happy and important consequences.

Accept, Citizen Minister, the assurances of my perfect respect and high esteem.

W. V. MURRAY.

CITIZEN TALLEYRAND, *Minister of Foreign Relations of the French Republic.*

Vide volume 2, Foreign Relations, page 243.)

No. 399.

LIBERTY. EQUALITY.

The Minister of Exterior Relations to Mr. Murray, Minister Resident of the United States at The Hague.

[Translation.]

PARIS, 23*d Floreal, 7th year of the French Republic, one and indivisible, (May* 12, 1799.)

I augur too favorably, sir, * * * to send you passports.

Accept, sir, the assurances of my sincerest consideration.

CH. MAU. TALLEYRAND.

(Vide volume 2, Foreign Relations, pages 243, 244.)

No. 400.

Mr. Murray to Mr. Pickering, Secretary of State of the United States.

No. 76.] THE HAGUE, *May* 17, 1799.

DEAR SIR: I have just received the original official letter from Mr. Talleyrand, the Minister of Exterior Relations of the French Republic, in answer to mine of the 5th instant, written in conformity to your commands respecting the assurances, &c., &c., a copy of which I have the honor to enclose.

I have received it this evening. A vessel, I understand, sails immediately for Boston, and the post for Amsterdam goes so soon that I have time but to prepare a copy, and to assure you that I am, with the highest respect and esteem, dear sir, your most obedient servant, &c., &c., &c.,

W. V. MURRAY.

Hon. TIMOTHY PICKERING, Esq., *Secretary of State of the United States, &c., &c.*

No. 401.

No. 87.—*Mr. Murray, Envoy Extraordinary and Minister Plenipotentiary of the United States to the French Republic, to Mr. Pickering, Secretary of State of the United States, dated at The Hague, August* 14, 1799.

[Extract.]

"From what I can collect, there is no change since their (the French) knowledge of the late nomination on any one point that is in contact between the two Governments. None in the class of grievances under sea-letters and the rôle d'équipage, though they have not, that I can discover, in any case admitted the idea of the annulling of the late treaties and consular convention. Affecting still to act under these, they pursue the same system of gross violation, though they have published arrêtés which held up the idea that the rôle d'équipage arrêté of March, 1797, shall be restrained to a more just interpretation, and in analogy with that of 1748; but there is not, I believe, any alteration in practice."

No. 402.

No. 111.—*Mr. Murray, Envoy Extraordinary and Minister Plenipotentiary of the United States to the French Republic, to Mr. Pickering, Secretary of State of the United States, dated at The Hague, December* 26, 1799.

[Extracts.]

"The enclosed report, made lately to the Consuls of the French Republic by their then Minister of Justice, Cambaceres, on the legislation of prizes, is so important in my eyes as to justify me in transmitting it by post through Mr. King.

"It is an official concession that may have good effects, that he should declare that, 'in a word, privateering had become brigandage,' and that the laws which regulated it were either 'inadequate or bad.' He declares the law of 29th Nivose (in 1798) to be at once 'vague and arbitrary;' but he is clear that 'enemy property, wherever found, is fair prize,' though they have treaties for *free bottoms free goods.* No arrêté of the Consuls has yet passed to reduce his plan of an appeal court into practice, but it is expected. This, I hope, will be done, as I have understood that many of the cases of our captured vessels *have been suspended;* and such, if this tribunal be well filled, (Cambaceres himself being now Second Consul,) may have a better chance than in tribunals where the Government could not, even if they had been inclined, exert official influence. Tribunals, however, can do nothing remedial; the laws and views of the Republic must be first changed. However, sir, as an official declaration on some points extremely interesting to us I consider this report as useful, and would have sent it sooner could I have obtained a copy

"Bonaparte's real intentions respecting Louis 18th cannot be judged of whether this be true or false. Monck, intending the restoration of Charles 2d, would probably have broken any independent plan which was to deprive him of the honor and profits of his own plan. Whatever may have been the more distant and less ostensible motive of the late event, I believe, sir, that it will tend to good, either as an intended preparation of things and opinions for the restoration, or as a most absolute abandonment of French revolutionary principles under the mask of republicanism! So far I do rejoice at it, having long ceased to view the revolution of France as an insulated national event; and having considered it as a question, in the solution of which, and its theories, the whole world were deeply interested."

No. 403.

Mr. W. Vans Murray, Minister Plenipotentiary of the United States at The Hague, to Mr. Marshall, Secretary of State.

[EXTRACT—marked "private."]

"THE HAGUE, *November* 25, 1800.

"Enclosed is a duplicate of a private note which I had the honor to write the morning after the *convention* was signed, and which you will be pleased to consider private or official, agreeably to circumstances. Mr. Ellsworth, I hear, has landed in England. His health was very weak all the spring and a great part of the summer. I have a thousand reasons to wish that the original may have reached you before it be possible that Mr. Davie could have arrived. They left Havre the 19th October ultimo, and, by stopping in England, I fear the frigate may have been late in reaching America."

Copy of a note, marked "private," from William Vans Murray, Minister Plenipotentiary of the United States at The Hague, to the Hon. Mr. Marshall, Secretary of State, dated Paris, October 1, 1800.

SIR: An English agent settled here enables me to write by way of England, and to inform you, I hope the first, that last night we signed a provisional treaty with France. Indemnities which were impossible, together with the discussion about the abolished treaties and consular convention, to sleep till a more convenient time; and the restoration of unjudged cases, on very easy proof of neutrality, favor the principal objects.

I thought it might be useful that you should know that we have arranged amicably with France, and that possibly this note might reach you even before my colleagues, who will depart in three days.

I am, with sincere esteem, respectfully, sir, your obedient servant,

W. V. MURRAY.

Hon. Mr. MARSHALL, *Secretary of State.*

No. 404.

Mr. Murray, Minister of The United States at The Hague, to Mr. Madison, Secretary of State of the United States.

No. 134.] THE HAGUE, *May* 20, 1801.

SIR: To-day I had the honor to receive your letter of the 18th of March,* by which I am informed that it is the President's pleasure that I set off for Paris to exchange the ratifications of the convention between the United States and France, and to settle the ulterior points connected with that subject.

I shall obey the commands with which the President has honored me, and shall set out for Paris as soon as possible—I hope the day after to-morrow. Mr. Dawson will, as he informs me, deliver then the necessary official paper.

I regret that the departure of Mr. Ellsworth from England for America, of which my London letters of the 3d instant speak, deprives our country of the benefit of that superior judgment and knowledge which would have given greater confidence to my zeal.

If the article to be added be that of limitation for eight or ten years, there may be some objection and delay. Permit me, sir, to suggest to you the eventual utility there may be in giving me precise orders by which I may govern myself should that article produce some contingency like the following: That they would agree to strike out the article excepted to by the Senate, provided we would not press the limitation; or, that they agree to admit the limitation, if the 2d article be retained, on the ground that during the term they still have us under a treaty engagement to renew the negotiation on points interesting to their pride. Alternatives like these may be the pretexts for delay.

Against the admission of the new article, they will perhaps object that the policy secured by the 6th article of the convention is defeated; that the equality under it was obtained, in consideration of some other points of a temporary sort, and which will be accomplished in our favor before the expiration of the term to which we would limit the convention; that part of the stipulation in our favor, under the 4th article, has already been gratified; and that, though they would not pay for spoliations, yet that they consider the perpetuity of the 6th article as something in lieu of the exclusive perpetual privileges under the old treaty of commerce. This objection, to which I attach little solidity, if made and persisted in, may leave me in a difficult position.

You will pardon the solicitude which I feel in the wish that I may find as little as possible left to my discretion. The case may, and probably is, provided for in my instructions, which I have not seen.

Circumstances may be, as they have hitherto proved, rather favorable to us, particularly if it be true

* From Mr. Lincoln, acting Secretary of State.

that they are to have the Floridas and Louisiana, as, in that case, there will exist a new temporary interest to be well with the United States; and they make a small sacrifice of pride to a solid and extensive plan, of which that cession, if made, will be the basis!

I am, with great respect, sir, your most obedient servant, &c., &c.,

W. V. MURRAY.

No. 405.

Mr. Murray, commissioned to exchange the ratifications of the Convention of 1800 *with France, to the French Minister of Exterior Relations.*

No. 1.] PARIS, *May* 29, 1801.

The undersigned minister of the United States of America arrived yesterday evening from the Hague, and with pleasure hastens to inform the Minister of Exterior Relations that he has full powers from the President to exchange the ratifications of the convention of 30th of September last.

He requests the Minister of Exterior Relations to inform him of the hour at which he may have the honor of seeing him; and begs him to accept the assurance of his high consideration.

W. V. MURRAY.

The MINISTER OF EXTERIOR RELATIONS *of the French Republic.*

No. 406.

Mr. Murray, commissioned to exchange the ratifications of the Convention of 1800 *with France, to Mr. Lincoln, acting Secretary of State of the United States.*

No. 1.] PARIS, *June* 1, 1801.

SIR: Having left the Hague the 22d, I arrived here the 28th ultimo in the evening.

The next day Mr. Dawson delivered to me the instructions, a letter of credence from the President to the First Consul, and a copy of the convention with the ratification by the President. Every account from London mentions the departure of Mr. Ellsworth for America.

On the same day I called upon Mr. Talleyrand. Not finding him at home I addressed No. 1 to him; and as he is much at Auteuil, I did not receive No. 2 till the 31st, when I sent No. 3, and to-day No. 4.

To-day at three I went to see him, agreeably to appointment. He received me politely; I stated to him that I came, by order of the President, to exchange the ratifications of the convention lately signed here, and begged him to name a day for that purpose, informing him that I had a copy of my letter of credence in my pocket. He informed me that Joseph Bonaparte, Fleurieu, and Roederer would see me on the subject, and said, on my pressing for an early day, that these gentlemen should receive instructions immediately to proceed on the business with me. I took this opportunity as the one intended to say to him that I was commanded by the President to request him to convey to his Government,* les assurances de l'amitie des Etats-Unis pour la France, et que le President saisira toutes les occasions pour lui temoigner ses dispositions de cultiver l'harmonie et la bonne intelligence, par une observance de toutes les attentions et de tous les procédés, fondés sur le respect et sur la justice, et qui sont enusage entre les nations, en tout ce qui pourrait arriver entre les deux Gouvernemens, et en donnant toujours les preuves d'une veritable amitié et de faveur, aiant egard à la justice due aux autres. He assured me that these sentiments were reciprocal on the part of the First Consul; as to the letter of credence, he observed that it would be proper to deliver it at the public audience on the 17th Prairial, the 6th instant. I informed him that the convention was in a course of execution in the United States in all its points; and that we expected no difficulty in the exchange, immediately after which a minister would come here. He repeated that the commission, Joseph Bonaparte, Fleurieu, and Roederer, would talk with me on the subject. If appearances without words can give a clue to what should be anticipated, I believe that they will accept the ratification, but will make some difficulties for the credit of apparent sacrifice on their part. The defeat of the northern coalition will doubtless operate in our favor. Had that succeeded, or even continued, new conditions had probably been held up as the price of their acceptance of the ratification.

Mr. Talleyrand, in parting, assured me that Joseph Bonaparte, as the head of the French commission, should be immediately written to; and on my urging an early day, he said the business should not suffer any longueurs.

They are crowded with negotiations. Count Cobenzl is much at Mortfontaine, treating, it is presumed, on the indemnities which rise out of the treaty of Luneville. Ministers from almost every State in Germany are here. These circumstances, and especially that Joseph Bonaparte, who is at the head of their commission for treating with the United States, is also their plenipotentiary to treat with Count Cobenzl, will, I fear, sir, throw some little delay [in the way.] I shall endeavor to hasten the exchange by every attention.

I have the honor to be, with great respect, sir, your most obedient, humble servant,

W. V. MURRAY.

Hon. Mr. LINCOLN,
Acting as Secretary of State of the United States.

* The assurances of the friendly feelings the United States have for France, and that the President will avail himself of every opportunity to give proof of his intentions to cultivate harmony and good understanding, by adhering to all the attentions and civilities, founded upon respect and justice, which are practised among nations, in everything that may take place between the two Governments, and by always giving proofs of sincere friendship and favor, regard being had to the justice due to others.

No. 407.

Mr. Murray, commissioned to exchange the ratifications of the Convention of 1800 *with France, to the French Minister of Exterior Relations.*

No. 4.] PARIS, *June* 1, 1801.

The undersigned Envoy Extraordinary and Minister Plenipotentiary of the United States has the honor to enclose to the Minister of Exterior Relations of the French Republic an official copy of the ratification of the convention of 30th September last between the United States of America and the French Republic.

He offers to the Minister of Exterior Relations the assurance of his high consideration.

W. V. MURRAY.

THE MINISTER OF EXTERIOR RELATIONS *of the French Republic.*

No. 408.

Messrs. Bonaparte, P. C. C. Fleurieu, and Roederer, Ministers Plenipotentiary of the French Republic, to Mr. Murray, commissioned to exchange the ratifications of the Convention of 1800 *with France, dated Paris,* 18*th Prairial, an* 9, *year of the Republic, June* 8, 1801.

[Translation.]

The undersigned Ministers Plenipotentiary of the French Republic have the honor to inform Mr. Murray, Minister Plenipotentiary of the United States of America, that they are authorized to open a conference with him in regard to the exchange of the ratifications of the convention concluded between France and the United States.

They pray him to accept the assurance of their distinguished consideration.

BONAPARTE.
P. C. C. FLEURIEU.
ROEDERER.

No. 409.

Mr. Murray, commissioned to exchange the ratifications of the Convention of 1800 *with France, to Messrs. Bonaparte, Fleurieu, and Roederer, Ministers of France.*

To Citizens J. Bonaparte, Fleurieu, and Roederer, Ministers Plenipotentiary of the French Republic:

No. 6.] PARIS, *June* 8, 1801.

The undersigned Minister Plenipotentiary of the United States of America is happy to be informed by the Ministers Plenipotentiary of the French Republic, by their note of yesterday, that they are authorized to open a conference with him upon the exchange of the ratifications of the convention between the United States and the French Republic; and, convinced of the mutual inconvenience arising from delay, he requests to have the honor of a conference to-day with the Ministers Plenipotentiary of the French Republic at the place and hour most agreeable to themselves.

He begs them to accept the assurances of his high consideration.

W. V. MURRAY.

No. 410.

No. 2.—*Mr. Murray, commissioned to exchange the ratifications of the Convention of* 1800 *with France, to Mr. Lincoln, acting Secretary of State of the United States, dated Paris, June* 9, 1801.

SIR: On the 6th, at a public audience, I delivered my letter of credence to the First Consul. He did not appear much pleased with the provisional ratification, but intimated that the exchange of ratifications would not meet with insurmountable difficulties. He expressed a great regard for the new administration of the United States.

On the same day Mr. Joseph Bonaparte informed me that, as President of the commission, with Fleurieu and Roederer, he had received instructions to enter upon the business of the exchange of ratifications.

Yesterday I received No. 5 from the French commission, and sent No. 6. I met these gentlemen at six, at Joseph Bonaparte's, and had a short conference with them before dinner. My object in asking for the conference was to inform them that I expected some official notification from their Government equivalent to full powers in them to enter on the business of the exchange. This I explained to them. They agreed in the propriety of the idea, and are, at the next meeting, to give me a certified copy of their powers, after my comparison of it with the original.

At this interview I entered no further into business than was necessary to show that the exhibition of their powers, to exchange or to treat, was necessary.

After dinner, Mr. Roederer made a remark which has excited some reflections. He observed that, by expunging the second article, we abandoned forever all claim to indemnity. I observed that, if that be the consequence, they could have no objection to our ratification. I fear that they will press an article of formal abandonment on our part, which I shall evade; as yet they have not made a grave objection to the additional article which I explained to them to belong to the general policy of our Government, and instanced the British, Prussian, and Swedish treaties.

As the Maryland's sailing is under the orders of Mr. Dawson, I have not presumed to detain her. I regret that I have nothing yet officially certain that can indicate the result.

I have the honor to be, with great respect, your most obedient servant,

W. V. MURRAY.

Hon. Mr. LINCOLN,
Acting as Secretary of State of the United States of America.

P. S. June 11. They will deliver their full powers the 13th. W. V. M.

No. 411.

Mr. Fleurieu, Minister Plenipotentiary of the French Republic, to Mr. Murray, commissioned to exchange the ratifications of the Convention of 1800 *with France, dated Paris, 24th Prairial, an* 9, *(June* 13, 1801.*)*

[Translation.]

Citizen Fleurieu will have the honor to comply with the invitation of Mr. Murray at 5 o'clock; Citizen Roederer, whom he saw this evening, is to be present at the same hour; and should Citizen J. Bonaparte, through some unforeseen occurrence, not attend, the negotiations may, notwithstanding, be entered upon, as the French ministers are now actually provided with their powers, which they will be permitted to exchange.

[Mr. J. Bonaparte was present at the conference.]

No. 412.

Mr. Murray, commissioned to exchange the ratifications of the Convention of 1800 *with France, to Messrs. Bonaparte, Fleurieu, and Roederer, Ministers of France.*

To the Citizens Joseph Bonaparte, Fleurieu, and Roederer, Councillors of State, Ministers Plenipotentiary of the French Republic:

No. 10.] PARIS, *June* 14, 1801.

The undersigned Minister Plenipotentiary, authorized by the President of the United States of America to exchange the ratification of the convention signed at Paris on the 30th September last, 8th Vindemiaire, between the plenipotentiaries of the French Republic and of the United States, respectively, has the honor to enclose to the Minister Plenipotentiary of the French Republic a collated copy of the ratification of that convention by the President of the United States, together with a copy of his full powers upon the exchange.

The French Ministers Plenipotentiary will observe that, by the ratification on the part of the United States, the second article is not agreed to; and that a new article limiting the duration of the convention to eight years is added.

He wishes them to accede to this change; and flatters himself that they will perceive, in the wise modification of the act, a disposition on the part of his Government to render it more adequate to those views of amity and permanent concord which at present are so happily felt by both nations.

W. V. MURRAY.

No. 413.

Messrs. Bonaparte, Fleurieu, and Roederer, Ministers Plenipotentiary of France, to Mr. Murray, commissioned to exchange the ratifications of the Convention of 1800 *with France, dated Paris, 25th Prairial, year* 9 *of the French Republic, (June* 14, 1801.*)*

[Translation.]

The Ministers Plenipotentiary of the French Republic have received the copy of the powers and of the ratification of the convention of the 9th Vindemiaire, which Mr. Murray, Minister Plenipotentiary of the United States of America, has done them the honor to direct to them.

In order to accelerate the exchange of ratifications, and to sanction definitively the good understanding already re-established between the two nations, it is desirable that the American minister communicate to the French ministers the motives of reciprocal interest that induced the suppression by both of the 2d article.

They pray the American Minister Plenipotentiary to accept the assurance of their high considerations.

J. BONAPARTE.
CLARET FLEURIEU.
ROEDERER.

No. 414.

No. 12.—*Mr. Murray, commissioned to exchange the ratifications of the Convention of* 1800 *with France, to Messrs. Bonaparte, Fleurieu, and Roederer, Ministers Plenipotentiary of the French Republic, dated Paris, June* 15, 1801.

The undersigned, Minister Plenipotentiary of the United States of America, had the honor to receive the note of the Ministers Plenipotentiary of the French Republic of yesterday, and frankly assures them that he is uninformed by his Government of the motives which led to the suppression of the second article, and is absolutely uninstructed upon the object of their inquiry. Their question, however, is too interesting not to have engaged his serious attention, and he trusts that reflection will furnish reasons to show that its absence from the convention will tend to consolidate the amity and mutual prosperity of the two countries. He begs leave, then, to submit to them the following ideas which occur, as arising out of the nature and objects of the article in question.

Taking for a basis of the views of his Government a desire to fix harmony between the two countries, he thinks that the motives of its rejection may be found in the object of the article itself, considering it as possessed of qualities that must produce future inquietude, by promising nothing but an ulterior discordant negotiation; and in a wish to place friendship, reciprocally, rather upon a natural course of things than to hazard it upon an article which, if ever acted on, had an evident tendency to disturb it.

That article promised a negotiation upon treaties and mutual indemnities; and the two powers had under it not only a right, but were bound to negotiate in future upon them. These are precisely the things which, had the casus fœderis been claimed, must have tended to disturb the peace, and to throw the friendship of the two nations out of its natural course.

Is there a probability of convincing each other on the disputes connected with these objects, which had been thus laid up for future discussion? The patience and labors of the late negotiation leave little doubt upon the question.

This article being thus rejected and out of the convention, the act contains but defined objects of mutual good will and of easy accomplishment, bottomed on returning amity, commerce, and navigation. But it would have been to put all these three last great interests eventually on the issue of a future negotiation if the second article had remained in the instrument.

These reflections strike the undersigned as sufficiently strong to account for the rejection of that article, at the time when the American Government, however pure were found to be the motives of its ministers, negatived it.

He sees in that negative the outline of a policy at that time, therefore, better adapted to the ends of a steady and lasting amity than could have been counted on if the article had been ratified. To have retained it would have been, in the result, less to authenticate a claim to disputed rights than to lay up a future quarrel on points in which each party supposed itself just.

He takes this opportunity to remark, also, that the confidence of the American Government is proved by the execution of the convention in all its parts, independently of events; and he has great pleasure in giving this information to the French ministers. All hostilities on the sea have been forbidden; and the public ships must, before this day, have returned into port. The prisoners were in March last in a course of delivery to the Citizen L'Etombe, Commercial Agent of the French Republic; and he had been informed that all such officers might resume their functions. Commercial intercourse is restored, and the American vessels often arrive in the ports of France; and orders have been given for the restoration of ships under the third article.

It is in this state of things, and with these prospects of amity before the two nations, that the undersigned tenders to the Ministers Plenipotentiary of the French Republic the ratification of the convention, and requests them to accelerate the exchange.

He offers to the Ministers Plenipotentiary of the French Republic the assurance of his high consideration.

W. V. MURRAY.

No. 415.

No. 3.—*Mr. Murray, commissioned to exchange the ratifications of the Convention of* 1800 *with France, to Mr. Madison, Secretary of State of the United States, dated Paris, June* 23, 1801.

Sir: On the 13th the French ministers gave me their full powers, a copy of which I have the honor to enclose, under No. 9. It appears from the text of these that some difficulties will arise from the change made by our ratification. They requested my full powers in exchange. I informed them that I had none but a copy of the letter of credence, which I delivered to the First Consul on the 6th, which was a full power. I read them the copy; they appeared to doubt if it were sufficiently special, and if it went further than to an authority merely to exchange the ratification. I attempted to convince them that it was adequate to all the purposes connected with the discussion of the business, as well as to a simple exchange. I then showed them the ratified copy of the convention, and as they assured me that they had not seen a copy before, I sent them verified copies of the ratification, and of my letter of credence, in No. 10.

I found that the objection to the suppression of the second article would be in this idea; that they thereby would resign their claim to the treaties, and yet not exonerate themselves from the claim of indemnities. I stated the substance of what I afterwards wrote in No. 12, in which an attempt is made to reconcile the suppression to a more generous policy, and to the interests of both nations, without pledging a formal abandonment of claims; fearing, as I did, that a word hazarded in pressing the suppression might have this effect at some future time. They had no right to demand the motives for the suppression of the second article, of which, also, I am not informed, nor could be from the nature of our Government; but from the attention which Joseph Bonaparte particularly paid to what was advanced for its suppression, on the ground of mutual amity, at the interview the 13th, I did suppose that the object of

their inquiry in No. 11 was either to have a concession on my part of the point which I believe they wish, viz: that the suppression should be considered as an abandonment of indemnities, or to have a more fixed view of the general motives, as stated at the conference. I believe they would not hesitate if the indemnities were abandoned.

On the 18th and 19th I saw the French ministers. I could learn only that my note of the 15th was under consideration, but found that the abandonment, as they call it, of their treaties was still an obstacle. Mr. Roederer promised an answer very soon. On the 21st, at the audience, the First Consul expressed his doubts of the adequacy of my full powers to discuss and sign. I assured him, that though I had no powers but those which I had the honor to give him, my instructions enabled me to discuss and sign, and that the powers which I delivered were also, in substance, to that effect. Mr. Talleyrand remarked that it was but a letter from the President to the First Consul. I answered, it was a letter, but of credence, authorizing me to treat, as it was to take necessary measures for the exchange of the ratifications, and to take upon me the execution of that business, which was full power.

I called upon Mr. Joseph Bonaparte and Mr. Roederer that evening. The first was at his country seat, and the last was out. Count Cobenzl, at seven, had informed me, when I called on him to see a copy of the ratifications of the treaty of Luneville, that he and Joseph Bonaparte were to be at Mortefontaine the 22d and to-day. I had another object, also, in calling on the Austrian minister, which was, to know of him how his Court considered the question, which I find has been decided here, whether a consent of the Legislature were considered as a necessary sanction to the ratification? He informed me that they accepted the ratification by the First Consul as sufficient.

To-day, having yet no answer, I called on Mr. Fleurieu at the Council of State, and had a short conversation with him. I spoke of the extreme delay and the bad effects of it. He assured me that my note of the 15th was before the Minister of Exterior Relations, and that *as yet they had not received their instructions.* I then mentioned what had passed at the audience on my power, and expressed my astonishment that, if there was an objection, it had not been made by the French Commission. He spoke of not having yet instructions, but recommended, for the purpose of enabling them to move, that I should address a note to them on the subject. I said the objection ought to be first made, before an explanation could be expected, and that it was not agreeable to cite the words of a Chief Magistrate, as a motive of proceeding, as I spoke French badly; but that I would call on Mr. Talleyrand, which I did, and as he was not at home, I sent No. 13.

Until they present an obstacle officially to the acceptance of our ratification I do not consider myself as authorized to use the power given, as a last resort, on a second article. From the different conversations with the French ministers, I believe the new article will meet with little difficulty.

Dispositions are always warmly declared to cultivate amity and good intelligence, and that *la chose s'arrangera.* There is no appearance, also, of any acrimonious traces of the late disputes and hostile proceedings. As yet, sir, I cannot attribute the delay to any fixed intention. It seems to be the disease in all the negotiations carried on here.

A peace has been signed between Spain and Portugal. The terms are not known. Commodore Truxtun's squadron is greatly wanted in the Mediterranean to oblige Tripoli to respect our flag. Enclosed is a letter from Mr. Cathalan, Consul at Marseilles, to you, sir, and one to me, which I beg leave to recommend to your perusal.

I had the honor to receive your letter of the 23d of April on the 19th instant, and fear there has been a mistake in numbering, to account for No. 123.

I have the honor to be, with great respect, sir, your most obedient, humble servant,

W. V. MURRAY.

Hon. Mr. MADISON, *Secretary of State.*

P. S. I have not had the pleasure of seeing Mr. Meredith, to whom I shall pay due attention.

W. V. M.

No. 416.

No. 4.—*Mr. Murray, commissioned to exchange the ratifications of the Convention of* 1800 *with France, to Mr. Madison, Secretary of State of the United States, dated Paris, June* 24, 1801.

SIR: From a conversation which I had to-day with one of the French plenipotentiaries, I believe that neither they nor their Government will consent to the unconditional suppression of the second article.

To-morrow I shall see two of the three together, and if possible Mr. Talleyrand also.

I send this by post to Havre, in the hope it may reach Captain Rodgers before he sails.

I have the honor to be, sir, with great respect, your most obedient servant, &c.,

W. V. MURRAY.

Hon. Mr. MADISON, *Secretary of State.*

No. 417.

No. 5.—*Mr. Murray, commissioned to exchange the ratifications of the Convention of* 1800 *with France, to Mr. Madison, Secretary of State of the United States, dated Paris, June* 26, 1801.

SIR: Yesterday I had a conference with Messrs. Fleurieu and Roederer; Mr. Joseph Bonaparte having, as Mr. Fleurieu informed, authorized them to go on with the negotiation without him, should he be absent; and he was in the country. Mr. Talleyrand was out when I called.

I find, by their express declaration, that they are unanimous in refusing to accede to the suppression of the second article; and as they act by momentary contact with their Government, I must presume that the Government itself is of their opinion. Indeed they so informed me. They are to state their objection, immediately, in answer to my note of the 15th. I should not be surprised if they bring forward the idea, however, of a conditional suppression of the second article, with a proviso, that both parties in so many months declare their agreement to the total abandonment of the subject of that article, treaties, and indemnities.

To-day I had an interview with Mr. Talleyrand. By full powers, I understand they meant what is rather a matter of *instructions* than of *full powers;* to wit: whether I could exchange ratifications, should their ratification be conditional.

This solution confirmed me in what I concluded from the more general ideas which arose yesterday from the two ministers during the conference.

They are anxious to do something at once amicable, in their opinion, and compatible with the dignity of their Government, as Mr. Talleyrand expressed it to-day. I send this to Havre, hoping that Captain Rodgers may not yet have sailed, and with a wish that it may go in time to counteract the reports which are idly spread here among the Americans from half-informed people.

I am, with great respect, and with wishes, sir, for an agreeable career in the office which you fill,

Your most obedient, humble servant,

W. V. MURRAY.

Hon. Mr. MADISON, *Secretary of State of the United States of America.*

P. S. As to the armed neutrality, not a word has been said.

W. V. M.

No. 418.

Messrs. Fleurieu and Roederer, Ministers Plenipotentiary of the French Republic, to Mr. Murray, commissioned to exchange the ratifications of the Convention of 1800 *with France, dated Paris, le* 8 *Messidor, an* 9, *(June* 27, 1801.*)*

[Translation.]

The Ministers Plenipotentiary of the French Republic have received the note which Mr. Murray, Minister Plenipotentiary of the United States of America, did them the honor to address to them on the 26th Prairial, (15th June.)

If the mutual relinquishment of the pretensions that have been the object of the 2d article of the convention of the 8th Vindemiaire of the year 9, is to be the condition for the plain and simple suppression of this article; or if the private opinion and personal sentiments of the Minister Plenipotentiary of the United States relative to the circumstances that this suppression may produce, are to imply a responsibility on the part of the American Government, the French minister may be led to believe that the interest of each party demands it, and they may perhaps look upon it as a means of strengthening the good understanding happily re-established between the two nations. But they do not believe it to be compatible with the interests and rights of France to consent freely and positively to the suppression of the article now under discussion.

They pray the Minister Plenipotentiary of the United States to accept the assurance of their distinguished consideration.

CLARET FLEURIEU.
ROEDERER.

No. 419.

No. 15.—*Mr. Murray, commissioned to exchange the ratifications of the Convention of* 1800 *with France, to Messrs. Bonaparte, Fleurieu, and Roederer, Ministers Plenipotentiary of the French Republic, dated Paris, June* 27, 1801.

The undersigned, Minister Plenipotentiary of the United States of America, has the honor to inform the Ministers Plenipotentiary of the French Republic, in answer to their note of to-day, (8th Messidor,) that, while he deeply regrets that they will not agree to the pure and simple suppression of the second article of the convention, so sincere are the desires of his Government to cultivate a good intelligence with the French Republic, he is authorized by the President, and is ready to accept a ratification on their part, by which the second article shall be re-established, reserving to the Senate of the United States their constitutional right to advise or refuse a ratification in that form, and the new additional article be adopted after this official declaration, he hopes that the way will have been cleared for the indulgence of that more magnanimous policy which, he still thinks, ought to lead to the pure and simple suppression of the second article.

There are great moments between nations in which mutual interests, if freely permitted to work, will better accomplish the ends of wisdom than could be effected by the systematic skill of the ablest politicians.

He begs leave to assure the Ministers Plenipotentiary of the French Republic of the sentiments of his high consideration

W. V. MURRAY.

No. 420.

No. 6.—*Mr. Murray, commissioned to exchange the ratifications of the Convention of* 1800 *with France, to Mr. Madison, Secretary of State of the United States, dated Paris, July* 1, 1801.

SIR: By the NOS. 14 and 15, which I have the honor to enclose, you will see that the French ministers have refused to agree to the unconditional suppression of the second article.

To you, sir, I can say that I wish I had been authorized to subscribe to a joint abandonment of treaties and indemnities. As claims, they will always be set off against each other by them; and I consider the cessation of their claim to treaties as valuable.

I believe that they will offer a conditional ratification, similar to ours, with the suppression of the second article and the admission of the new one, provided the two Governments exchange declarations, by which all claims to treaties and indemnities be mutually abandoned.

I write in haste, by post, to reach the frigate, which, I hear this moment, has not sailed.

I am, with great respect, sir, your most obedient servant,

W. V. MURRAY.

Hon. Mr. MADISON, *Secretary of State of the United States of America.*

No. 421.

No. 7.—*Mr. Murray, commissioned to exchange the ratifications of the Convention of* 1800 *with France, to Mr. Madison, Secretary of State, dated Paris, July* 2, 1801.

Mr. Roederer called to see me yesterday, p. m. They wish, as I had expected, to pass by the offer to re-establish the second article, and to do one of two things:

1st. That there be an article in the *proces verbal* of the exchange of the following import: That, in a year, shall be exchanged an article, declaring that the respective pretensions, which were the object of the second article, shall never be reproduced—(I here follow a close translation of what Mr. R. said.) Or,

2d. A *ratification*, on their part, on the same condition.

In the first alternative, the ratification, on their part, would be a pure and simple accession to our terms, and the reserve would be in the paper, which, it is usual, on exchanges, to interchange among the ministers employed, in the nature of a certificate of exchange, which is more for their own security than to add validity to anything done.

As, in either branch of the alternative, no time would be gained, because the Senate would have to act on either, I shall, if the choice be placed officially, prefer the latter. The first would be the most agreeable, as it avoids the public appearance of a retort, on their part, by giving, in turn, a conditional ratification. But having no power to dispose of what may be considered as a valuable claim for the future, though I do not consider it as worth a quarter per centum, and not accelerating the final arrangement by taking on me this responsibility, I shall decline the first proposition. Indeed, I have already informed them that I could not sign an article to that effect; but it was never before so formally brought forward.

As to the additional article, the French minister reported in favor of its adoption, and stated the arguments, which I made use of at the first conference on the 8th ultimo, in their report; these were drawn from my instructions.

I have the honor to be, with great respect, sir, your most obedient servant,

W. V. MURRAY.

Hon. Mr. MADISON, *Secretary of State.*

No. 422.

Messrs. Fleurieu and Roederer, Ministers Plenipotentiary of the French Republic, to Mr. Murray, commissioned to exchange the ratifications with France, dated Paris, 14th Messidor, an 9, *(July* 3, 1801.*)*

[Translation.]

The Ministers Plenipotentiary of the French Republic have attentively examined the note which Mr. Murray, Minister Plenipotentiary of the United States, did them the honor to address to them le — Messidor, (27th of June.)

It appears to them that the convention to re-establish the second article as the condition of the exchange of ratifications cannot be the course best adapted to the views which animate both Governments, and to the opinion that the French Government entertained such motives as gave cause to the suppression passed by the Senate.

The French Government is glad to believe that these motives were adopted to strengthen the friendship re-established between the two nations, by keeping at a distance, as much as possible, such discussions as could, by any means, impair it anew.

The French ministers are of the opinion that the only means to perpetuate the intentions of the two Governments, and to derive from them a happy result, would be that the respective ministers agree upon

the exchange of ratifications, that the reciprocal pretensions, which were the object of the second article, should not be brought forward at any future period. This convention will be signed by both parties.

The French ministers pray the Minister Plenipotentiary of the United States to accept the assurance of their high consideration.

CLARET FLEURIEU.
ROEDERER.

True copy:

W. V. MURRAY.

Joseph Bonaparte was in the country. He is to affix his signature; but I thought it best to go on, rather than wait.

No. 423.

No. 17.—*Mr. Murray, commissioned to exchange the ratifications of the Convention of* 1800 *with France, to Messrs. Bonaparte, Fleurieu, and Roederer, Ministers Plenipotentiary of the French Republic, dated Paris, July* 5, 1801.

The undersigned, Minister Plenipotentiary of the United States of America, has weighed with the greatest attention the proposition for a joint signature of an article in the act of exchange of ratifications made by the Ministers Plenipotentiary of the French Republic, in their note of the 3d of July, (14th Messidor,) which he had the honor to receive from them.

Any remarks which he could make for or against the proposition, considered in its merits, would be deemed superfluous, when he assures the ministers that, after mature reflection, he finds that he is not authorized to enter into such an engagement for his Government; and he believes he can in no manner better reciprocate their own candor than by so frank an assurance.

He still flatters himself that, with the amicable views mutually entertained, this last proposition, to which he is unable to subscribe, will not be considered as the sole means of giving effect to the happy dispositions which are certainly felt by both Governments; for he yet trusts that the obstacles, which he conceives to be more derived from form than from motives, will be overcome by these dispositions, and the great policy that rest on substantial and plain interest.

He has the honor to offer the Ministers Plenipotentiary of the French Republic the assurance of his high consideration.

W. V. MURRAY.

No. 424.

No. 8.—*Mr. Murray, commissioned to exchange the ratifications of the Convention of* 1800 *with France, to Mr. Madison, Secretary of State of the United States, dated Paris, July* 9, 1801.

Numbers 16 and 17, which I have the honor to enclose, will show you the present state of the negotiation since my last.

The sole difficulty is the abandonment on each side of pretensions arising from indemnities and treaties. It is extremely difficult for me officially to say anything on these points. We consider treaties as not existing; they consider them (at least for purposes of negotiation) as not surrendered on their part. They wish to get rid of both the claim to treaties and indemnities. Unless I were authorized, I cannot speak upon the claim to indemnities, nor admit the claim to treaties as forming an object of discussion. All then, sir, that I can attempt is to obtain the general object which you have prescribed, without venturing upon discussions of a ticklish nature, but the discussion of which is intimately entangled with this general object. The reserve apparent in my notes will be thus explained. My object is yet to obtain a simple exchange on our terms, and even yet I do not despair of obtaining it, or something very near it.

The frigate will now depart for the United States, but I shall search for opportunities every week to keep Government exactly informed.

The ill health of Mr. Talleyrand has obliged him to go to the baths, an hundred and eighty miles from Paris. He will be absent a month. The foreign relations are deposited with Mr. Caillard, late minister at the Hague and at Berlin. Bonaparte has been indisposed, but I am happy to inform you that he is better. These things, united with the difficulties of the case, tend to delay.

I have the honor to be, with high respect, sir, your most obedient servant,

W. V. MURRAY.

Hon. Mr. MADISON, *Secretary of State of the United States, &c.*

No. 425.

No. 9.—*Mr. Murray, commissioned to exchange the ratifications of the Convention of* 1800 *with France, to Mr. Madison, Secretary of State of the United States, dated Paris, July* 15, 1801.

SIR: From a conversation which I had two days since with one of the French ministers, I understand that they are deliberating upon the choice of one of the two following modes of ratification:

To ratify on condition of reciprocal abandonment of pretensions under the 2d article, or to ratify on

our terms, but with a declaration incorporated in the language that they consider the suppression of that article as an abandonment of all claims and pretensions under it. I can answer for the substance only, as it is from conversation that I learn it.

I believe, sir, and wish that they will pursue the last mode; nothing will be done on my part to affirm their construction of the motives which led the United States to the suppression.

Next to a pure and simple adoption of our act, the last appears to me to be the best for the United States, and if nothing better can be done I shall exchange on their offering me such a ratification.

The frigate will have sailed about this time, I presume.

I have the honor to be, with great respect, sir, your most obedient servant,

W. V. MURRAY.

Hon. Mr. MADISON, *Secretary of State, &c., &c.*

No. 426.

No. 10.—*Mr. Murray, commissioned to exchange the ratifications of the Convention of* 1800 *with France, to Mr. Madison, Secretary of State of the United States, dated Paris, July* 23, 1801.

SIR: At length they will ratify, but with a declaration in the body of their act that the omission of the second article, and the addition of the new one of limitation, to both of which they will formally assent, are to be considered as an abandonment respectively of the pretensions under that 2d article.

Convinced, sir, as I am, that nothing better can be gained, and confiding in a liberal judgment in Government upon the situation in which I am placed, I shall exchange upon these terms.

In a very few days I trust that I shall be able to enclose to you the instrument exchanged.

I am, with sentiments of high respect, sir, your most obedient servant,

W. V. MURRAY.

Hon. Mr. MADISON, *Secretary of State.*

No. 427.

Mr. Murray, commissioned to exchange the ratifications of the Convention of 1800 *with France, to Mr. Madison, Secretary of State of the United States.*

No. 12.] PARIS, *July* 31, 1801.

SIR: It is with sincere pleasure that I inform you that the French ministers and I have exchanged ratifications.

Their ratification is, as I had the honor to inform you it probably would be, declaratory that the suppression of the second article is an abandonment respectively of all pretensions under it. They accede to the new article.

I have but a moment to send this by a traveller to Bordeaux, and it is late at night.

Enclosed I have the honor to send a joint certificate of the exchange, signed by the French ministers and myself, and to assure you that I am, with great respect, sir, your most obedient servant,

W. V. MURRAY.

Hon. Mr. MADISON, *Secretary of State.*

No. 428.

Mr. Murray, commissioned to exchange the ratifications of the Convention of 1800 *with France, to Mr. Madison, Secretary of State of the United States.*

No. 14.] PARIS, *August* 11, 1801.

SIR: Though uninstructed to say anything upon the 4th article, yet, as I had officially informed the French ministers, in my note of the 15th of June, of the execution of the convention on the part of the United States, I thought myself bound to obtain some explanation of their instructions on that article. Its objects are of a perishable nature, and the inquietudes of the parties concerned, and intrigues of the privateersmen to buy out the claims, and of others to cajole or alarm the captains—and intrigues without number respecting it.

On conversing with Mr. Roederer some days since—the others I was not fortunate enough to find at home, after several calls—he referred me to Mr. Talleyrand, considering the matter as out of his competence. He promised to speak to him, and to urge the execution of the 4th article immediately. I had twice before called on Mr. Talleyrand, but he was as [at] Malmasion. On the 9th I wrote to him a billet, telling him that I would call on him at two yesterday. He received me.

I informed him that I came to talk with him on the execution of the 4th article of the convention; that, in my note of the 15th June, I had officially assured them that my Government was executing that act "independently of events." That I had not demanded that such a declaration should be reciprocated; but that I certainly had expected it of them. That the 4th article was of a nature to be in a great measure defeated by delay; and that now the exchange was made, and after my official declaration, good faith required that they should give a prompt execution especially to that article. He assured me,

with great cordiality, that it should be done; and that he would immediately write to the Commissary of the Government, near the Council of Prizes, to recommend the trials of American cases. On my informing him that I should now immediately leave Paris, he promised to send to me at the Hague a copy of his letter, of which I could make official use.

To-morrow I shall set off for the Hague; and it gives me pleasure to give you the above intelligence.

I am, with great respect, sir, your most obedient servant,

W. V. MURRAY.

P. S. The ratifications were exchanged the 31st July, at night; and on the 3d instant I delivered the French ratification to Mr. Dawson, sealed up. I have sent information of this to you, sir, by different routes.

W. V. M.

Hon. Mr. MADISON, *Secretary of State.*

No. 429.

Mr. Murray, commissioned to exchange the ratifications of the Convention of 1800 *with France, to Mr. Madison, Secretary of State of the United States.*

No. 13.] PARIS, *August* 3, 1801.

SIR: The ratifications of the convention between the United States and the French Republic, of 30th September last, having been exchanged on the night of the 31st ultimo, between the French ministers, Messrs. Joseph Bonaparte, Fleurieu, and Roederer, and myself, I herewith have the honor to enclose, under my seal and in a paste-board box, the copy ratified on the part of the French Government. This I delivered, agreeably to instructions, to the honorable Mr. John Dawson; Mr. Appleton, of Boston, is to carry it to you.

Perfectly in the dark, as I am, on the views of the Senate in suppressing the second article, I cannot know the extent of the responsibility which I have assumed in accepting the French ratification.

Had we re-established the 2d article, or had their ratification been expressly conditional, or had mutual releases of claims been passed in the *proces verbal*, the exchange could not have closed the business, as the Senate must still have acted. The acceptance, on my part, of their declaratory ratification leaves the business to be acted on or not. If it be necessary to act on it, it must be because the Senate intended to reserve rights and let France reserve claims. If the Senate meant, as I hope, to consider indemnities as worth nothing, then the business, I presume, is closed.

At first, sir, they certainly did feel an objection, which they thought very important to the suppression of the 2d article, that, if admitted, it destroys their claims but not ours. Their pride was also some obstacle, and this gave new difficulties to any form of proceeding to obtain what they afterwards wished to accomplish, for they became convinced of the propriety of having the 2d article out of the act. They then naturally endeavored to make the most of the suppression, and remained firm in the intention of not ratifying but in some form that should save their pride, and declare their intentions and meaning as you find them expressed.

In accepting their ratification, I have pursued what I believed would have been your instructions had the question been foreseen. I have searched for the ground of such a supposed will of the Government by the only clue in my power; the interest of the United States in relation to France at present; their present relations with her by the full execution of the convention on our part "independently of events;" the motives here for the execution, on the part of France, under the 4th and 5th articles; the difficulties of the late negotiation last year on the point of claims; the value of a formal renunciation of the old treaties; and in the absolute want of value in the prospect of indemnities; and I concluded it for the best to exchange rather than to break off.

The limitation is sufficiently adopted by them though they would not make a new *article* of it.

Their act is in French only. I objected; but, sir, the object was not worth a delay of 20 days, which the re-copying would have taken; and it is a ratification of the convention which is in both languages.

As soon as I take leave and get ready for my journey I shall set off for the Hague; and, agreeably to my letter of recall, which I received the 27th ultimo, shall embark for America.

I have the honor to be, with great respect, sir, your most obedient servant,

W. V. MURRAY.

Hon. Mr. MADISON, *Secretary of State.*

No. 430.

The Convention between the French Republic and the United States, dated September 30, 1800.

[Extract.]

ARTICLE 2. The Ministers Plenipotentiary of the two parties not being able to agree, at present, respecting the treaty of alliance of 6th February, 1778, the treaty of amity and commerce of the same date, and the convention of 14th November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon these points the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows:

ARTICLE 3. The public ships which have been taken on one part and the other, or which may be taken before the exchange of ratifications, shall be restored.

ARTICLE 4. Property captured, and not yet definitely condemned, or which may be captured before the exchange of ratifications, (contraband goods destined to an enemy's port excepted,) shall be mutually restored on the following proofs of ownership, viz. The proof on both sides with respect to merchant ships, whether armed or unarmed, shall be a passport in the form following:

"To all who shall see these presents, greeting:

"It is hereby made known that leave and permission has been given to ——, master and commander of the ship called ———, of the town of ———, burden ——— tons, or thereabouts, now lying in the port and haven of ———, and bound for ———, and laden with ———, after that his ship has been visited, and before sailing he shall make oath, before the officers who have the jurisdiction of maritime affairs, that the said ship belongs to one or more of the subjects of ———. The act whereof shall be put at the end of these presents, as likewise that he will keep, and cause to be kept by his crew on board, the marine ordinance and regulations and enter in the proper office a list, signed and witnessed, containing the names and surnames, the places of birth and abode of the crew of his ship, and of all who shall embark on board her, whom he shall not take on board without the knowledge and permission of the officers of the marine, and in every port or haven where he shall enter with his ship he shall show this present leave to the officers and judges of the marine, and shall give a faithful account to them of what passed and was done during his voyage; and he shall carry the colors, arms, and ensigns of the [French Republic or the United States] during his voyage. In witness whereof we have signed these presents, and put the seal of our arms thereunto, and caused the same to be countersigned by ———, at ———, the ——— day of ———, anno Domini ———." And this passport will be sufficient without any other paper, any ordinance to the contrary notwithstanding; which passport shall not be deemed requisite to have been renewed or recalled whatever number of voyages the said ship may have made, unless she shall have returned home within the space of a year. Proof with respect to the cargo shall be certificates containing the several particulars of the cargo, the place whence the ship sailed and whither she is bound, so that the forbidden and contraband goods may be distinguished by the certificates; which certificates shall have been made out by the officers of the place whence the ship set sail, in the accustomed form of the country. And if such passport or certificates, or both, shall have been destroyed by accident, or taken away by force, their deficiency may be supplied by such other proofs of ownership as are admissible by the general usage of nations. Proof with respect to other than merchant ships shall be the commission they bear.

This article shall take effect from the date of the signature of the present convention. And if, from the date of the said signature, any property shall be condemned contrary to the intent of the said convention, before the knowledge of this stipulation shall be obtained, the property so condemned shall, without delay, be restored or paid for.

ARTICLE 5. The debts contracted by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two States. But this clause shall not extend to indemnities claimed on account of captures or confiscations.

In faith whereof, the respective plenipotentiaries have signed the above articles both in the French and English languages, and they have thereto affixed their seals, declaring, nevertheless, that the signing in the two languages shall not be brought into precedent, nor in any way operate to the prejudice of either party. Done at Paris, the eighth of Vindemiaire, of the ninth year of the French Republic, the thirtieth day of September, anno Domini eighteeen hundred.

J. BONAPARTE.
C. P. C. FLEURIEU.
ROEDERER.
O. ELLSWORTH.
W. R. DAVIE.
W. V. MURRAY.

And whereas the Senate of the United States did, by their resolution on the third day of this present month of February, two-thirds of the senators then present concurring, consent to and advise the ratification of the said convention, provided the second article be expunged, and that the following article be added or inserted: "It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of the ratifications."

Now, therefore, I, John Adams, President of the United States of America, having seen and considered the convention and additional article above recited, do, in pursuance of the aforesaid advice and consent of the Senate of the said United States, by these presents accept, ratify, and confirm the said convention and additional article, and every clause and article thereof, as the same are herein before set forth, saving and excepting the second article of the said convention, which I hereby declare to be expunged and of no force or validity; and I do moreover hereby declare that the said convention, saving the second article as aforesaid, and the said additional article, form together one instrument, and are a convention between the United States of America and the French Republic, made by the President of the United States by and with the advice and consent of the Senate thereof.

In testimony whereof, I have caused the seal of the United States of America to be hereto affixed. Given under my hand at the city of Washington, this eighteeenth day of February, in the year of our Lord one thousand eight hundred and one, and of the independence of the said States the twenty-fifth.

JOHN ADAMS.

By the President:
JOHN MARSHALL, *Acting as Secretary of State.*

And whereas the said convention was, on the other part, ratified and confirmed by the First Consul of France, in the form of which the following is a translation from the French language, to wit:

Bonaparte, First Consul, in the name of the French people: The Consuls of the Republic having seen and examined the convention concluded, agreed to, and signed at Paris, the eighth Vindemiaire, 9th year of the French Republic, (September 30, 1800,) by the citizens Joseph Bonaparte, Fleurieu, and Roederer, Counsellors of State, in virtue of the full powers which have been given to them to this effect, with

Messieurs Ellsworth, Davie, and Murray, Ministers Plenipotentiary of the United States, equally furnished with full powers; the tenor of which convention follows:

Approves the above convention in all and each of the articles which are therein contained; declares that it is accepted, ratified, and confirmed, and promises that it shall be inviolably observed.

The Government of the United States having added to its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article, provided that by this retrenchment the two States renounce the respective pretensions which are the object of the said article.

In faith whereof these presents are given. Signed, countersigned, and sealed with the great seal of the Republic, at Paris, the twelfth Thermidor, ninth year of the Republic, (July 31, 1801.)

BONAPARTE.

CH. MAU. TALLEYRAND, *Minister of Exterior Relations.*

By the First Consul:
HUGHES B. MARET, *Secretary of State.*

Which ratifications were duly exchanged at Paris on the 31st day of July, in the present year; and having been so exchanged were again submitted to the Senate of the United States, who, on the 19th day of the present month, resolved that they consider the said convention as fully ratified, and returned the same to the President for the usual promulgation. Now, therefore, to the end that the said convention may be observed and performed with good faith on the part of the United States, I have caused the premises to be made public, and I do hereby enjoin and require all persons bearing office, civil or military, within the United States, and all others, citizens or inhabitants thereof, or being within the same, faithfully to observe and fulfill the said convention and every clause and article thereof.

In testimony whereof, I have caused the seal of the United States to be affixed to these presents, and signed the same with my hand. Done at the City of Washington, the twenty-first day of December, in the year of our Lord one thousand eight hundred and one, and of the sovereignty and independence of the United States the twenty-sixth.

TH. JEFFERSON.

By the President:
JAMES MADISON, *Secretary of State.*

No. 431.

[Extract.]

The Minister of Foreign Relations to Citizen Pichon, dated Paris, January 3, 1801.

I have this very day written to the Council of Prizes, requesting them to adjourn to an indefinite period all decisions upon every kind of property seized under the flag of the United States.

If this adjournment excites any inquietude in the United States, you will say that far from being intended to defer restitutions, it is, on the contrary, calculated to render them both more prompt and more certain.

As soon as the convention shall be ratified upon both sides, I will urge forward a decree of the Consuls, which shall replevy, for the Americans, all the prizes, the restitution of which has been engaged for. This step, in the first place, is the only one consistent with principle. It is, moreover, the most advantageous for the Americans, since it does away the intervention of the Council of Prizes, which could proceed only partially in the restitutions, and will save them from the unavoidable delays in its proceedings.

CH. MAU. TALLEYRAND.

True extract:

L. A. PICHON.

No. 432.

The Secretary of the Navy of the United States to S. Higginson & Co.

[Extract.

MARCH 20, 1801.

"The French national ship, the Berceau, captured by Captain Little, is to be restored under the treaty.

"You will please to cause her to be delivered, with all her guns, ammunition, apparel, and every thing belonging to her, to the order of Mr. Pichon, Commissary General and Chargé des Affaires from the French Government to the Government of the United States, whenever such orders shall appear.

"This business should be done as if no reluctance accompanied the restoration. We are now at peace with France, and we should act as if we returned to a state of amity with pleasure. Let there be no cause of complaint against the Government or its agents.

"I have the honor," &c.

No. 433.

Mr. Pichon to the Secretary of State of the United States.

[Extract.]

PHILADELPHIA, *June* 18, 1801.

"To return, sir, in effect to the objects which are the subject of your reply, it only remains for me to pray you to offer to the President of the United States my thanks for the decisions which you have communicated to me from him.

"As to the sum of $15,000 advanced by the United States to succor the colonists who had fled from St. Domingo, I hesitate so little to acknowledge that the French Republic is accountable for it to these States, and am so sure that the principles which govern the First Consul of the Republic will lead him to admit this obligation, that I offer, sir, to include it in the liquidation, which I am desirous of making as soon as possible, of the claims which the Federal Government has upon that of the Republic, for the different advances which it has made for our prisoners, since the misunderstanding, and for every other purpose. I have had the honor, sir of praying you to be pleased to invite the respective departments who have made these advances to prepare their accounts.

"As soon as all expenses of this kind shall be closed, I shall think myself sufficiently authorized to settle and adjust them."

No. 434.

Mr. Pichon to the Secretary of State of the United States, July 10, 1801.

[Extracts.]

2d. "What course the President of the United States will follow with regard to the restitution of property under the article of the treaty, it being known that France has actually restored many vessels; whether the Government will be able to procure restitution, or whether it must be subject to legislative co-operation.

3d. "Citizen Pichon, as he intimated it, is authorized to take possession of all the property which is to be restored to individuals who are not present, or have no attorneys. The present state of war, and the constant habit of the consular administration of France, which has made Consuls guardians of property belonging to absentees, has suggested the measure; and other obvious reasons make it expedient for the administration and individuals both.

4th. "In all prizes made by American public vessels, one-half of the capture accruing to the United States, Citizen Pichon wishes to know whether even that half of the property is only to be restored by legislative concurrence or whether the Executive can give it up. It would be peculiarly gratifying in the case of the Vengeance, where individuals are yet present, and are soon embarking for France, at which place, from their military situation, it will prove extremely difficult for them to obtain their *quota* of the restored property."

6th. "No answer has been yet made on the case of the *Insurgente*. Inquiries must have been made at the Navy Department to ascertain some facts which may be elucidated by the discussion of that case."

No. 435.

Mr. Madison, Secretary of State, to Mr. Rufus King, Minister Plenipotentiary of the United States to Great Britain, dated Department of State, December 10, 1801.

"Among the effects of the peace, in this country, * * * propriety of applying it herself.

"The ratification of the convention by the French Government, having a declaratory clause inserted in it, the President thought proper that the instrument should not be proclaimed as a law until the Senate should see and sanction it with that ingredient. There is no reason to suppose that any further delay will be occasioned by this course than what belongs to the usual forms of proceeding."

(Vide volume 2, Foreign Relations, page 497.)

No. 436.

The Chargé des Affaires of the French Republic to the Secretary of State of the United States, dated March 19, 1801.

The undersigned, Chargé des Affaires of the French Republic, * * * the good understanding between them.

The undersigned has the honor to pray the Secretary of State to be pleased to accept the assurances of his perfect consideration.

L. A. PICHON.

(Vide volume 2, Foreign Relations, pages 430, 431.)

No. 437.

Mr. Lincoln, Acting Secretary of State, to Messrs. Ellsworth and Murray, Envoys Extraordinary of the United States to France, dated Department of State, Washington, March, 1801.

Mr. Madison, the Secretary of State, benig not yet arrived at the seat of Government, I have been authorized by the President to discharge the duties of that office per interim; and among the objects which have claimed the earliest attention is the convention signed by yourselves and General Davie with the Government of France. This instrument was laid before the Senate on the 16th of December, and having met with considerable difficulties there, was under discussion till their final vote on the 3d of February, by which they advised and consented to the ratification of it with the suppression of the 2d article and the addition of an article limiting its duration. The term of change in the administration being then approaching, this matter has rested to the present moment. Though the day agreed on for exchange of ratifications will, from these unavoidable causes, have passed over, yet we apprehend that that exchange, being only a matter of form, will suffer no difficulty, and then it will take place on your receipt of this, as a matter of course, if the modifications of the Senate meet with no objection, as we hope they will not. It appeared from the documents you transmitted that the 2d article was chiefly of your own soliciting, and that its omission is not likely to be disagreeable to France. There was in the Senate a considerable diversity of sentiment on it, and as, by our Constitution, one-third of that body can negative a treaty, or any particular article of it, there was found to be a sufficient number against this article to effect its negative. With respect to the additional article, limiting the duration, you will recollect there was an express instruction to that effect among those given to you. It is perhaps unwise policy in any nation to bind itself perpetually by an act which requires the consent of another nation to annul. It is most unwise in us of all nations, because the circumstances of our existence, and of our relations with others, change so rapidly. What is now advantageous may soon become otherwise, and our increasing strength is daily facilitating the command of just dispositions on the part of others. It has, therefore, been the invariable policy of this country, since the date of its earliest treaties, to enter into none which shall not be limited to short terms, and now look forward with desire to the moment when we shall be free from compact with every nation, and have a right to govern ourselves with every one according to the principles of justice, and of friendship proportioned to what we experience from them. We hope and trust these modifications by the Senate will meet with no difficulty, and you are accordingly desired to use your best endeavors to obtain an acquiescence in them, and a final ratification in that form; nevertheless, should the suppression of the 2d article meet with obstacles on their part, which we do not expect, rather than keep things between the two countries in their present unsettled state, you might accept a ratification re-establishing the 2d article, only reserving to the Senate their constitutional right to advise or refuse a ratification in that form. But as to the additional article, limiting the duration, it is a sine qua non from which we cannot depart. In every event we are carrying the convention into execution in all its parts. All hostilities on the sea have been forbidden, our vessels are returning into port, the prisoners in our possession are in a course of delivery to M. Letombe, former Consul of France, he is notified that all those officers may resume their functions, commercial intercourse is restored, a number of our vessels actually cleared out and departed for France, and orders given for the restitution of vessels under the 3d article of the convention; but I am sorry to say there is great reason to apprehend the Insurgente is lost, together with a vessel of ours called the Pickering, and all their crews. They were on a cruise together in the West Indies, in the month of August last, since which neither have ever been heard of. Should they return, (which, however, we do not expect,) the Insurgente shall be immediately restored according to the convention.

It is possible that these modifications of the convention may give rise to new discussions between yourselves and those whom the Government of France may authorize on their part, and as we observe that an armed coalition in vindication of neutral rights is formed or forming in Europe, it is also possible that Government may indulge a wish that we should take a part in it, and may make it an ingredient in the new discussions. In that case, you are to set your faces against it at once, and to declare it a subject on which you have not a word to say, nor will say a word. In truth, we are determined to take no part in European quarrels; we will endeavor, by a rigorous observance of justice toward all nations, to preserve peace and commerce with all; and we will not suffer our peace to be committed, but by our own actions, or those of others immediately respecting ourselves. We shall endeavor to lead nations to their interest, to observe all the terms of good correspondence and neighborhood with us, and if they fail in these to make it still their interest to return to them. To connect ourselves with the complicated combinations of the interests of Europe would be to relinquish the most precious gift of nature, insulation from the power and politics of that continent.

As this matter will of course bring you into conference with the Minister of Foreign Affairs for that Government, you are desired to avail yourself of that opportunity of conveying to the Government assurances of the friendship of this country to that, that the President will omit no occasion of proving to them his dispositions and wishes to cultivate harmony and good correspondence, by an observance of all those attentions and procedures which are found in respect, in justice, and in usage, between nation and nation, by a rigorous regard to justice in whatsoever may arise between us, and by every proof of friendship and favor which may be consistent with the justice due to others. He sincerely prays and hopes that the war in which that country is now engaged may be speedily terminated, and pledges himself, during its continuance, to observe a faithful and conscientious neutrality towards all the belligerent powers.

The honorable Mr. Dawson, member of the late Congress from the State of Virginia, will deliver you this, with the treaty which is committed to his care. He will direct the vessel which carries him to return without delay, and awaiting the ratification on the part of France, he will receive it from you, and take his passage back in some other vessel. You are desired to press for this ratification with as little delay as possible, and being obtained and delivered to Mr. Dawson, you will consider it as closing your proceedings and powers; so soon as it is received here a Minister Plenipotentiary will be sent on our part to reside with that nation.

I am, gentlemen, &c., &c.,

LEVI LINCOLN.

No. 438.

Mr. Lincoln, Acting Secretary of State of the United States, to Mr. Murray, dated Washington, April 23, 1801.

[Extract.]

"The beneficial effects of ratifying the convention with France is extensively felt and generally acknowledged. On our part it is carried into execution. Our ships of war are called into port. Our trade is passing through channels which have been obstructed, and spreading on seas which have been infested. Our shipping and produce are in quick demand, our former intercourse with France is restored, and it is to be hoped you have already obtained her confirmation of the treaty which has in part produced these advantages."

No. 439.

Mr. Pichon to Mr. Madison, Secretary of State of the United States, dated Georgetown, 21st Messidor, 9th year, (July 10, 1801.*)*

Citizen Pichon returns the Secretary of State, with his best compliments, the enclosed papers, which were communicated for Citizen Pichon's examination.

It is Citizen Pichon's opinion that the cases of American captures by French West India cruisers, described in those papers, all except the case No. 1, of the brig Betsey, of Norwich, captured January 1797, and adjudged on the 14th, come within the provisions of the 4th article of the treaty, and will accordingly, upon application made by the claimants, be duly compensated. Citizen Pichon is sorry to find that in the case last transmitted of the brig Polly, condemned at Guadaloupe in October last, the present Governor, La Crosse, on application, has given it out as his opinion, which is, probably, to extend to similar cases, that the settlement of those claims is to take place at Paris, and to be referred to the Council of Prizes. Upon the first notice of the decision, Citizen Pichon wrote to General La Crosse in the terms of the enclosed extract. However, he thinks it advisable that all claimants under the late treaty for captures carried in the West Indies do apply to the administration of those places, and there procure with the decrees of adjudication a written answer on their claim, in order that, in France, no argument may be objected to them from the possibility of their having successfully applied to the Colonial Administrations, who, unless Citizen Pichon is very much mistaken, are fully authorized to execute their part of that stipulation of the treaty; but who, also, from their embarrassed circumstances, may not have competent means to do it immediately.

No. 440.

[Translation.]

The Minister of Exterior Relations to Mr. Pichon, dated 16th Thermidor, year 9 of the Republic, August 4, 1801.

[Extract.]

I have received, citizen, your despatch of the 14th Prairial, (4th June,) and the papers you have enclosed with it.

I have the pleasure to inform you that the Government of the Republic has ratified the convention of the 9th Vindemiaire, (30th of September.) It has not escaped you that the ratification of the Senate and of the American Government, in truth, unusual, irregular, and incomplete, has placed us in a position which was not in reality embarrassing, but because we were sincerely disposed to enter into, with the United States, our ancient relations of good understanding and amity. It would have been extremely easy and plausible to terminate this discussion by a refusal to ratify, in citing the radical defect of the American ratification; but then the reconciliation of both nations would have remained uncertain, and would have been left to the chances of an unknown futurity. The Government has preferred to terminate this debate in the manner the most conformable to the interests and to the sentiments of the two nations. However, as in ratifying without explanation, the two Governments would have found themselves in an unequal position relative to the pretensions expressed in the suppressed article; the suppression of this article releasing the Americans from all pretensions, on our part, relative to ancient treaties, and our silence, respecting the same article, leaving us exposed to the whole weight of the eventual demands of this Government relative to indemnities; it has become necessary that a form be introduced into the act of ratification, in order to express the sense in which the Government of the Republic understood and accepted the abolition of the suppressed article.

I transmit to you, herein enclosed, the form of ratification and the verbal process of exchange. I ought not to suppose that this act could be the object of any explanation between you and the Federal Government; in every case the particulars of the negotiation are perfectly known to you.

You know that the second article had not been introduced into the convention without repugnance on the part of the American minister. Mr. Murray, urged by our ministers to explain the motive for the suppression of this article, declared *that the question was too interesting not to have already captivated his attention; and that, taking for the basis of the views of his Government the desire to establish harmony between*

the two nations, he was of opinion that the motive for the rejection of the second article could be found in the article itself, looking upon it as susceptible of producing disquiets in future, by promising nothing but an ulterior and discordant negotiation; and in the desire of placing reciprocal friendship rather in the natural course of things, than hazard it in an article which, if it had ever been executed, would have a palpable tendency to disturb it.

This is a full and wise explanation. It is, moreover, too conformable to the dispositions of harmony which exists between the two Governments, and of regard which united both nations, that the Government of the Republic should not have heard, with certainty, that the abolition of the second article was equivalent to the abolition of all the pretensions that have so long established discord in the relations of the two countries and in the discussions of their legislatures.

I have room to believe that, in your immediate answer to my despatch of this day, you will inform me of the approaching departure of Mr. Livingston. In awaiting the arrival of the Republican minister, and the definitive nomination of the Commissioners of Commercial Relations, I confide in the zeal of the agents whom you have provisionally appointed, and in the wisdom of the directions which they receive of you.

I salute you.

CH. MAU. TALLEYRAND.

No. 441.

The Particular Director of the General Liquidation of the Public Debt to Mr. Skipwith, Commercial Agent of the United States, and Commissioner appointed for the examination of American Claims, dated Paris, the 21st Ventose, year 12 of the Republic, (March 12, 1801.)

[Translation.]

The Counsellor of State, Director General of the Liquidation, sir, has sent back to me the two letters which you wrote to him on the 24th of February, 1st of March, (4th and 10th of this month,) to which are added fifteen certificates of the American commission, relative to as many credits as were by it deemed inadmissible, and to which it appears that this commission did not consider itself possessed of the power to apply the disposition of the convention of the 30th of April, (10th Floreal ultimo.) I know not, sir, if at the time of the examination which you made in my bureau of papers relative to these fifteen claims, whether you were of opinion that they did or did not form a part of the exceptions taken into the convention, at least have not given me information on the subject; but, as you would probably have made, in conformity to the 10th article of the convention of the 10th Floreal, a report to the American commission upon each of the claims of which it treats, and that the Director General desires the General Council of Liquidation to inform itself of the motives of the rejection which has been made of these claims, I pray you, sir, to transmit them to him, or direct them to me directly.

I have the honor to salute you.

GUILLAUME.

No. 442.

[Translation.]

The Minister of Exterior Relations of the French Republic to Mr. Pichon, Chargé d'Affaires and Commissary General of the Republic near the United States, dated Paris, 23d Prairial, year 9, (June 12, 1801.)

[Extract.]

"As to the difficulties which the form of ratification sent by the Federal Government may give rise to, Mr. Murray has just arrived at Paris to treat of them with the French ministers who had signed the convention, and these conferences are to be continually kept open. I shall lose no time in communicating to you their result, in order to put a stop, as soon as possible, to whatsoever your political position may still have of an embarrassing and unsettled nature.

"The French Government, after having given proofs of their desire of reconciliation, with so much candor, and even without reserve, have necessarily observed with reluctance that there were yet some discussions to enter into respecting an act which ought to have terminated them all. I cannot represent to you after what manner the points in dispute will be regulated; I will only state to you that the liberal dispositions of the French Government towards the United States are not changed, and that they are always disposed to terminate, by a course the most honorable to both powers, the differences which have for some time kept them apart."

No. 443.

Mr. R. R. Livingston, Minister Plenipotentiary of the United States to France, to Mr. Madison, Secretary of State of the United States, dated Clermont, September 16, 1801.

[Extract.]

"France is greatly interested in our guarantee of their islands, particularly since the changes that have taken place in the West Indies, and those which they may have still reason to apprehend there. I

do not, therefore, wonder at the delay of the ratification, nor shall I be surprised if she consents to purchase it by the restoration of our captured vessels. This ground is very delicate, and I hope to be favored with your sentiments very much at large upon it, and the most explicit instructions, in case the negotiation should not be finished by Mr. Murray."

No. 444.

Mr. Madison, Secretary of State of the United States, to Mr. Livingston, Minister Plenipotentiary of the United States to France, dated Department of State, September 28, 1801.

[Extract.]

"You have been already informed of the intention of the President that your departure for France should be hastened, and that you would be furnished with a passage in the Boston frigate, which, after landing you at Bordeaux, is to proceed to the Mediterranean. When this intention was communicated, it was understood that some difficulty had arisen in obtaining from the French Government a ratification of the convention as altered by the Senate. We now learn, by letters from Mr. Mountflorence, that the ratification took place on the 31st of July, and that Mr. Appleton is on his way with it to the United States. This change in the state of things coincides with the other reasons for your speedy departure, and the President wishes it to take place as soon as your preparations and those of the frigate will admit.

"You will herewith receive your commission as Minister Plenipotentiary from the United States to the French Republic, and your letter of credence.

"In presenting the latter, the President authorizes and charges you to give the fullest assurances of the friendship of the United States towards the French Republic—of their disposition, as well as his own, to cultivate a perfect harmony and good correspondence between the two nations, and of the sincere pleasure resulting from the termination of the late painful differences, in a manner that promises a return of mutual confidence and beneficial intercourse. These sentiments you will convey in the terms best calculated to give cordiality to the reconciliation which has taken place, and to prepare a favorable way for such further discussions and arrangements as the interest of the United States may require.

"As you will be able to assure the French Government of the good faith with which the convention will be executed on the part of the United States, an execution of it with equal punctuality on theirs may, with the greater propriety and effect, be insisted on. The restitutions in behalf of the United States, stipulated by the fourth article of the convention, will claim your particular attention. They embrace three descriptions of claims: 1st, cases of capture wherein no judicial proceedings have been had; 2d, cases carried before French tribunals, and not definitively decided on the 30th September, 1800; 3d, captures made subsequent to that date.

"Considering the very great irregularities practised by French cruisers, especially in the West Indies, it is probable that the first description comprehends a large amount of property. For disclosing and verifying captures of this description, the exertions of the claimants must be chiefly relied on. Some few cases of the last description are known to have arisen in the West Indies before the signature of the convention was known. In other quarters similar captures may have been made from the same causes. In these instances, also, the requisite information may be expected from the sufferers. Of the second description, a tolerably comprehensive detail can, no doubt, he obtained from the Council of Prizes and from Mr. Mountflorence, if remaining at Paris, who seems to have had the superintendence of most of them.

"It seems to admit of no question that all captured property, (except contraband, destined to the port of an enemy,) proved to be American, in the manner described in the 4th article of the convention, whether depending at the date thereof in the Council of Prizes, or removable thither according to the then laws of France, and consequently not definitively condemned, must be restored specifically, or paid for either by the captors or by the French Government.

"We cannot but consider as unfortunate, in relation to both parties, the order of the Minister of Exterior Relations to the Council of Prizes, in January last, for suspending indefinitely and indiscriminately decisions on every species of property captured under the flag of the United States, which suspension was continued at the date of our last advices from Paris. We are, indeed, informed by Mr. Pichon, on the authority of the minister, that, as soon as the convention should be ratified on both sides, he would move a decree of the Consuls, for surrendering this property without the intervention of the Council. But, in the meantime, captures which would have been restored, according to the laws applicable thereto, without the aid of the convention, being involved in the general suspension, we are justified in complaining that the funds of our merchants have been unnecessarily withheld from them. Nor is this all. The rest of the property, so far as it remained in kind, may have partially decayed, or, when reduced to money, may have been converted more or less to public or private use. Hence, when the restitutions are to be liquidated, less may be received than the value which would have been recovered if the Council had been permitted to take its course, or if the restitutions had been immediately made; whilst the French Government will be bound to pay out of the Treasury for other property which has melted in the hands of privateersmen. This subject will claim your attention, and justify the representations most likely to obtain equitable arrangements for carrying into effect this part of the convention."

No. 445.

Mr. Livingston to the Secretary of State, dated Paris, December 10, 1801.

[Extract.]

"I found that nothing had yet been done for the American debt, and that the Council of Prizes were still condemning in the very face of the treaty. I yesterday had a private audience of the minister; I

stated to him, in strong terms, the conduct of the Council, and showed him that it was not only very injurious to the Americans, but must be ultimately so to France, since the Government would have to pay what was dissipated by the captors. He seemed perfectly to agree with me, and to wish that I would bring forward their enormities as soon as possible. The fact is, he has been overruled in the constitution of this body, and they have a strong support.

"I have directed Mr. Skipwith to give me short statements of the several cases to annex to a note I shall present as soon as possible. I entered upon the debt due to the American citizens, and endeavored to impress the minister not only with the injustice, but with the impolicy of the delay, as the want of credit might affect not only their manufactures, but their armament going to the West Indies, and concluded by desiring to know whether any or what arrangements had been made for the discharge of those demands that were actually liquidated. He told me that this not being within his department, he could not immediately satisfy my inquiries, but that he would do it as soon as possible, which was, in other words, to waive the business."

No. 446.

Mr. Madison, Secretary of State of the United States, to Mr. Livingston, dated Washington, December 18, 1801.

[Extracts.]

"SIR: The convention with the French Republic, as finally exchanged by Mr. Murray, arrived here on the 9th day of October last, in the hands of Mr. Appleton. As the form of ratification by the French Government contained a clause declaratory of the effect given to the meaning of the treaty by the suppression of the second article, it was thought by the President most safe, as a precedent, to ask anew the sanction of the Senate to the instrument with that ingredient. No decision has yet been taken by that body; and from the novelty of the case, the number of absent members, and the delays incident to questions of form, it is possible that it may be some little time yet before the subject is brought to a conclusion. It is not, however, to be presumed that any serious difficulty can ultimately clog it, and it is hoped that nothing in the present appearance will mislead the French Government into a suspension of proceedings for giving to the United States the benefits of the treaty. I am authorized to say that the President does not regard the declaratory clause as more than a legitimate inference from the rejection by the Senate of the second article, and that he is disposed to go on with the measures due under the compact to the French Republic."

"You will find by the proceedings of the House of Representatives, sketched in the newspapers herewith enclosed, that the injury threatened to our navigation by foreign regulations brought into activity by the peace, more particularly by the countervailing act of Great Britain, founded on her construction of the treaty of 1794, has engaged the attention of that Assembly. The resolution proposed by General Smith has been as yet very partially discussed, and it is uncertain what shape or turn may finally be given to it."

No. 447.

Mr. Livingston to the Secretary of State of the United States, dated Paris, January 13, 1802.

[Extract.]

"The reluctance we have shown to a renewal of the treaty of 1778 has created many suspicions. Among other absurd ones, they believe seriously that we have an eye to the conquest of their islands. This business of Louisiana also originated in that; and they say expressly that they could have had no pretence, so far as related to the Floridas, to make this exchange, had the treaty been renewed, since, by the 6th article, they were expressly prohibited from touching the Floridas. I own I have always considered this article and the guarantee of our independence as more important to us than the guarantee of the islands was to France, and the sacrifices we have made of an immense claim to get rid of it as a dead loss."

No. 448.

Mr. Livingston to the Minister of Exterior Relations for the French Republic, dated 1st Pluviose, 1802, *(20th of January.)*

SIR: It is not without pain that I find myself compelled, so shortly after my arrival, to complain to the French Government of direct and manifest violations of that convention which was considered in the United States as the basis of peace and the sacred pledge of harmony and friendship between the two Republics.

Whatever sacrifices the United States may have made to obtain it, they made them with pleasure, because they felt with pain the state of alienation in which they had been placed with their earliest ally; and I was, accordingly, charged by the President to inform the First Consul of their strict adherence to every article it contained. And this assurance had, I flatter myself, been preceded, on the part of the

Government of the United States, by every act of good faith and friendship that the convention enjoined. But, sir, I do sufficient justice to the integrity of the French Government to be persuaded that the infractions of the convention, which make the subject of this note, will not be seen by them with indifference; and that the misconstruction of it by the Council of Prizes, and the injuries their decisions have done, (under mistaken impressions,) will be speedily remedied by your friendly representation and the interposition of the Government. I believe, sir, it will not be disputed that it was the intention of the convention that, 1st, all vessels taken *after* its signature; 2d, all vessels previously taken, where no judicial proceedings had been had; 3d, all vessels on which no definite sentence had been given before that day, or which, by the laws of France, were removable from any other tribunal to the Council of Prizes, are to be determined by the 4th article, (contraband designed for an enemy excepted;) and that the only question relative to the cases of vessels or property under these circumstances is, had they the proofs and papers required by the 4th article of the convention?

With respect to property under these circumstances, the American Government had received authorized assurances from Mr. Pichon that its return would be immediately recommended on the ratification of the convention, by an arrêté of the Consuls, without the intervention of the Council of Prizes. How advantageous such an arrêt would be to both nations is obvious, since the delay occasioned by going through all the forms of a trial in the Council of Prizes, which sits but two days in a decade, is extremely injurious to the merchant, whose capital is so long diverted from its intended object, and who is at daily expense in the maintenance of his seamen. Nor, on the other hand, is it uninteresting to the French nation, since an immediate acquittal would generally enable the captured to obtain his damages from the captors. But when, by delay, the consequent ruin of the voyage, and the destruction or forced sale of perishable articles, the damages are greatly enhanced, they will frequently be unattainable from the captors; and, in that case, the French Government will become liable for them.

Under similar impressions the Government of the United States have acted, and immediately, without the intervention of courts or councils, discharged such ships as fell within the purview of the convention.

I cannot, then, but flatter myself, sir, that all vessels captured after 30th of September, 1800, will be discharged by an arrêt of the Consuls, without trial; and that the parties shall be left to pursue their remedy for damages occasioned by the capture and delay before the Council, without any detention of the ships; or, where the ship has been sold and the money deposited to await the event of a trial, that it be immediately restored, in like manner as the vessel would have been—the cause only being retained so far as may relate to additional damages; and that, for the furtherance of this latter business, the Council may be directed to devote a certain portion of every decade to this particular object. If the Government should not think proper to extend their decree to all the cases that may fall under the 4th article, but confine it merely to cases of captures subsequent to the 30th of September, 1800, I then presume to hope, sir, that the Council of Prizes will be directed to confine themselves simply to the inquiries pointed out by the convention, viz: had the ship the papers required by the 4th article?

It will appear, sir, by an investigation of the papers annexed, that they have allowed themselves a much greater latitude, and have even condemned, on pretences and proofs that would, I venture to say, have been insufficient in any maritime court, had no convention existed, (as for instance,) that a gun had been fired, though without the orders of the captain, after the vessel struck her colors. If, sir, the Council of Prizes are not confined, so far as their jurisdiction relates to the vessels of the United States, to the strict letter of convention, how is the situation of the captured bettered by it?

Viewing the Council of Prizes as a political board, and their proceedings divested of those solemnities which the French nation have deemed necessary, where a right to property depends upon a point of law, I venture to hope that, when the matter before them is a mere question of law—as, whether an appeal has been properly entered; whether the causes for not entering it in time are justified by the circumstances? and many others of a similar nature—it may be determined by the Tribunal of Cassation, on a reference to it, and a full hearing of the parties before that court. These questions being extremely interesting on account of the many irregularities in the French colonial courts, and the doubts that must in many cases arise on the question whether a case had, or had not, been definitively settled previous to the convention, in the meantime, sir, I request that the judgment and condemnation made by the Council of Prizes, 1st, where the capture was made after the 30th of September, 1800; 2d, where it was grounded upon any other circumstance than the want of the papers required by the 4th article of the convention, may be arrested and sent back to be determined agreeably to the stipulations of the convention, without regard to any other circumstance; and 3d, where the condemnations depended upon a mere question of law, that they may be suspended until they can be referred to and decided by the Tribunal of Cassation. I purposely forbear, sir, entering into the particular causes of complaint, since you will find them fully justified by the annexed cases, which will be verified by a reference to the records of the Council of Prizes, if any doubts should be entertained on the subject.

Confiding fully in the good faith of the Government, which has been proved not only by the facility with which the corps legislatif have given their sanction to the convention, by the liberal manner in which it was brought under their notice by the orators of Government, I forbear to press the various circumstances which at this interesting moment more particularly enforce the propriety of my demands.

I embrace this occasion, sir, to renew to you my sentiments of esteem, and the high consideration with which I have the honor to be, &c., &c.,

ROBERT R. LIVINGSTON.

No. 449.

Mr. Livingston to the Secretary of State of the United States, dated Paris, January 26, 1802.

[Extract]

"I am almost hopeless as to our claims here. One expedient has struck me, which may possibly, but by no means certainly, succeed. It is, to propose that the United States open a loan here to a certain amount, say $6,000,000, which will about cover the liquidated debt; that, when a debt is liquidated, the

creditor may subscribe to this loan, that shall open at 4½ per cent. At the same time, France shall open a loan at 5 per cent., to which the United States shall subscribe an amount equal to the debt she has assumed; covenanting, at the same time, that while the interest of this debt shall be punctually paid, she will not dispose of any part of it, except at certain long periods, and by instalments. The advantage that France will derive from this is, that her apprehensions about the fall of her present stock (by bringing more paper into the market) will be done away. The advantage to the United States will be, 1st, the saving from absolute ruin a number of their best disposed citizens; 2d, the putting an active capital into the hands of their merchants, which will be always more important than the interest they pay; 3d, the popularity it will give the Government; 4th, the advantage of paying at home, and drawing an interest from a foreign country, and the management of the exchange.

"Whether this can be effected I cannot say, but I wish to have the power to attempt it. Perhaps, by making it the interest of some, I may bring about what a sense of justice could never do. I must pray you, sir, to be particularly careful that this proposition be not mentioned; for, whether it succeeds or not, it will no sooner be known than it will become an object of private speculation."

No. 450.

Mr. Livingston to the Minister of Exterior Relations of the French Republic, dated Paris, 1st Ventose, an 10, *(February* 20, 1802.*)*

[Extract]

"The policy of the former Government of France led it to avoid all ground of controversy with the United States, not only by declining to possess any territory in their neighborhood, but by stipulating never to hold any. The undersigned does not, by this reference to the 6th article of the treaty of 1778, mean to reclaim any rights under it, since, by the convention of Paris, September 30, 1800, it is understood to be revoked; but merely to lead the French Government to reflect how far regard to the same policy might render it conducive to the mutual interest of both nations to cover, by a natural barrier, their possessions in America, as France has invariably sought to do in Europe."

No. 451.

Mr. Livingston to the Minister of Exterior Relations of the French Republic, dated [*Paris,*] *February* 24, 1802.

The undersigned Minister Plenipotentiary of the United States has the honor to remind the Minister of France for Exterior Relations that his several notes heretofore transmitted him remain unnoticed. Two of them are so important to the interest of the United States that he can no longer, in duty to them, forbear to request for them the attention of the Minister of Exterior Relations. The first, on the subject of the claims of American citizens, important in itself, is rendered more so by the actual position of the French colonies in America. The destruction and waste of property in the islands, the commencement of a new establishment in Louisiana, and the large fleets and armies at present in the West Indies, will probably require considerable supplies from the United States, while the return of peace has created a new confidence in France, strengthened, as the undersigned is informed, by reports now circulating there (probably by designing persons) of liberal measures that are said to be taken by the French Government for the faithful and immediate discharge of all their debts. It is the duty of the undersigned to transmit to his Government as early a statement of the measures about to be adopted on this subject as possible, with a view either to afford it the satisfaction that it will always feel in contributing to the interests of France, where it can be done without violating the duty it owes to itself, or of putting a stop to credits that must be ruinous to its citizens, already suffering under heavy losses sustained by the detention of a considerable capital in the hands of the French Government. As this subject will admit of no delay, the undersigned will think it his duty to state in his first despatches the measures he has taken to obtain payment, and the little ground that has been given him to hope for anything decisive on the part of the French Government, unless the Minister for Exterior Relations shall enable him to afford them information more conformable to their wishes and the expectations they have formed of the justice and resources of France. The second note alluded to is on the subject of the conduct of the Council of Prizes. On this, also, the Minister of Exterior Relations has omitted to afford him any decisive answer. In the meantime, the undersigned is receiving daily complaints of their entire disregard for the provisions of the treaty. When a vessel is even acquitted, it is done in such a manner as to amount to a total loss to the owner. Instead of awarding damages and costs, or even restoring the capture in the situation that *it was when taken*, they direct it to be restored in the state *it now is*, and charge the whole costs of detention, storage, &c., to the captured. The bills for these charges have alone amounted, on the cargo of a small brig, to 195,000 francs. And this, together with property plundered from the ship and stores, have, in general, exceeded the price at which the cargo would sell.

The undersigned prays the Minister of Exterior Relations to afford him some early information of the steps taken by the Government of France to prevent these abuses, and the violation of a treaty which it was earnestly hoped by the Government of the United States would serve as the basis of their future harmony.

ROBERT R. LIVINGSTON.

No. 452.

Mr. Livingston to the Minister of Exterior Relations of the French Republic, dated Paris, 22d Ventose, an 10, [March 13.]

The undersigned Minister Plenipotentiary of the United States has the honor to transmit to the Minister of France for Exterior Relations a printed copy of a proclamation made by the President of the United States, promulgating the late convention between the French Republic and the United States, and strictly enjoining upon the officers, civil and military, and other citizens, the faithful observance of it.

By this it will appear that the Government of the United States did not consider the explanation, annexed by that of the French Republic, as occasioning any change in the treaty, or as requiring a new ratification. The undersigned has also the pleasure of informining the Minister of Exterior Relations that a law was before the Legislature of the United States, and has undoubtedly passed before this, for appropriating such sum of money as might be requisite for the perfect execution of the convention on their part. The undersigned ventures to hope that these evidences of the solicitude of his Government to fulfil, with the most scrupulous exactitude, the engagements they have entered into will be cordially met by the French Government and that complaints which have originated in the errors of inferior Departments will be speedily removed by the interposition of higher authorities.

ROBERT R. LIVINGSTON.

No. 453.

Mr. Madison, Secretary of State of the United States, to Mr. Livingston, dated Department of State, March 16, 1802.

[Extract.]

"SIR: Your two favors of the 10th, continued on the 12th of December, and of the 31st of the same month, have been duly received, as were the two of preceding dates, written on your arrival at Nantz and L'Orient.

"We are anxious to know the result of your communications with the French Government on the subject of restitutions, both as to the rules by which they are to be settled and the prospect of their being satisfied. From the information of Mr. Pichon, it seems that the net proceeds only will be allowed where the property has been sold, which will operate against the United States in the proportion in which the claims of their citizens exceed those on the side of France. As the object of the stipulation is rather to restore what has been lost than what has been gained, there appears to be good ground for contending that the gross and not the net proceeds should be the measure of indemnification. Mr. Pichon gives us to understand, also, that the non-existence of the Insurgente at the date of the treaty will be no bar to the demand of her value. On a former occasion he had admitted the contrary, and his private opinion is no doubt still the same, but it is overruled by instructions from his Government. It is still hoped that the claim will not finally be pressed. A copy of my answer to a late note of Mr. Pichon, which I send you chiefly on account of the other subjects contained in it, will show you what has been added to the former reasoning addressed to him on the case of the Insurgente.

"The uncertainties supposed to attend a fulfilment of the convention by the French Government have excited a lively sensation in our citizens having claims under it, and have produced applications both to the Legislature and the Executive, urging a retention of the moneys due to French claimants as an eventual fund for the justice stipulated to themselves. A proceeding of this kind, however, is liable, under existing circumstances, at least, to the strongest objections. It would be grounding a breach of faith, on the presumption only of a breach of faith on the other side, and would be considered as mingling insult with injury. It would furnish a motive and a pretext for disregarding a compact, the complete and favorable execution of which it is our interest to require and to excite by our example. And it ought the less to be wished by our citizens, as the sum to be paid by the United States, if distributed among them, would bear so small a proportion to their claims that it could not, according to any just calculation, balance the danger to which these would be subjected by such a precaution. A different course, therefore, has been pursued. The requisitions of Mr. Pichon have been answered by promises of good faith, and of payment as soon as legal provision for it shall be made. He will even be permitted to receive, under the instructions from his Government, the sums due to individuals who do not themselves put in their claims. This is an arrangement not entirely agreeable, but it is pressed with much anxiety, and probably has relations to the armament at St. Domingo which give it a critical value. A refusal of it, therefore, would not only be taken unkindly, but might, by suspicion, be connected with an unfriendly policy charged on the preceding administration towards the French interests in that island."

No. 454.

Mr. Livingston to the Secretary of State of the United States, dated Paris, March 22, 1802.

[Extract.]

"I could wish to know how much (if anything) we are indebted to this Government, as I may, in that case, satisfy some claims by obtaining set-offs. The injury that our country has received by the precipitancy of the last administration, the revocation of the treaty, and the abrogation of the second article in the convention, are incalculable."

No. 455.

Mr. Livingston to Mr. Madison, Secretary of State of the United States, dated Paris, March 24, 1802.

[Extract.]

"I have, with great difficulty, procured an order for the payment of Archambal's bills, for the Trumbull and Olive, after the owners had waited here six months, and then without interest or damages. The demand of the Pigou is, I hope, also in the way of payment.

"As to the contract demands, the Minister of Marine told me I might as well ask him to cut off his father's head as to ask payment.

"However, on this subject, I shall be better informed when they reply to my note. I believe that they may possibly put the debt upon their 5 per cent. loan, which is now at 57, but will, in that case, fall considerably; so that, at most, the creditor, after waiting many years, will sink half his debt; but, as they hint, necessity has no law. Their expenses exceed their income, and the Government is at this moment maintained by anticipations, at an interest of from 12 to 18 per cent."

No. 456.

The Minister Plenipotentiary of the United States at Paris to the Minister of Exterior Relations of the French Republic, dated Paris, March 25, 1802.

SIR: I have been honored by your note of the 29th Ventose. The high opinion that I entertain of the sound policy and good faith of the French Government permits me only to see, in those parts of it which differ from the principles I have laid down, errors, either in my own judgment, or misconstructions into which you may have been led by a cursory view of the subject while involved in the variety of important concerns that necessarily engage your attention. These errors or misconceptions, either on your part or on mine, will, I flatter myself, sir, be removed by a free and candid discussion.

You admit that the 1st, 2d, and 5th classes of credits, mentioned in the note to which you reply, are of the nature of those for whose payment the Governments reciprocally undertake to provide by the 5th article of the convention; that is to say, that all debts contracted by either Government with the citizens of the other shall, agreeably to the first part of that article, *be paid* by the Government to such citizens; while the contracts of individuals, to which the Government is neither party nor privy, must be pursued in the usual course of law. I have the satisfaction of finding, sir, that you also agree with me in admitting that all those claims which result from the order, or have been authorized by the Government fall within the purview of that article which expressly stipulates that debts of this nature *shall be paid.* In which sense, I presume, I am to understand the words "d'entre dans la masse des compensations." As to what are authorized by the Government, having already expressed my sentiments, and not finding them contested in your note, I flatter myself that they accord with yours; while, on the other hand, I am ready to admit the public cannot be bound by the contracts of unauthorized individuals, except where they adopt their acts by drawing to themselves a benefit under them. I am sorry that my construction of the second article of the convention, and of their reference to it in the ratification of it by the French Government, does not agree with yours. You will recollect, sir, that the 2d article owed its birth to claims founded upon provisions contained in treaties previously existing between the two nations. That the Government of France was willing to admit those claims, provided the connexion created by those treaties were re-established; but that the Commissioners of the United States conceiving they were not empowered to treat on this subject, it was mutually agreed to suspend the negotiation relative to both those objects, and that, in the meantime, property captured and not then finally condemned should be mutually restored.

The qualified ratification can certainly extend only to the objects of the article, and puts an end to a discussion that was only postponed. For the accuracy of this statement, sir, I refer you to documents in your own possession, and to every transaction relative to this article during the negotiation, for proof that the indemnities there spoken of were intended to be confined to indemnities for captures and condemnations only where the cases had been finally decided on, without the smallest reference to vessels that France retained in her ports at great expense to the proprietors, with a view to her own particular advantage in the application of the cargo, or when a national object induced a general embargo. The injustice of placing this loss, sustained for general and national purposes, upon strangers who had no common interest with the nation, is so manifest that I persuade myself the idea never entered the mind of the negotiators on either side, and that you were led into this construction merely by the generality of the terms used in the second article, without revolving, so fully as I flatter myself you will now do, the circumstances upon which it was founded. If, however, sir, any doubts could be entertained on this subject, we should find an easy exposition of them, first, in the conduct of every board authorized to settle the claims of foreigners, who have uniformly admitted their justice and liquidated them; and, second, in the fifth article of the convention, which expressly stipulates for the payment of every debt contracted by the public, except those claimed "pour des captures ou pour des condemnations." It is certain, sir, that this exception could only be predicated upon the second article, and that it was, of course, intended to embrace every case contained therein; otherwise the second and fifth articles would be directly opposed to each other, the one suspending and the other directing the payment; for if, as the article supposes, the words "the debts contracted by one of the two nations" were sufficiently large to include even captures and condemnations, they must obviously have extended to indemnities resulting from such national acts as have always been considered as creating a debt in those who derived advantages under them. I dismiss this subject, sir, with this single reflection: that the greater part of these demands being claimed on the original contract, or on vessels and cargoes acquitted, or not finally condemned, (about which there can be no dispute,) the amount of the remainder is too insignificant to be contested by the Government of France. If a single doubt hangs upon the meaning of the article it will add to the national reputation for justice and good faith, on easy terms, to construe it with the liberality

that influences delicate minds when called upon to judge their own causes. The claims I have arranged under the 4th head, and for which you call for a more specific demonstration, will, I believe, be better referred to the consideration I am about to give to the observations you have honored me with on the subject of prizes, and which I shall take up in a separate note.

The principle upon which the accounts are to be liquidated, in most instances admitting of no doubt, by confining your answer, sir, to this object only, you have passed by the most material inquiries in my note, and to which I must again request an early reply, to wit: what is meant by entering into the "mass of compensation," or, rather, when, and in what manner that compensation is to be made? and what interest is to be allowed on the capital retained for years in the hands of the French Government? Many of these debts have already been formally settled by the officers appointed for that purpose. Partial payments have been made to some; to others bills of exchange, to the full amount, have been given by the Government. These bills have returned protested. Can it be necessary, sir, to reliquidate those accounts? Or can there be a doubt whether Government pay its own bills with interest, without any further loss of time in re-reliquidations? If one settlement of the account does not suffice, what security will the creditor have that the third and fourth will not be demanded? and, in short, that the expense in time and money, in attendance on new boards and new systems, will not absorb the value of his demand? I submit also to you, sir, whether, when funds are prepared for the payment of the debt, it is just to make those whose accounts are liquidated wait the settlement of accounts with others? The demand of each creditor is distinct and stands upon its own contract; and his right to payment is established as soon as his accounts are settled. On the subject of interest, sir, you are totally silent, though it certainly makes an important part of my application. When you reflect on the time during which creditors have been deprived of their capital, or the interest they might have made of it, or the inconveniences they have suffered by long and ruinous solicitations, and on the advantages that France has derived from the use of their principal, I think there can be no sort of doubt that an interest of six per cent. should be granted upon their demand from the time the debt became due.

The board of comptability, as I am told, are duly sensible of this, and are only restrained from granting it by the want of legal authority. I must, therefore, pray the Government to take measures for such an extension of the powers of this board as will enable them to do full justice to the public creditors. But, sir, it is not enough to say that debts shall be liquidated, and enter into the mass of compensation, without pointing out how or when they shall be paid. The 5th article of the treaty says expressly they shall be paid; but justice and good faith say it independent of the treaty. Yet they remain unsatisfied; nor is the most distant hope, as yet, afforded them by your note of when or how they will be paid. In my note on the subject of Louisiana I have hinted at a mode of discharging a part of them that would be advantageous to France, not only in a financial but in a political point of view. How far the informal note I had the honor to put into your hands may serve as a basis for some plan that may be acceptable to both nations I know not, but I wish it to be considered in its present form rather as a naked hint than a direct or authorized proposition, and by no means to break in upon any arrangement the Government proposes to make for the payment of our demands.

Having been deceived myself, I believe your Government also to be deceived as to the amount of American claims. They are in fact so trifling as to make the paying them or funding them, at the highest rate of interest, an object of little moment in a financial view, but of infinite importance in a political one. While this debt floats it will be much greater in opinion than it is in reality. It will present to the affrighted stranger and the ignorant citizen the picture of national bankruptcy, and will palsy every attempt to restore public credit. And the dread inspired by the example of men ruined by their confidence in the Government will not only weaken that confidence, but entering into every money transaction between the Government and the individual, must, in one year, cost more to France in the enhancement of prices than would have served to satisfy the whole debt. I must, then, again, sir, repeat my request that so much of the debt as has been fully liquidated, and about which there can be no dispute, be immediately paid, or at least by instalments. In this class fall bills drawn by the Government, or contracts acknowledged, and on which partial payments have already been made; that funds be prepared for the payment of the remainder of the debt as it is liquidated; that the Treasury or the commission of comptability be directed to add the interest to the principal; and that I may be enabled at an early day to declare the intentions of the French Government with respect to objects so important to the citizens of the United States, and to the restoration of confidence and harmony between both countries.

I repeat, &c.

ROBERT R. LIVINGSTON.

No. 457.

Proposition submitted by Mr. Livingston to the French Republic, [without date.]

American debt, the means and manner of discharging it with the *smallest* inconvenience to France.

It is understood that the Batavian Republic is indebted to France upwards of 20,000,000 of florins. Let a loan be opened in Paris by the Batavian Republic for a sum not exceeding that amount, under the direction of her minister.

Let American debt when liquidated be subscribed to this loan, (which France must guaranty;) let such payments, by instalments, be agreed upon as are most convenient to Batavia, even prolonging them beyond the periods agreed upon with France, and the interest of six per cent. per annum be paid quarterly at Amsterdam upon the loan; let the American minister at Paris be considered as agent for the creditors, and his signature to the loan be accompanied with an acquittance of the debt, to be by him signed and lodged with the Minister of the Treasury of France.

The United States, in consideration of the present demands upon France for money, and to facilitate her operations in the islands, and as a mark of her friendship, will, at the same time, permit her to open a loan within their territories for five million of livres, at six per cent. interest, *to be secured by the guaranty of the United States*, payable by instalments after ten years.

The advantage of this plan to France will be the discharge of debts which every consideration of justice honor, and policy, require her to pay; the actual profit arising from the recovery of her credit in

the purchases she is compelled to make; the receiving an immediate payment from Batavia instead of a distant one, since the debts discharged must be considered as so much money; the receipt of 5,000,000 livres, which will be more than equivalent in the purchases she is compelled to make in America, to twice that amount, if she makes them on credit, supposing it even possible, which is very doubtful to make them at all without remitting money, which it would not be very convenient to do.

The advantage Batavia will receive will be, that her loan will be effected with facility without breaking in upon the capital she requires to revive her commerce;

That the terms of payment will be convenient to her;

That mutual exchanges will take place between her citizens and those of the United States for the sums they respectively hold in each other's funds; so that, ultimately, no money will be drawn from either country.

The advantage to America will be the reimbursement of an active capital to her citizens.

The mutual advantage of France and the United States will be the restoration of good faith, friendship, confidence, and commerce between them.

ROBERT R. LIVINGSTON.

N. B. This operation will require the utmost secrecy till completed.

No. 458.

Mr. Madison, Secretary of State of the United States, to Mr. Livingston, dated Department of State, March, 26, 1802.

[Extract.]

"The House of Representatives have passed unanimously the appropriation for the French convention, and the Senate will no doubt pass it with as little delay as their forms will permit, and probably with unanimity also."

No. 459.

Mr. Livingston to the Minister of Exterior Relations of the French Republic, [marked, sent in April 17, 1802.]

SIR: I have hitherto delayed replying to your observations on the subject of prizes, because, considering it as a matter of comparatively less moment, I did not wish to break in upon the time you were about to afford to the more important subject of the demands for debts due from the French Government to American citizens. In the note you did me the honor to write on the 17th Germinal you inform me that you have presented a report on this subject to the First Consul; and as I have every reliance upon his justice, upon the manner in which you would naturally present this object to his consideration, and upon the resources of the French Government, I shall patiently wait his decision which will doubtless be made at an early day, and while the session of the Legislature enables him to recommend the laws that may be necessary for the satisfactory termination of this business.

I am sorry, sir, that we should still continue to think differently on the subject of the indemnities. The fifth article appears to me to go much further than your construction of it is willing to admit. It expressly stipulates that all debts due by either Government to the individuals of the other *shall be paid.* But as this would also have included the indemnities for captures and condemnations previously made—and it was the intention of the contracting parties, by the second article, to preclude this payment as depending on a future negotiation—it was necessary to except from this promise of payment *all* that made the subject of the second article. The exception, therefore, must be considered as a complete explanation of the extent of the word "indemnities" in that article; and the whole of the fifth article, taken together, amounts to an express stipulation to pay every debt due to individuals, except such as they might claim for indemnities for captures and condemnations, and must have been so construed had the 2d article continued in the treaty. On its being erased the 5th article stands alone as a promise to pay, with the single exception of indemnities for captures and condemnations. It will, sir, be well recollected by the distinguished characters who had the management of the negotiation that the payment for illegal captures, with damages and indemnities, was demanded on one side, and the renewal of the treaty of 1778 on the other; that they were considered as of equivalent value, and that they only formed the subject of the 2d article; and that, as to the payment of indemnities for embargoes, in consequence of the cargoes being put in requisition, or with a view to any other political measure which carried with it nothing hostile to the United States, no controversy ever arose between the plenipotentiaries of the two nations.

I am ready, sir, on the other hand, to admit the justice of your remark so far as relates to indemnities for captures and condemnations which had been made previous to the signature of the treaty; and that, as to such parts of my note on the subject of prizes as relate to this object, I acknowledge that my demand cannot be supported by the convention.

Permit me, sir, now to observe that while you limit the treaty to the narrowest possible construction in one part, you allow to the Council of Prizes a latitude which renders it nugatory on the other. You say that the Council of Prizes are not only to govern themselves by the rules prescribed by the convention, but by those maritime regulations that all nations agree to observe with respect to each other; and you instance the case of the ship Winyaw as one in which they were authorized not only to examine whether the ship had the papers required by the convention, but such others as tended to prove that she was not American property.

The rule, I believe, sir, laid down by the best writers for the construction of treaties is, that, as to the subject-matter of the treaty, no reference is to be had to the laws of nations, but the case is to be governed by the rules prescribed by the treaty. Were it otherwise, all treaties would be nugatory, because the laws of nations are, in themselves, liable to an infinity of constructions, and it is to avoid

discussions on the subject of them that treaties are commonly made. Your courts, sir, certainly professed to be governed by the maritime laws of nations in the condemnations that laid the first foundation for the differences that unhappily prevailed between our respective Governments, while the United States appealed from their decisions to the same laws. The maritime law and the law of nations is one thing in France, another in England, and a third in Algiers; and treaties are made with each by other nations, either to overrule or to give a common explanation to this law, of which each claims his own to be the best exposition.

The treaty has expressly declared what shall be evidence of American property, and, this evidence having been furnished, the Council of Prizes have no right to look further. Had the Winyaw wanted those papers, which the treaty declares to be conclusive evidence, she must then have been adjudged by the law of nations; because, in that case, there would have been no other rule. This distinction, sir, is the only one that can render treaties of any avail. Depart from it a moment, and there is no barrier to stop your courts from proceeding all the length they did before the signature of the convention. If the papers of the Winyaw were fraudulently given by the Government of the United States, it affords a just cause of complaint, and the Government of France has a right to demand an explanation on the subject; but while the treaty is held to be in force, courts, who have no right to look beyond the treaty, are bound to conform to its provisions. If, on the other hand, these papers were fraudulently obtained from the American Government, they alone have a right to punish the offence, even though France should remotely suffer by it. And if this was the case (for which I candidly acknowledge there appears to be some color) it would have been the duty of the court to have collected the evidence, and to have made a representation of the facts to their Government, who would have transmitted them to that of the United States; in the meantime, either returning the vessel for their decision, or sending her to them for trial. The laws of the United States would not have suffered the offence to go unpunished; and their generosity would have led them to bestow on the captors the amount of the forfeitures received by the Government. You pass, by, sir, the other cases which made the subject of my several notes. The cases of the Ann and the Commerce suggested the idea of a reference to the Council of Cassation; not on the general merits of the cause, but on single and nice points of law, to wit: whether they were to be classed under the head of vessels which had been finally condemned; and that because the forms of this court would have admitted a solemn and public argument, while the Council of Prizes, which is rather to be considered as a Board of State than as a court of law, is governed by other rules. Without, however, pretending to insist upon a measure which I conclude, from your note, to be inconsistent with those that the Government have found most expedient, I would only pray that those cases which carry with them a great degree of hardship may be reconsidered, under such directions as the Government (to whose revision Courts of Admiralty, specially constituted, are usually subjected) may think it just to give. I need hardly use any arguments to enforce the same request in favor of the Rodolph Fredrick, whose condemnation can certainly not be justified by the convention, nor by the maritime code of any nation.

The request contained in my note, relative to the giving up of vessels, by order of the Government, without the interference of courts, you have convinced me, sir, would be attended with inconveniences if extended beyond the cases of vessels taken since the signature of the convention; and it is of less moment relative to them, as I have yet heard of but two such cases, the Nancy and the Hope. In the first the Council of Prizes have decided in the manner that I wished the Government to do; so that the only remaining case is that of the Hope; in which, sir, I flatter myself with the interference of Government upon the statement already given.

I have had occasion to mention the manner in which ships, liberated under the convention, are acquitted. The decisions of the courts not only go to throw upon the owners all the injuries they have sustained by the capture and delay in French ports, but all expenses which have been incurred, not by them, but by those who brought them into port.

This, in many instances, renders the decree nugatory; since the expenses frequently amount to more than the value of the ship and cargo, as I have had the honor to convince you by the exhibition of bills that on a brig amount to 195,000fs. The convention directs that they shall be given up; but it in no part justifies the burdening of the ship with any costs or charges. These must necessarily fall upon those who occasioned them, and not upon the unoffending neutral. It would otherwise have been better that there had been no treaty relative to them; since, in that case, if not legally taken, they would have been entitled to costs and damages. If the Government shall be pleased to recommend to the Council of Prizes a revision of the cases I have mentioned, or prescribe rules conformable to what the treaty appears to me to direct, I shall, sir, trouble you for the earliest information, that I may apprise the parties to be prepared for their hearing, and give my Government the satisfaction of learning the readiness with which that of France attends to every object which promotes the harmony that happily subsists between the two nations.

I am, &c.,

R. R. LIVINGSTON.

No. 460.

Mr. Madison, Secretary of State of the United States, to Mr. Livingston, dated Department of State, Washington, May 1, 1802.

[Extract.]

"The conduct of the French Government, in paying so little attention to its obligations under the treaty, in neglecting its debts to our citizens, in giving no answers to your complaints and expostulations, which you say is the case with those of other foreign ministers, also and particularly in its reserve as to Louisiana, which tacitly contradicts the language first held to you by the Minister of Foreign Relations, gives tokens as little auspicious to the true interests of France herself, as to the rights and just objects of the United States. We have the better ground to complain of this conduct, as it is so much at variance with the example given by the Government here. The appropriation was no sooner carried through the legislative forms, than the settlement of French claims under the treaty commenced; and with the

advantage of every facility that could be afforded on our part, in ascertaining them; and, as Mr. Pichon was authorized to receive those due to individuals not applying, the whole amount has been already discharged, excepting in a very few cases which may require further examination. The claims were liquidated according to the net proceeds of the sales, as heretofore intimated to you, although it is still believed that restitution, according to the gross amount or value at the time of capture, not only would be more favorable to the United States, but more just in itself. The payment to Mr. Pichon, without a special power from the claimants, was by no means the choice of the President; but was so much pressed, as a test of the disposition of this country towards the French Republic, at a critical moment, that it could not be properly refused. The sum received by him is $140,841 25. That paid to individuals is $74,667 41.

"It is proper to observe to you, that in all cases where sales were made by the American captors prior to the date of the convention, without the trial and condemnation requisite, we have admitted the title to restitution without regarding the lapse of time between the capture and the convention, or making a question how far cases of that description were within the contemplation of the instrument. You, will, of course, avail yourself of this proceeding on the part of the United States, to enforce a correspondent rule in their favor, in case a different one should be contended for by the French Government. You will not fail to insist, also, if occasion should require, that, in cases where the time allowed for appeals had not run out at the date of the convention, it could not be necessary for the claimants afterwards to enter appeals. The convention, by recognizing all claims not barred by final condemnation at its date, evidently rescued them from all further subjection to judicial investigation.

"The cession of Louisiana to France becomes daily more and more a source of painful apprehensions. Notwithstanding the treaty of March, 1801, and notwithstanding the general belief in France on the subject, and the accounts from St. Domingo that part of the armament sent to that island were eventually destined for Louisiana, a hope was still drawn from your early conversations with Mr. Talleyrand, that the French Government did not mean to pursue the object. Since the receipt of your last communications, no hope remains, but from the accumulating difficulties of going through with the undertaking, and from the conviction you may be able to impress, that it must have an instant and powerful effect in changing the relations between France and the United States. The change is obvious; and the more it can be developed, in candid and friendly appeals to the reflections of the French Government, the more it will urge it to revise and abandon the project. A mere neighborhood could not be friendly to the harmony which both countries have so much an interest in cherishing; but if a possession of the mouth of the Mississippi is to be added to other causes of discord, the worst events are to be apprehended. You will, consequently, spare no efforts that will consist with prudence and dignity, to lead the councils of France to proper views of this subject, and to an abandonment of her present purpose. You will also pursue, by prudent means, the inquiry into the extent of the cession, particularly whether it includes the Floridas, as well as New Orleans; and endeavor to ascertain the price at which these, if included in the cession, would be yielded to the United States. I cannot, in the present state of things, be more particular on this head than to observe that, in every view, it would be a most precious acquisition, and that, as far as the terms could be satisfied by charging on the acquisition itself the restitution and other debts to American citizens, great liberality would doubtless be indulged by this Government. The President wishes you to devote every attention to this object, and to be frequent and particular in your communications relating to it."

No. 461.

Mr. Livingston to the Secretary of State of the United States, dated May 10, 1802.

[Extract.]

"I have no doubt that, if no accident happens to the First Consul, they will very soon be able to look all demands in the face, and that they will ultimately pay them; but, for the present, every claim meets with great difficulty."

No. 462.

Mr. Madison, Secretary of State of the United States, to Mr. Charles Pinckney, Minister Plenipotentiary of the United States to Spain, dated Department of State, May 11, 1802.

SIR: My last was of the 30th of March. We are still without a line from you * * * with a prudent zeal the task committed to you.

With sentiments of great respect, &c., &c.,

JAMES MADISON.

(Vide volume 2, Foreign Relations, page 517.)

No. 463.

The Minister Plenipotentiary of the United States at Paris to the French Minister of Exterior Relations, dated May 18, 1802.

SIR: It is not without extreme reluctance that I again call your attention to the notes I have presented to you on the subject of the claims of the citizens of the United States, as well on account of debts acknowledged to be due to them as on account of the decisions in the Council of Prizes, of which I have had reason to complain.

I see, sir, in all the declarations of the Government, and in those of the members of the Legislature, such just and forcible expressions on the subject of national faith and the importance of public credit, that I cannot permit myself to doubt their ultimate intention to realize, by their practice, the theory which adds such lustre to their eloquence.

But, sir, in the meantime, I see no step taken to accomplish this promise with respect to my distressed fellow-citizens; on the contrary, I find every possible obstruction thrown in their way; first in the liquidation of their debts, and next in affording a fund for their payment, when, after a tedious and expensive process, the debt is liquidated. I see the Board of Comptability extending to part of them a law which, at the present price of stock, would rob them of five-sixths of their capital; a law which repeated declarations of past Legislatures have shown not to have been intended to comprise foreigners, and in which they could not have been comprised without the most flagrant violation of public faith, but which, in every event, is superseded by the fifth article of the treaty, which expressly stipulates for the discharge of their debt.

I see the commercial capital of my fellow-citizens, the only means of their subsistence, withheld from them till the interest is equal to the principal sum; and yet no allowance made for that interest in the liquidation of the account. I see others of them, after sustaining heavy losses by the destruction committed at St. Domingo, compelled to become creditors of France by an act of power. And while the agent of France in America is declaring to the Government of the United States that every measure of justice is afforded by the prize courts to the claimants here, I see those very claimants reduced to beggary by their decisions.

While I am unable to obtain satisfaction for creditors who are already here, and find my breast wrung by the distresses of men who have wasted their substance and their time in prosecuting their claims through a series of tribunals, I am in hourly expectation of seeing another set of creditors arrive with fresh demands for property wrested from them by violence, or voluntarily given, from too fond a reliance on the assurances of agents who seek new credits by circulating in America reports of satisfaction given to the old. If those demands, grounded in the strictest justice and confirmed by a solemn convention, have hitherto been treated with neglect, on what foundation can I place the new ones that will entitle them to equal attention? Can it be possible, sir, that France, great, rich, and powerful, as she is, should not have the means of satisfying the comparatively insignificant demands of the American creditors, while she is placing the debt due to her own citizens upon the most stable foundation, and astonishing the world with the magnitude of her undertakings? Can armies and fleets, sir, be sent to a distant quarter of the globe so totally unprovided as to make it necessary to violate the rights of a friendly nation, to seize upon her commercial capital, and enrol an additional number of her citizens in the list of hopeless creditors? Though I readily admit that the just sense that the French Government entertains for her national credit and resources affords every prospect of a future payment, yet you will, sir, as readily allow that a distant payment is no compensation, either to the United States or to their citizens, for the actual inactivity of their capital. You will also admit, sir, that the attempt to include the American creditor in the list of those who have had two-thirds of their debt struck off, and the total silence of the Boards with respect to the interest, are not calculated to inspire confidence or revive credit. If not, sir, you must feel that it is the duty of the American Government to apprise its merchants of the actual situation of their fellow-citizens, who are now, and have been for years past, soliciting their just dues in France. And it is my duty, sir, to enable them to do this by requiring some more full and explicit answer than I have yet been honored with on the subject of our demands.

Permit me then, sir, to solicit an early reply to the following inquiries:

1. As the Government of France cannot mean to include the American citizens who furnished her with supplies, on contracts made with her Government or their agents, previous to the 25th Frimaire, an 6, in the class of creditors who are compelled to subscribe to the tiers consol, and thereby deprive them of two-thirds of their debt, and then, according to the present value of stock, of near half the remainder; or, in other words, as the Government of France, after having received, in times of the greatest necessity, the full amount of the claim, cannot mean to discharge it by the payment of little more than one-sixth, I beg to be informed whether it would not accord with their views to instruct the Board of Comptability, that the convention is a *law* which should be respected in the settlement of the accounts, and that by that convention it is expressly stipulated that the debts contracted by one nation with the individuals of the other shall be paid?

2. I would also again repeat the request made in my former notes on the subject of interest, and I desire to be informed whether, if any law is necessary to enable that Board to liquidate so just a demand, it will not be proper to obtain such law before the rising of the Legislature? If no law is necessary, I beg to know whether the Government has given, or will give, the Board instructions on that head? You will easily see, sir, how necessary it is, as well for the present holders of the debt as for those who may be disposed to give credit in future, to be well apprised of the principles of the Government on this subject.

3. I take the liberty, sir, further to ask, in pursuance of a request contained in a former note, whether it is intended that the system hitherto pursued in the island of St. Domingo is to be continued? Whether the property of American citizens, trading with French ports, is in future to be taken at a limited price, and the payment to be made in bills on France? I am persuaded, sir, that you will think this question sufficiently interesting to the United States to justify the inquiry I make, and to merit an early reply.

4. I beg leave, further, sir, to ask whether the Government have yet formed, or are about to form, any arrangement for the payment of the American debt? And at what period we may hope for its final discharge? And whether arrangements are made for paying the bills given to our citizens at St. Domingo as soon as they shall become due, and what the nature of those arrangements are?

On the subject of prizes, sir, I can only repeat my request for determinations on the cases I have particularly submitted, and for general directions to the Council of Prizes on the mode of acquittal, which shall prevent the abuses complained of in a note I have had the honor to present.

I cannot close this letter, sir, without affording you the satisfaction of knowing what has been done in the United States towards carrying the treaty into effect.

You are already apprised, sir, that, in restoring the French national ship the Berceau, the Government of the United States did not content themselves with restoring her *in the state she was*, but expended a very considerable sum of money in giving her a complete repair.

When my last advices came away, the House of Congress had passed a bill for putting into the hands

of the President three hundred and —— thousand dollars, which sum, I am informed by the Secretary of State, instead of being retained (as it justly might, and as the American merchants requested) until the claims upon it are duly authenticated, will be immediately placed in the hands of Mr. Pichon, who will have the use of it, until it is applied for by the proprietors under the treaty, and who will be thereby enabled to facilitate the operations of the French commanders in the islands. I trust, sir, that the Government of France will know how to appreciate this act of cordiality and confidence, and that it will derive with them an additional value from its being voluntary, and beyond what the treaty or good faith required of them, and that, too, at a moment when our own citizens had most reason to complain, not only of the inexecution of the treaty, but of the actual violation of their commercial rights.

Accept, sir, the assurance of my most perfect consideration.

I am, &c.,

ROBERT R. LIVINGSTON.

No. 464.

Mr. Livingston to the Secretary of State of the United States, dated May 20, 1802.

[Extract.]

"The rule here in acquitting is to give no damages; to load the vessel with all the charges, and to restore her in *the state she is*. You have a copy of my note on that subject to the minister. I submit it to you, if this is the case, whether you should not adopt the same rule, and whether the expenses employed on the Berceau should not make charges against the Government? I have heard nothing here relative to a claim for the Insurgente, and I am inclined to think it has been set up to afford a pretence to retain the money that will, by your promise, go into Pichon's hands, and, at the same time, to leave open the claims of individuals, under the treaty, against us. You will judge how far it will be proper, if you give him the money, to exemplify every particular claim, and to take a discharge as to such claim. Though I must own that I should have preferred retaining it as a kind of security for payments here, at least till some specific plan had been chalked out for their discharge; for, in fact, it would have gone far to have satisfied our demands against the *Government* for captures and condemnations, because the greater part of them will be recoverable from the individuals or satisfied by the mere restitution of the vessel and cargoes. As you have, however, determined otherwise, I have thought it best to derive the merit you intended from it, and have accordingly so mentioned it in the enclosed note.

"I yesterday called on the minister and had a long conversation with him on the subject of our demands; in which all I could get from him was an assurance that it was under consideration; and have, therefore, determined to bring him to something decisive by the note. This he will be compelled to answer; besides that it will fall under the Consul's eye."

No. 465.

Mr. Livingston to Mr Madison, Secretary of State of the United States, dated Paris, August 16, 1802.

[Extract.]

"A report for the discharge of our demands is before the First Consul. If adopted, it is all I can ask; more than I hoped. It is very pointed as to the justice of our claim, and the national disgrace that would attend its further neglect."

No. 466.

Mr. Madison, Secretary of State of the United States, to Mr. Livingston, dated Department of State, October 15, 1802.

[Extract.]

"The zeal and energy with which you are urging on the French Government, a fair construction and fulfilment of the convention, and a discharge of all our just demands, render it unnecessary to repeat to you our anxiety that the example of good faith given by the United States should not remain without a satisfactory reciprocity. The precise tone in your communications most likely to favor this result can best be decided by your own judgment. In a general view, the soundest policy evidently prescribes one that will cherish whatever good will or confidence may be felt towards the United States, and will charge on that side the blame of any failure in the pursuit of our objects. It must be left to your own decision, also, how far a direct resort to the head of the Government may promise better success than the ordinary channels of communicating with him. The delays and obstacles met with in the latter recommend the experiment if there be no objections to it drawn from usage or other considerations, not perceived at this distance. The experiment, which will, of course, be made with as little danger as possible of needless umbrage to the intermediate organ, may, at least, lead to a knowledge of the ground finally meant to be taken by the Chief Consul, and to which the further instructions of the President must be accommodated.

"The suspense which has taken place in relation to Louisiana and the Floridas is favorable to the efforts for diverting the French Government from its unwise project. Whether we regard the sentiments prevailing in this country on the subject, or the striking tendencies of the project itself, no pains ought to be spared for putting an end to it. If the occasion can be so improved as to obtain for the United States, on convenient terms, New Orleans and Florida, the happiest of issues will be given to one of the most perplexing of occurrences. I postpone more particular remarks on this subject until the President shall know the impressions on the French councils, resulting from the views of it to which you will be led by the despatches of which Mr. Dupont was the bearer."

No. 467.

No. 4.—*Mr. Livingston to Mr. Madison, Secretary of State of the United States, dated December* 24, 1802.

[Extract.]

"The treaty I propose might also form a basis for the immediate discharge of the debts due to our citizens; in the doing of which advantageous arrangements may be made, and, at the same time, the funds of France be considerably raised, provided that such secrecy is observed in the whole of this transaction as will prevent the debts being made the objects of speculation, other than such as the First Consul shall authorize. I know, sir, a distinction has been taken between debts due from the former Government and that which now happily prevails in France. But, sir, if this distinction is just, it does not apply to the demands of the United States; they were specifically assumed by the new Government when they made them the object of the treaty, and an equivalent has already been paid to the present Government by that of the United States; so that they stand upon different ground from the debts of other nations having demands on France; and they not only have to plead their justice, and the circumstances under which they were contracted, but the pledged faith of the existing Government."

No. 468.

Mr. Madison, Secretary of State of the United States, to Mr. Livingston, dated Department of State, January 18, 1803.

[Extract.]

"Mr. Monroe will be the bearer of the instructions under which you are jointly to negotiate. The object of them will be to procure a cession of New Orleans and the Floridas to the United States, and consequently the establishment of the Mississippi as the boundary between the United States and Louisiana. In order to draw the French Government into the measure, a sum of money will make part of our propositions, to which will be added such regulations of the commerce of that river, and of the others entering the Gulf of Mexico, as ought to be satisfactory to France. From a letter received by the President from the respectable person alluded to in my last, it is inferred with probability that the French Government is not averse to treat on those grounds. And such a disposition must be strengthened by the circumstances of the present moment.

"I have thought it proper to communicate thus much to you without waiting for the departure of Mr. Monroe, who will not be able to sail for two weeks, or perhaps more. I need not suggest to you that, in disclosing this diplomatic arrangement to the French Government, and preparing the way for the object of it, the utmost care is to be used in repressing extravagant anticipations of the terms to be offered by the United States, particularly of the sum of money to be thrown into the transaction. The ultimatum on this point will be settled before the departure of Mr. Monroe, and will be communicated by him. The sum hinted at in the letter to the President, above referred to, is ———— livres. If less will not do, we are prepared to meet it; but it is hoped that less will do, and that the prospect of accommodation will concur with other motives in postponing the expedition to Louisiana. For the present, I barely remark that a proposition made to Congress with shut doors is under consideration, which, if agreed to, will authorize a payment of about ten millions of livres, under arrangements of time and place, that may be so convenient to the French Government, as to invite a prompt as well as favorable decision in the case. The sum to which the proposition is limited, and which will probably not be effectually concealed, may, at the same time, assist in keeping down the pecuniary expectations of the French Cabinet."

No. 469.

Mr. Livingston to the Minister of Exterior Relations of the French Republic, without date, but endorsed, "Received in R. R. Livingston's, January 24, 1803."

The undersigned, Minister Plenipotentiary of the United States, to his Excellency the Minister of Exterior Relations:

SIR: I have so often had occasion to mention to you the claims of American citizens upon the French Government, and with so little effect, that I feel pain whenever I am compelled to touch upon that subject; but, sir, I never had reason to doubt, both from the tenor of your note and conversations, that it would

become a question whether these debts, just in themselves, and confirmed by a treaty, should become the subject of liquidation—the Board of Comptability accordingly proceeded to liquidate and give certificates for about one quarter of the whole amount. The debt so liquidated, the American merchant was enabled to raise the small sums necessary for his support, till arrangements were made, (which they never permitted themselves to doubt,) would be finally done for their discharge. But, sir, even of this, suppose they are now deprived, for though the Board has proceeded to liquidate most of their claims, the gentleman at the head of the Department refuses to give the usual certificates, under what pretence I am at a loss to conceive. I am told he considers the treaty as applying to debts contracted only under the present Government, when, in fact, no such debts existed at the time of the treaty, nor is there a word in the treaty which authorizes such construction—the whole treaty referring to matters that had passed, not only under the Government that had preceded the present, but under that which preceded the Revolution. Upon what other principle has the United States, with the strictest good faith, paid the debts contracted under Louis XVI, and those which the existing Government demanded under the late convention for injuries sustained under the late Directors?

It is time, sir, that matters should be brought to some issue; that the citizens of the United States and their Government should know how far the treaty is binding upon France, and what construction ought to be given to it; for hitherto it has only served as a means to surprise their good faith, and to involve both the Government and the people of the United States in fresh expenses.

I have the honor to renew to your excellency the assurances of my high consideration.

ROBERT R. LIVINGSTON.

No. 470.

Mr. Livingston to Citizen Bonaparte, First Consul of France, and President of the Italian Republic, dated Paris, February 27, 1803.

[Extract.]

"The claims of American citizens against the Government of France * * * hold under a limited price or within a limited time."

(Vide volume 2, Foreign Relations, pages 538, 539.)

No. 471.

Mr. Madison, Secretary of State of the United States, to Messrs. Robert R. Livingston and James Monroe, Ministers Plenipotentiary of the United States to France, dated Department of State, March 2, 1803.

GENTLEMEN: You will herewith receive a commission and letters of credence * * * the President relies on your information, your judgment, and your fidelity to the interests of your country.

JAMES MADISON.

(Vide volume 2, Foreign Relations, pages 540–'4.)

No. 472.

The Minister of Exterior Relations to Mr. Livingston, dated Paris, 19th Ventose, year 11, *(March* 9, 1803.*)*

[Translation.]

SIR: The First Consul, in remitting to me the memoir which you have presented to him, has ordered me to assure you that he had taken into serious consideration the objects you therein treat upon, and the divers demands which you have addressed to him.

He has, at the same time, caused a report to be made of all the affairs which have relation to these demands, and to the clauses of the last convention between France and the United States, to which you refer them. The intention of the First Consul, (and he has charged me to declare it to you,) is, that this convention in all its clauses be punctually and scrupulously executed.

The reflections, which in your memoir refer to the difficulties of this execution in regard to France, do not apply, with any sort of foundation, either to the dispositions of the Government of the Republic, or to the situation of its finances. The First Consul is persuaded that the presumptions, which have deceived you on this point, were suggested to you by benevolent disquietude; these presumptions, however, do not agree with the facts. There are no financial embarrassments in France; the French Government has the means as well as the desire to be just; and were they to find themselves so placed that the discharge of their engagements would be to them a painful duty to fulfil, they can rise above difficulties, and satisfy all legitimate claims against them.

As to the subject of American debts, an estimate whereof you give in the memoir addressed to the First Consul, I must acknowledge that it is quite new to us that by any estimate they could amount to the sum of twenty millions. The First Consul charges me to ask of you an exact, full, complete, and verified

statement of those debts. The perfect confidence wherewith you have inspired him does not permit him to doubt that you will give to the discussion of the principles which should form this statement all the discernment of your mind and all the frankness of your character; you must be persuaded, sir, that, upon such a statement, everything will be promptly and accurately settled.

As regards the twelfth question, which you have treated of in your memoir, and which relates to Louisiana, the First Consul was desirous that you should have made it the object of a distinct and separate official note. Affairs of so different a nature ought not to be brought near each other, and still less should they be blended together. It is entirely against the maxims of the Government of the Republic to mix important and delicate political relations with calculations of balances and with pecuniary concerns.

However, the First Consul, appreciating the motives that have led you to insist upon the explanation of the new relations which may exist between the two Republics, charges me to inform you that, being previously acquainted with the interest, premature perhaps, but at bottom natural and plausible, which the United States seem to give to this discussion, he has taken steps to send immediately a Minister Plenipotentiary to America, in order that he may be able, as soon as possible, to send him a report, which will put him in a condition of elucidating everything before he makes his determination upon this object.

Besides, in this circumstance, as in all those which can present an object of discussion between the two Governments, the First Consul desires me to give you, upon his dispositions with regard to the United States, the most positive and the most formal assurances of his attachment to your Republic, his personal esteem and personal consideration for the First Magistrate who presides over it, from a natural sentiment, that as a Frenchman, and as the chief of a nation the most constant and the most ancient friend of the American nation, he takes a pleasure in professing, and of which he will look upon it as a pleasing obligation to afford proofs.

In congratulating myself as being, at this moment, the instrument of the sentiments of the First Consul, permit me to renew to you, sir, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

No. 473.

Mr. Livingston to Mr. Madison, Secretary of State of the United States, dated Paris, March 11, 1803.

[Extract.]

"I have, a few days since, written to you, * * * the speculations of those who were in the secret." (Vide volume 2, Foreign Relations, page 545.)

No. 474.

Mr. Livingston to the Minister of Exterior Relations of the French Republic, dated March 16, 1803.

[Extract.]

"I have received with great sensibility your note containing the First Consul's reply to that I had the honor to present to him. On the subject of the American claims, the sentiments are such as would naturally be entertained by an enlightened statesman who, after advancing his country to the highest pinnacle of military glory and national prospects, had determined to give permanency to that prosperity by establishing it upon the firm basis of religion, good faith, justice, and national credit. On this subject, sir, I have no doubts, and I am satisfied, that when the claims are brought forward, they will, as you have the goodness to declare, be promptly and fully satisfied."

No. 475.

No. 73.—*Mr. Livingston to Mr. Madison, Secretary of State of the United States, dated Paris, April* 11, 1803.

[Extract.]

"Mr. Talleyrand asked me this day, when pressing the subject, whether we wished to have the whole of Louisiana. I told him no; that our wishes extended only to New Orleans and the Floridas; that the policy of France, however, should dictate, (as I had shown in an official note delivered,) to give us the country above the river Arkansas, in order to place a barrier between them and Canada. He said that if they gave New Orleans, the rest would be of little value, and that he would wish to know 'what we would give for the whole.' I told him that it was a subject I had not thought upon, but that I supposed we should not object to twenty millions, provided our citizens were paid. He told me that this was too low an offer—that he would be glad I would reflect upon it, and tell him to-morrow. I told him that as Mr. Monroe would be in town in two days, I would delay my further offer until I had the pleasure of introducing him."

No. 476.

Mr. Livingston to Mr. Madison, Secretary of State of the United States, dated Paris, April 13, 1803, *(midnight.)*

DEAR SIR: I have just come from the Minister of the Treasury. Our conversation was so important * * * and every moment is precious.

Mr. Monroe will be presented to the Minister to-morrow, when we shall press for as early an audience as possible from the First Consul.

I am, dear sir, with the most respectful consideration, your most obedient, humble servant,

ROBERT R. LIVINGSTON.

(Vide volume 2, Foreign Relations, pages 552, 553, 554.)

No. 477.

Mr. Monroe to the Secretary of State of the United States, dated Paris, April 15, 1803.

[Extract.]

"It is said that this Government has resolved to offer us the whole of Louisiana. This was intimated by Mr. Marbois to Mr. Livingston the day after my arrival, and to me since through another channel, as that the decision was formed at St. Cloud the day on which General Bernadotte was ordered to set out to the United States. It was intimated by the former that the First Consul estimated the territory at about 120 millions of livres, 20 of which, or near that sum, being due to our citizens, would of course be paid to them. On being urged to state the lowest terms they would probably take, he said they might possibly be brought to accept 60, with the payment of the debt due our citizens."

No. 478.

No. 75.—*Mr. Livingston to Mr. Madison, Secretary of State of the United States, dated Paris, April* 17, 1803.

[Extract.]

"But, to proceed, upon waiting upon the Minister * * * as an excitement to forward the other business."

(Vide volume 2, Foreign Relations, page 554.)

No. 479.

Mr. Madison, Secretary of State of the United States, to Messrs. Livingston and Monroe, dated April 18, 1803.

[Extract.]

"A month having elapsed since the departure of Mr. Monroe, it * * * as little entangling as the nature of the case will permit."

(Vide volume 2, Foreign Relations, pages 555, 556.)

No. 480.

No. 3.—*Mr. Monroe to Mr. Madison, Secretary of State of the United States, dated April* 19, 1803.

[Extract.]

"I dined yesterday with the Minister of Foreign Relations, in company with my colleague, Mr. Marbois, and others. After dinner, Mr. Marbois and myself had much conversation on the subject of my mission, in which he declared, with frankness, an earnest desire to adjust every possible cause of variance with us. He assured me that the First Consul had decided to offer us the whole of Louisiana for one hundred millions and our assumption of the debt due our citizens, which is estimated at about twenty more; that he authorized him to make that proposal to us, and to engage his support of our claim to the Floridas with Spain; that he did believe he might be prevailed on to accept the sixty with the payment of the debt, as above, but not less; and he was fearful, from the peremptory tone of the Consul's character, that if we did not meet him on the ground proposed, he might dismiss the subject from his mind, and with difficulty be brought to take it up again. Mr. Livingston and myself having previously resolved to offer fifty millions, out of which that debt was to be paid, I adhered to that ground."

No. 481.

The Minister of the Public Treasury of France to the Minister of the United States, 10th Floreal, an 11, (April 30, 1803.)

[Extract.—Translation.]

"If, in the event, and against all probability, the sum to be paid does not reach twenty millions, my Government will form no claim upon what may remain.

"Not being able to place these observations in the convention itself, I have made of them the subject of this letter I have the honor to write to you, and if you give it your acquiescence, the answer, by which you will inform me of it, will determine very clearly the spirit of the convention, which I send you; and we shall, in this way, have rendered superfluous many stipulations too embarrassing to express, and the execution of which would infallibly be accompained with very great difficulties."

No. 482.

Copy of a Convention between the United States of America and the French Republic, of April 30, 1803.

The President of the United States of America, and the First Consul of the French Republic, in the name of the French people, having, by a treaty of this date, terminated all difficulties relative to Louisiana, and established, on a solid foundation, the friendship which unites the two nations * * * and written in the French language, to which they have hereunto affixed their seals.

Done at Paris, the 10th of Floreal, 11th year of the French Republic, (April 30, 1803.)

BARBE MARBOIS.
ROBERT R. LIVINGSTON.
JAMES MONROE.

A true copy.

NAT. CUTTING.

(Vide volume 2, Foreign Relations, pages 508, 509.)

GENERAL LIST OF AMERICAN CLAIMS.

Translation of the "Conjectural Note" mentioned in the Convention between the United States and France, dated 30th April, 1803.—IV Division, 1st Section.

Number.	Dates of the arrêtés of the commission hearing liquidation.	Names of the proprietors and of the legal representatives or assignees.	Nature of the claims.	Sums liquidated or to liquidate.	Observations.
			Claims recognized by the ex-commission of intermediate comptability.	*Liv. s. d.*	
	An 10.				
1	Ventose 2	Maurice Giraud, by James Swan....	Rice and flour delivered at Paris	112,862 2 8	Supply fixed by the Minister of the Interior.
2	.....	—— Smith, by the same.....	Salt provisions delivered at Havre...	*12,836 5 0	In full.
3	Ventose 4	Waters Griffith, by the same.....	Flour delivered at L'Orient.....	132,160 0 0	Independently of an account received of 40,000 *liv.*
4	Ventose 24	Thomas Ramsden, by the same.....	A quantity of woolen delivered at Dunkirk.	173,861 15 0	
5	.....	Benjamin Jenné, by the same.....	Leather, cotton, and indigo, delivered at Havre in the year 2.	149,457 16 8	
6	.....	John Andrews, by the same	Leather, cotton, and indigo, delivered at Havre in the year 3.	298,375 15 0	
7	Ventose 26	—— Clark, by Guerlain.....	One hundred pieces blue Guineas, delivered at Senegal in the year 4.	6,800 0 0	Credit admitted by Citizen Cozier, Vice Consul at New York.
8	.....	Reibens Smith, by the same	Flour delivered at L'Orient and at Bordeaux in the year 3.	187,388 18 9	In full; the third part having been paid in advance in America by the agreement of the same Rozier.
9	Germinal 12	—— Le Baring, by James Swan	Wines and brandies delivered at the Isle of France in the year 2.	204,183 0 0	A part was paid by the administration of the Cape in paper money.
10	Floreal 8	Taney and Simons, by Melleville ...	Rice of the ship Carolina Planter ...	177,153 4 0	Exclusively of an account received of 32,987 *liv.* specie.
11	Floreal 23	John Higgenson.....	Salt beef and sole leather delivered at Bordeaux in the year 3.	111,206 10 0	The other half paid in the year 4.
12	Floreal 29	Joshua Barney.....	Flour delivered at Bordeaux in the year 2.	156,105 16 9	A part of this supply has been paid in wines and brandy.
13	Prairial 2	Peters Whiteside.....	Woolens delivered at Boulogne sur Mer in the year 2.	122,367 8 0	In full; a fourth paid in the year 3.

* There was paid on this supply *m.bco.* 67,849*l.* 9*s.* 9*d.*, or livres tourn. 125,521*l.* 13*s.*

GENERAL LIST OF AMERICAN CLAIMS—Continued.

Number.	Dates of the arrêtés of the commission bearing liquidation.	Names of the proprietors and of the legal representatives or assignees.	Nature of the claims.	Sums liquidated or to liquidate.	Observations.
	An 10.		*Claims recognized, &c.*—Continued.	*Liv.* s. d.	
14	Prairial 4	Joseph Sands.....	Leather and salt provisions delivered at Bordeaux, Brest, Le Havre, and Les Sables.	138,850 17 3	In full; a part paid in the year 4.
15	Prairial 6	John R. Livingston	Leather delivered at Havre and at Brest in the year 3.	330,786 12 0	Paid in the year 4, 40,726 *liv.*
16	Prairial 19	James Swan and Schweitzer	Final settlement of account as agent of Government, about.	1,000,000 0 0	For what is due to their house in lieu of the objects belonging to it and the defalcation of the parties who are concerned with Schweitzer.
17	Prairial 26	John Sinclair	Demurrage in France, indemnities of three brigs—Polly, Success, Recovery.	50,914 4 9	
	An 11.				
18	Brumaire 25	James Grubb.....	Cargo of flour delivered at St. Domingo.	94,460 7 8	This liquidation is the last arrêté by the commission, whose operations were suspended at the period the Council of Liquidation was created, on the 1st Messidor.
				3,459,778 13 6	
			Claims to be liquidated, reports of which have been submitted for the approval of the Particular Director.		
19	.....	John Smith, captain of the Nancy ..	Corn and flour delivered at Brest.	109,806 15 9	James Barry, proprietor.
20	.....	Hugh Gemmil, captain of the Malgivra		161,790 3 9	
21	.....	—— Low, captain of the Success..	7,152½ pair (poignées) of codfish delivered at L'Orient.	16,865 14 8	In full.
22	.....	John Grist, captain of the Hannah..	Flour for the supply of Belle Isle ...	100,226 11 8	In full.
23	.....	Erick Gladd, captain of the Lydia...	.....do.....do.....	123,347 7 3	Two voyages.
24	.....	Gust Griffin, captain of the Nantilhes	.....do.....do.....	12,305 17 6	
25	.....	Wm. Carhart, captain of the Columbia	.....do.....do.....	113,672 12 0	
26	.....	Solomon Cook, captain of the Sea-flower.	.....do.....do.....	26,989 3 8	
27	.....	Edward Staples, captain of the Diana	.....do.....do.....	28,582 10 3	
28	.....	Samuel Norwood, captain of the Lydia	.....do.....do.....	43,427 2 9	
29	.....	—— Scheffields, captain of the Oneyda	.....do.....do.....	225,016 0 0	
30	.....	—— Barrowdale, captain of the Eliza	.....do.....do.....	60,228 0 0	
31	.....	Thomas Norton, captain of the Thorn.	Flour and candles for the supply of Belle Isle.	107,057 15 0	
32	.....	Jam. Hemphill, captain of the Sally	Flour for the supply of Belle Isle ...	197,642 11 7	Two voyages.
33	.....	Isaac Snow, captain of the Industry.	Codfish delivered at L'Orient.....	18,062 5 3	In full; two-thirds paid.
54	.....	—— Hodge, captain of the Henry...	Freight, tar, and supplies	20,020 15 3	
35	.....	—— Buffington, captain of the Olive Branch.	Flour, candles, soap, codfish, &c., delivered at L'Orient.	173,378 0 2	
36	.....	Alix Black, captain of the Samuel ..	Sugar, coffee, rice, and staves, delivered at Port Malo.	33,492 11 3	
37	.....	—— Lowette, captain of the Lark..	Codfish delivered at Bayonne.....	89,471 0 0	
38	.....	—— Wales, captain of the Genet...	Hemp for the marine at L'Orient....	43,937 10 6	In full.
39	.....	—— Blunt, captain of the Hero.....	Rice, indigo, and staves, delivered at Cherbourg.	23,665 1 0	In full.
40	.....	—— Buisson, captain of the Peggy..	Supplies, assignats, 19,032 livres.....	74,053 7 9	Suspended.
41	.....	Tupper and Platt, captains of the Emily.	Freight, supplies, reimbursement of the vessel.	287,679 10 0	Postponed by Citizen William.
42	.....	—— Titcombe, captain of the Maria.	Balance of supplies	79,200 0 0	
43	.....	—— Coleman, captain of the Fame.	Supplies.....	1,152 0 0	
44	.....	—— Willing, captain of the Sophia.	Cargoes and supplies.....	91,557 7 0	Postponed.
45	.....	—— Nash, captain of the Betsey....	Flour delivered at the Cape.....	9,900 0 0	
46	.....	John Peters, captain of the Ruth....	Bills and supplies	2,489 1 0	
47	.....	Wm. Thompson, capt'n of the Aquilla	Sugar seized at Ostend.....	674,278 11 2	
48	.....	—— Kemps, captain of the Governor Mifflin.	Bill of lading.....	38,902 10 0	
49	.....	Richard Lann, captain of the Lovely Susan.	Supplies.....	9,600 0 0	
50	.....	—— Dunham, captain of the Abigail.	.....do.....	3,150 0 0	
51	.....	Joseph Sands, captain of the Hamilton	.....do.....	100,000 0 0	
52	.....	.....do.....do.....	Liquidation rectified in his favor by the intermediate comptability.	237,600 0 0	Error admitted by the Treasury.
53	.....	James Swan, for Le Baring.....	Supplies.....	45,736 0 0	
54	....	Joseph J. Miller, captain of the Illinois.	Powder, flour, and salt provisions, delivered at St. Domingo and Guadaloupe.	1,135,504 1 8	
55	.....	Henry Sadler	.....	504,897 13 4	
56	.....	G. William Murray.....	.....	64,084 0 0	
				5,093,679 10 2	

GENERAL LIST OF AMERICAN CLAIMS—Continued.

Number.	Dates of the arrêtés of the commission hearing liquidation.	Names of the proprietors and of the legal representatives or assignees.	Nature of the claims.	Sums liquidated or to liquidate.	Observations.
			Claims to be liquidated, the examination of which has not yet been made.	*Liv. s. d.*	
57	.....	Richard Christie, captain of the Polly.	.....	3,847 10 0	
58	.....	James Craig, captain of the Prosperity	.....	24,724 10 6	
59	.....	—— Dangerfield, captain of the St. Tammany.	.....	36,977 15 6	
60	.....	William Colley, captain of the Peace.	.....	11,786 13 4	
61	.....	Joseph Glenn, captain of the Four Friends.	.....	26,693 6 8	
62	.....	John Mitchell, captain of the Molly.	.....	60,391 1 0	
63	.....	Simeon Swail, captain of the Indian Chief.	.....	28,719 10 0	
64	.....	Samuel Gerrish, captain of the Caroline.	.....	8,759 18 1	
65	.....	—— Goodrich, captain of the Severn.	.....	74,253 7 0	
66	.....	J. Justice, captain of the Theodosia.	.....	12,311 18 6	
67	.....	—— Jenning, captain of the John..	.....	100,847 16 4	
68	.....	—— Edgar, captain of the Sally.....	.....	28,537 5 0	
69	.....	John Broock, captain of the Robin..	.....	25,504 17 9	
70	.....	—— Maxwell, captain of the Juno..	.....	13,084 3 4	
71	.....	—— Beard, captain of the Union ...	.....	152,047 13 3	
72	.....	—— Monk, captain of the Portsmouth	.....	225,262 16 0	
73	.....	Joseph Pitcairn	.....	224,849 8 9	
74	.....	E. Giles, captain of the Jeruka.....	.....	91,373 7 1	
75	.....	—— Reid, captain of the Little Cherub	.....	72,627 10 2	
76	.....	J. John, captain of the Swanwich...	.....	70,348 15 0	
77	.....	—— West, captain of the Suffolk...	3,866 casks of brandy.....	Not valued.	
78	.....	—— Todd, captain of the Mercury..	.....	25,055 12 6	
79	.....	—— Olney, captain of the Friendship.	.....	45,507 0 9	
80	.....	—— Parker, captain of the Iris	.....	15,742 10 9	
81	.....	—— Carleton, captain of the Eunice.	.....	29,317 1 8	
82	.....	—— McGruder, captain of the Apollo.	.....	44,542 6 8	
83	.....	—— Monroe, merchant.....	.....	12,980 0 0	
84	.....	John Clark, captain of the John Alexandrica.	.....	20,689 10 0	
85	.....	—— Colley, captain of the Peace...	.....	1,078 12 0	
86	.....	J. B. Hodgson, captain of the Woodrop Sims.	.....	115,174 10 0	
87	.....	Elias Simes, captain of the George..	.....	62,357 13 0	
88	.....	Elie Cabot, merchant.....	.....	40,107 6 3	
89	.....	Pierre Changeur, Deyme & Co.....	.....	179,588 0 0	
90	.....	William Rust, captain of the Maria.	.....	14,400 0 0	
91	.....	John Burlingham, captain of the Mary	.....	30,032 9 0	
92	.....	—— Kinsman, captain of the Roebuck	.....	18,655 0 0	
93	.....	—— Ingraham, captain of the Enterprise.	.....	157,600 0 0	
94	.....	William Cook, captain of the Trenton	.....	1,352 9 6	
95	.....	Murray and Lawrence, merchants ..	.....	2,200,000 0 0	
96	.....	—— Woodberry, captain of the Neptune.	.....	105,707 13 0	
97	.....	—— Cowell, captain of the Jane....	.....	From memory.	
98	.....	—— Stephens, captain of the Hope.	.....	20,926 11 11	
99	.....	Samuel Makins, captain of the Andrews.	.....	7,614 16 0	
100	.....	—— White, captain of the Laurens.	.....	152,579 1 0	
101	.....	Zacharie Coopman.....	.....	663,739 16 4	
102	.....	J. Loup, captain of the Cassius.....	.....	106,323 0 0	
103	.....	Walter Kerr, captain of the Kensington.	.....	21,352 0 0	
104	.....	—— Ellison, captain of the Good Friends.	.....	182,157 8 0	
105	.....	—— Hays & Son, captain of the Peters, of Boston.	Freight and supplies.....	69,023 19 4	
106	.....	Stephen Higenson.....	Supplies of flour to the Cape	55,335 6 0	
107	.....	Bernard Dugin & Co.....	.....do.....do.....	90,344 18 0	Silver of the islands.
108	.....	—— Barney.....	Supplies for the magazines of the Cape	695,550 10 0	In full.
109	.....	Robert Gillies, captain of the Fair American.	Freight and cargo	395,002 6 0	
110	.....	—— Gerard.....	Balance of a bill of exchange.....	16,537 10 0	
111	.....	Paul Richard Randall.....	.....do.....do.....	50,944 6 0	
112	.....	James Thayer.....	Draft on Senegal.....	5,663 12 0	
113	.....	Fulwar Skipwith.....	Four drafts drawn on St. Domingo..	64,875 14 0	
114	.....	.....do.....	Eleven bills of exchange drawn upon the colonies.	25,562 12 0	

GENERAL LIST OF AMERICAN CLAIMS—Continued.

Number.	Dates of the arrêtés of the commission bearing liquidation.	Names of the proprietors and of the legal representatives or assignees.	Nature of the claims.	Sums liquidated or to liquidate.	Observations.
			Claims to be liquidated, &c.—Cont'd.	*Liv.* *s.* *d.*	
115	.....	Fulwar Skipwith.....	For a draft drawn at St. Domingo...	29,712 6 0	
116	.....	.....do.....	For three drafts on Guadaloupe.....	13,703 6 6	
117	.....	.....do.....	For seventeen bills of exchange on St. Domingo.	333,501 14 0	In part relative to the vessel Le Baring.
118	.....	—— Bentalou, by James Swan	For thirteen drafts drawn upon the colonies.	23,433 6 8	
119	.....	.....do.....do.....	For twenty-six drafts of the Isle of France.	424,000 0 0	Do. do.
120	.....	Crousillart, captain of the Nancy ...	For freight.....	40,355 15 0	
121	.....	Dunlap and Thomas Irwin.....	For freight taken for the relief of Cayenne.	38,921 5 0	
122	.....	Stephen Higenson and William Parsons.	Supply of flour at St. Domingo.....	94,694 15 4	
				8,034,722 14 4	
			For 105 ships detained at Bordeaux in consequence of the embargo of 1793.	3,301,122 8 8	

RECAPITULATION.

	Liv. *s.* *d.*	
Credits recognized by the ex-commission of intermediate comptability	3,459,778 13 6	The judgments of the arbitration upon which the liquidation has been made have already allowed interest upon many of the claims.
Claims to be liquidated, reports of which have been submitted for the approval of the Particular Director	5,093,679 10 2	
Claims to be liquidated, the examination of which has not yet been made.....	8,034,722 14 4	
Claims relative to the embargo of 1793.....	3,301,122 8 8	Susceptible of considerable reduction.
Total.....	19,889,303 6 8	

The present list is certified as conformable to the documents deposited in the bureau of the first section of the fourth division of the general liquidation of the public debt. Errors or omissions excepted.

A true copy:

NAT. CUTTING.

PARIS, 16*th Floreal, an* 11.

N. B. The "Conjectural Note" from which the preceding statement is copied is endorsed Robert R. Livingston.

No. 483.

No. 76.—*Mr. Livingston to Mr. Madison, Secretary of State of the United States, dated Paris, May* 12, 1803.

[Extract.]

"I have no doubt that it has long been their intention to make the arrangements I proposed, (cession of Louisiana,) in exchange for commercial advantages; a sale has always been disrelished, as I was constantly told by Marbois and Talleyrand, and it is clearly to be inferred from the Consul's note, in answer to my letter; what, however, I believe principally drove them to this measure was the promise which the First Consul had hastily made me to pay our debt *fully* and *promptly*, and which he found himself in no situation to fulfil, and yet knew not how to elude, as I pressed it at every turn, and spoke of it to Talleyrand, and to all the Consul's friends; assured them that I had communicated it not only to the Government, but to the creditors, with the declaration that they might firmly rely on it, as no one could believe that a man of the Consul's character, a sovereign and a soldier, could break his word. I told the Minister of the Treasury that, as I owed it to myself to justify what I had said, I thought myself bound to publish my letter to the First Consul, with his answer, and the execution of his solemn engagement. I asked what his enemies would say to such a publication? He replied, Or his friends?"

No. 484.

Messrs. Livingston and Monroe to Mr. Madison, Secretary of State of the United States, dated May 13, 1803.

[Extract.]

"We have the pleasure to transmit to you by Mr. D'Erieux, * * * raised in time to discharge the debt."

(Vide volume 2, Foreign Relations, pages 558, 559.)

No. 485.

Mr. Livingston to Mr. Madison, Secretary of State of the United States, dated Paris, May 20, 1803.

[Extract.]

"I called this morning upon Mr. Marbois * * * you have made a noble bargain for yourselves, and I suppose you will make the most of it."

(Vide volume 2, Foreign Relations, page 561.)

No. 486.

Mr. Madison, Secretary of State of the United States, to Mr. Livingston, dated Department of State, May 25, 1803.

[Extract.]

"The assurances given by the Chief Consul on the subject of our claims, * * * by such weighty advantages."

(Vide volume 2, Foreign Relations, page 561.)

No. 487.

Mr. Madison, Secretary of State of the United States, to Messrs. Livingston and Monroe, dated May 28, 1803.

GENTLEMEN: Since my last, which was of April 18 * * *. For the course of information relating to the deposit at New Orleans, I refer you to my letter of the 25th instant to Mr. Livingston.

I have the honor to be, &c.

JAMES MADISON.

(Vide volume 2, Foreign Relations, page 562.)

No. 488.

Mr. Livingston to the President of the United States, dated Paris, June 2, 1803, *(midnight.)*

[Extract.]

Cypher.—"The First Consul had expressed much resentment at the change made in the former convention when ratified, and makes it a principal objection to having been induced to send the ratifications before you had agreed to ratify and will give"—cypher.

☞ [The key to the cypher used in the letter, of which the above is an extract, cannot be found in the Department of State.]

No. 489.

Mr. Livingston to Mr. Madison, Secretary of State of the United States, dated Paris, June 25, 1803.

[Extract.]

I hope in God that nothing will prevent your immediate ratification (of the conventions of 1803) and without altering a syllable of the terms; if you wish anything changed, ratify unconditionally, and set on foot a new negotiation. Be persuaded that France is sick of the bargain, and that Spain is much dissatisfied, and the slightest pretence will lose you the treaty. Nothing has raised the reputation of our country in Europe so high as the conduct of our Government upon this occasion, both home and abroad."

No. 490.

Mr. Madison, Secretary of State of the United States, to Mr. Monroe, dated Department of State, July 29, 1803.

[Extract.]

"For the price to be given for the Floridas you are referred, generally, to the original instructions on this point. Although the change of circumstances lessens the anxiety for acquiring immediately a territory which now, more certainly than ever, must drop into our hands, and notwithstanding the pressure of the bargain with France on our Treasury, yet, for the sake of a peaceable and fair completion of a great object, you are permitted by the President, in case a less sum will not be accepted, to give two millions and a quarter of dollars, the sum heretofore apportioned to this purchase. It will be expected, however, that the whole of it, if necessary, be made applicable to the discharge of debts and damages claimed from Spain, as well those not yet admitted by the Spanish Government as those covered by the convention signed with it by Mr. Pinckney on the 11th day of August, 1802, and which was not ratified by the Senate, because it embraced no more of the just responsibilities of Spain. On the subject of the claims you will hold a strong language. The Spanish Government may be told plainly that they will not be abandoned any further than an impartial tribunal may make exceptions to them. Energy in the appeal to its feelings will not only tend to justice for past wrongs, but to prevent a repetition of them in case Spain should become a party to the present war.

"In arranging the mode, the times, and the priorities, of paying the assumed debts, the case of the Treasury is to be consulted as much as possible; less is not to be done with that view than was enjoined in the case of the French debts to our citizens. The stock to be engaged in the transaction is not to be made irredeemable without a necessity not likely to arise; and the interest, as well as the principal, should be payable at the Treasury of the United States. The only admissible limitation, on the redemption of the stock, is, that the holder shall not be paid off in less than one-fifth or one-fourth of the amount in one year.

"Indemnifications for the violation of our deposit at New Orleans have been constantly kept in view in our remonstrances and demands on that subject. It will be desirable to comprehend them in the arrangement. A distinction, however, is to be made between the positive and specific damages sustained by individuals and the general injuries accruing from that breach of treaty. The latter could be provided for by a gross and vague estimate only, and need not be pressed as an indispensable condition. The claim, however, may be represented as strictly just, and a forbearance to insist on it as as an item in the valuable consideration for which the cession is made. Greater stress may be laid on the positive and specific damages capable of being formally verified by individuals; but there is a point beyond which it may be prudent not to insist even here; especially as the incalculable advantage accruing from the acquisition of New Orleans will diffuse a joy throughout the western country that will drown the sense of these little sacrifices. Should no bargain be made on the subject of the Floridas, our claims of every sort are to be kept in force."

No. 491.

No. 81.—*Mr. Livingston to the Secretary of State, dated Paris, July* 30, 1803.

[Extract.]

"The house of Hope & Baring will to-morrow lodge with me the amount, in bills, of the stock they have purchased from the French Government, to be delivered by me, according to the terms of their contract, if the treaty is ratified. I believe that this meets with no delay. Be assured that, were the business to do again, it would never be done; they think we have obtained an immense advantage over them. Though the appearance of war had some influence, it had much less than is ascribed to it. Whenever I mentioned its falling into the hands of England, they admitted the possibility, but insisted that, as it must abide the event of the war, they had no doubt of ultimate success; they would get it back, with the British improvements. Mr. Skipwith still thinks that the American debt will fall much within the 20,000,000 for which we have engaged, and all the fair creditors be fully satisfied—the supposed debt being extremely exaggerated in America."

No. 492.

Mr. Monroe to Mr. Livingston, dated London, August 20, 1803.

Dear Sir: I have received your letter of ——, by Mr. Baring, and avail myself of the earliest opportunity to answer it. I perceive that you have misconceived our powers and instructions in what concerns our transactions with France. Our instructions unite us, our commission does so, as does the act which gives us power over a certain sum of money, to be applied promptly to the object of the negotiation. By the two latter instruments, which would control the former, if there was a variance between them, neither of us has power to act singly, but in case of the death of the other. You will know that this construction prevailed through the whole of what had passed; on what principle, then, is it now supposed to be altered? I can conceive some reasons why, if it is, the power should be considered as vested exclusively in you; not one why exclusively in me. The truth is, it remains in reference to any act to be performed under the commission, precisely where it did at first—that is, in both of us. Had I possessed the power exclusively,

I should never certainly have exercised it by making a prompt payment to the Government of France of the sum in question, in obedience to our instructions, with a view to secure more effectually a compliance with our treaties. Such prompt payment would have formed the basis of every consultation and conference with the ministers of France on the subject. It was owing to the circumstances of our power being joint, to your desire to apply that money to the payment of the debts, and to the pressure of other important considerations, at the moment then, that payment was not made. I am persuaded, had it been done, that we should have avoided the anxiety which we afterwards felt, the details of which were communicated in our joint letter, of June 7, to the Secretary of State; that we should, in fact, have placed beyond all hazard the final execution of the treaties; a result of primary importance to the creditors, since on it alone could we be justified in assuming the payment of their debt by our Government, which they so much desired. It was to remedy that error, on an experience of its ill effects, that I suggested to the ministers Talleyrand or Marbois, an idea of a guarantee to Hope & Co.; so far as depended on me of the sum subjected to our disposition, with a view to promote, on the principles of our treaty and the contract of that company with the French Government, a prompt payment of the amount by the company to that Government. I made this suggestion to those ministers on the evening of the 7th of June, the day on which I called to see the order of their Government to Mr. Pichon for the delivery of the ratification and surrender of the territory; a period, it is true, when our anxiety for the consequences was most excited. I remember, on stating to you, immediately afterwards, what had passed, that you did not hesitate to approve it, though you expressed your satisfaction that the offer was not accepted, as I had supposed was the case. In what I stated I spoke for myself, not for you; observing, that our authority was joint—a fact, however, with which they were well acquainted otherwise. When this subject was revived afterwards, in conversation with Mr. Marbois, at Consul Lebrun's, and he intimated his willingness to receive the guarantee, since he saw that it might then be done with advantage to the completion of the transaction between the two nations, and I assured him that my disposition was the same. I, nevertheless, repeated the remark that our power was joint, but promised to confer with you on the subject, and apprise him of the result. I did confer with you, and finding you indisposed to the object, and he being out of town, left the affair in that state.

I am satisfied, I am still of opinion, that the guarantee of the sum proposed is an expedient and suitable measure, and shall therefore execute it so far as my act can have that effect. All human events are subject to uncertainty; accidents may happen which may put it out of the power of our Government to ratify the treaties, or create the stock within the terms specified; it appears to me to be proper to prevent the possibility of any discussion in such cases, by increasing the disposition as well as the obligation of the French Government to execute them, notwithstanding; and from what I have seen of the integrity and fair dealing of the First Consul and the ministers in this transaction, I am satisfied that the acceptance of the guarantee and payment of the money, which the bankers will make in consequence of it, would produce that effect. I trust that this disposition exists without it; I am persuaded it does; but this would be a fair and honorable mode of acting with them, which, by binding us as well as themselves, might make the result more sure; nor can I discern any solid objection to the measure, since it is not an advance of money by the United States, as you intimate, but simply a guarantee of the treaty which we have lately formed, to the amount of the sum committed to our care for that purpose, on the principles of their contract with it; it will not injure our citizens who are creditors of the French Government, but make the payment of their debts more secure, or at least more steady. Being deeply impressed with this view of the subject, I have annexed such an act to the instrument giving us power over the sum in question, with my signature, as appeared to me to be proper for the purpose, which I forward you herewith; if you approve, you will sign it, and not otherwise.

As the apprehension of delay in the ratification of the treaties and creation of the stock by our Government, which might be produced by various causes, was given as the motive of the anxiety which was expressed by the First Consul after he had ratified them, and this guarantee will give him the command of a considerable portion of the sum stipulated, as will, I doubt not, be deemed so strong a proof of the fair intentions of our Government, as will satisfy him that there is no cause for such apprehensions. Under such circumstances, it is reasonable to expect a declaration on his part, through Mr. Marbois, addressed to us, that he will take no advantage of such delays as are accidental, or such as a sincere desire to execute all the stipulations of the treaties by our Government, according to the principles of good faith, could not prevent. I think it more than probable that our Government will perform every stipulation within the terms specified in the treaties, and that such a stipulation by the First Consul, or declaration, (for the form is not material,) would prove of no effect; as the contrary, however, might be the case, it seems reasonable for us to expect it, especially at the present time, when there are several considerations which make it desirable. I have no doubt that the First Consul will readily accede to the measure, on its being suggested to him, since he will perceive that this is an act in itself just, and that will do him honor; nor have I any doubt that Mr. Marbois and Mr. Talleyrand will suggest it to him, since it is in the spirit of the whole transaction, which has been fair and honorable in the highest degree.

I wish this affair, if you approve, concluded immediately, that it may produce the good effect that is contemplated by it. You will of course see Mr. Marbois, and make the communications and arrangement with him that are suited to either event.

Nothing is more uncertain that whether Spain will be able to preserve her neutrality in the present war; her minister is here still. Nor is there any reason to suppose that he will not remain. Too much caution cannot be observed in our communications on European occurrences, to which you will attribute my not going further into that topic. Happily, we are at present but little interested in them, and I hope we shall continue to be so. I wish you to forward the memorial respecting Mr. Beaumarchais' claim to the Secretary of State. We omitted doing it according to our promise to General Dumas. I have forwarded the letters I brought over from you to our Government, as I did those delivered me by Mr. Baring. I shall pay like attention to any other you may send.

I am, dear sir, with great esteem, &c.,

JAMES MONROE.

No. 493.

Mr. Livingston to Mr. Monroe, dated Paris, September 9, 1803.

DEAR SIR: I intended to have written a long and particular answer to your favor; but, as I am just sending off despatches to America, and the affair to which your letter refers is yet under consideration, I must defer it till the next safe conveyance. I can only tell you, in general terms, that the circumstance gives me the most serious uneasiness, since I never had a doubt that our powers were expended the moment the treaty was signed; and, upon reading the law, I am fully convinced that, after having appropriated, as we have done, the ten millions to the payment of our own citizens, we have no sort of right, either jointly or separately, to engage our Government for more, and that our engagements would not be binding upon them, and, of course, if any circumstance should prevent the ratification, the houses who have given credit on our account would be in danger of losing their money. This, I think, we should, as honest men, inform them of, under such injunctions of secrecy as will prevent our being involved with this Government. I have given my opinion to Mr. ——, who, at my request, communicated it to Mr. ——, when here, but who was, notwithstanding, disposed to accept *your* guarantee, and advanced two millions in America, on which I wrote the letter you answer. As to the further security you ask here, the Consul has absolutely refused it; he claims *your* promise as a right that he is not bound to purchase, you having annexed no conditions when you made it, and he alleges that you would not have made it if you had not had powers so to do. Mr. Marbois also insists that you made it to him repeatedly, and that it was understood between you that, though he did not accept at the time, he should have a right to do it if circumstances should require, and that he so represented it to the First Consul. I shall, in my next, be more particular, and tell you what I have finally concluded. Be persuaded that, whatever it is, it will be so calculated as not to commit you, and rather to sacrifice my own sentiments than appear to the public to differ from you. I shall, I fear, be forced to sign the guarantee, but, at the same time, I wish, and think but just, that H—— and B—— should know how little security they will find in it.

You do not tell me whether you have Mr. King's cypher; if you have, I shall be able to write to you with more freedom; and I shall hope to receive from you the fullest information of the general politics of the country you are in, which is always material, even though we have no special negotiation on foot, since circumstances may arise in which it may be turned to advantage.

Our Board are going on, but talk of giving no certificates till the treaty is ratified. Though this resolution is not in the spirit of the treaty, may be burdensome to the creditors, and a certain expense to our Government in the accumulation of interest, yet I content myself with giving them my opinion, leaving them to pursue their own judgment in the matters committed to them. I send you papers by this conveyance, and will continue to do so as opportunity offers.

I am, dear sir, &c.,

ROBERT R. LIVINGSTON.

No. 494.

No. 83.—*Mr. Livingston to Mr. Madison, Secretary of State of the United States, dated Paris, September* 17, 1803.

[Extract.]

"You have been apprised that, after what had passed between Mr. Talleyrand and me, the treaty was opened to me by Mr. Marbois, with whom I had several conferences, previous to Mr. Monroe's taking any share in the business. In the course of these conferences, as the principal object was the reduction of the price they demanded, I proposed, if an advance of money would facilitate this object, to make it to the extent of our powers. Mr. Marbois desired me not to mention it; for, says he, if the treaty should not be ratified, I may be placed in difficulties relative to restoring the money, which will, in that case, be expended. When, after this, formal powers were given to Mr. Marbois, and Mr. Monroe assisted at our conferences, the offer was again repeated by us both, and again rejected upon the same ground. Mr. Marbois, indeed, proposed, when we had agreed to pay in stock, that the creditors should be paid in like manner with the French Government, part in stock and part in money. To this I objected, claiming the Consul's express promise that they should be promptly paid, insisting that justice and his honor required that they should be completely satisfied; and he readily acquiesced in the sentiment, and the rather as I showed him that, if the stock was vested in so many hands, the wants of the creditors would force it upon the market at a reduced price, to the injury of that France held, as well as to that of the United States. I saw not only this evil, but a greater, in the drain that France would make of our cash, if it was given to her, and the ruinous effect it would have upon the course of exchange, at the very moment that our Government were making remittances to pay the Dutch loan"

No. 495.

Mr. Livingston to Messrs. Mercer, Barnet, and McClure, Commissioners of the United States for the liquidation of accounts, dated Paris, October 25, 1803.

[Extract.]

"The delicate situation in which I am placed with the French Government, and the evils that evidently result to our own, together with the distresses of individuals who hoped to be paid under the

treaty, will not permit me to be longer silent on the subject of your determination not to execute the duties that are enjoined upon you by the convention under which you are appointed. Reasons of a very important political nature induced Mr. Monroe and myself to insert that article in the treaty which led to your nomination."

No. 496.

Mr. James Madison, Secretary of State of the United States, to Mr. Livingston.

DEPARTMENT OF STATE, *October* 27, 1803.

SIR: One of the enclosed memorials, respecting claims which are made upon the French Government for bills drawn by its agents in St. Domingo, and which remain unpaid, having been presented to the Senate, its subscribers had leave to withdraw it, and with the other, which has never been preferred to Congress, has now been brought before the Executive with a view to a reference of the subject to your patronage. It would be superfluous to add anything to the reflections made by the memorialists themselves upon the injustice and inconvenience which must result to them from a perseverance on the part of the French Government in its rejection of the bills as evidence of the debt, and in the exaction of original proof of the contract and the delivery of the merchandise for which they were drawn. It is in particular justly observed that, in most instances, compliance with such a requisition by the parties is impracticable from the very nature of the transactions, and practicable only to the French Government whose officers have the custody of the papers containing the evidence it desires; nor can it be believed that the Government seriously intends to vacate the bills which, though tainted with fraud in the original parties, have been regularly and honestly negotiated between others; as such a procedure, besides departing from the established custom of mercantile transactions, would very much check the credit and circulation of any future similar bills which its exigencies might require to be issued.

How far it may be justifiable or expedient formally to press all these claims upon the French Government for immediate payment is a consideration to be distinguished from the clear opinion which is entertained of their intrinsic justice. Wherever they originated in compulsory measures practised upon the claimants they are entitled to the full and immediate interposition of their Government; but where the bills have been received by virtue of voluntary contracts, whether with the agent of the French Government or individuals, the receivers having regard, as they must have had, to the degree of credit and punctuality ascribable to that Government at the period of their speculation, any calculation and consequent disappointment ought not to be permitted to embarrass their own Government by binding it to pursue very pointed measures for their relief.

With this distinction, which will find its way into your representations in such shape as may not convey the inference that either class is absolutely abandoned, or even not deemed highly obligatory upon France, these claims are confided to your patronage in the hope that the French Government will readily see the subject in that point of view, which will constrain it, out of regard to its own honor and interest, to remove every impediment to their payment, according to the obligations imported by the bills themselves and the law merchant applicable to the suspension which has taken place.

The papers also enclosed herewith respecting the schooner Maria, owned by William Lewis, evince that he has sustained a considerable loss through the irregular conduct of the captain of a French national vessel. From the nature of the occurrence, and the contents of the accompanying letter to the Minister of Marine in relation to it, written, as represented by Mr. Lewis, by the Governor of Tobago, to further his claims for redress, it is probable that no great difficulty will be experienced in obtaining due indemnification.

With great respect and consideration, &c., &c.,

JAMES MADISON.

No. 497.

No. 88.—*Mr. Livingston to Mr. Madison, Secretary of State of the United States, dated Paris, October* 31, 1803.

SIR: The article of the convention that authorized the nomination of Commissioners to determine certain questions under it previous to the ratifications was founded upon reasons that appeared extremely important to Mr. Monroe and myself; among them were, 1st, the full execution of the promise that I had obtained from the First Consul of a prompt discharge of the debt, which could only be satisfied by immediate measures for carrying it into effect. 2. The right that this gives us to demand that the exchange of the ratifications should be made in the United States instead of in France, for which it afforded the best and strongest arguments. 3. The uncertainty of the treaties being acceptable to the President and Senate, and the possibility of its not being ratified, in which case we should, by the appointment of Commissioners and their proceeding to act, have still acquired a very important point, because, before the circumstance could be known, the Board might, without any extraordinary exertion, have had every account liquidated, and obtained thereon the recognition of the debt by the French Government; so that all the chicane of their officers would have been avoided, and we should have nothing to press in future but the mere question of payment. 4. The saving of a very considerable sum of interest; for, as we learned from the state published of our Treasury that you had a large sum at your disposition, the Secretary of the Treasury might have found it convenient to pay the bills as they were presented, without even waiting the ultimate term in which they would have become due. 5. The great advantage to the country of putting a proportion of their capital, as soon as possible, into the hands of

our mercantile citizens, as we had strong reasons to apprehend the war which has since broken out. 6. The melancholy situation in which many of our fellow-citizens, who were creditors of this Government, were placed here called for immediate relief—they could not go away, and they were retained at great expense—a distant payment would have compelled them to make very heavy sacrifices for a present relief. Could the bills have been put into their hands, those bills would, the moment the news arrived of the ratification, have been money, and might, on the eve of a war, have been so vested as to have made up for all their losses.

We named gentlemen upon the spot, because, having put the burden of the business upon Mr. Skipwith's hands, and left them very little to do, we presumed that they could serve the public at small expense, as it would very little derange their private business, and they might manage to meet and adjourn at pretty long intervals.

I agreed to the appointment of Mr. McClure, upon his express promise not to be absent (he was then going to England) more than three weeks. The expectation of his return kept the other gentlemen, for some time, from proceeding, but his delay greatly exceeding their expectation they at length began to act, and actually sent up several accounts to the Council of State, who have passed them. On the arrival of Mr. McClure, about two months since, they have stopped all proceedings, except, as they say, they are collecting papers, (which is, in other words, doing nothing,) since all these papers are prepared and collected by the agent and their secretary, and very few are in any sort necessary. This conduct is ruinous to the creditors here, whose capitals have, in consequence of it, greatly sunk; and such are their necessities that they are compelled to dispose of it; commercial arrangements of creditors in the United States will be defeated. All the objects we had in view in the nomination of these gentlemen, prior to the ratification, are annulled. Suspicions are induced on this Government that we have some secret object in view, and I am daily questioned on this subject, since it appears very extraordinary that we should have pressed this measure, and made it the foundation of the ratification in America—the moment the business of the claims is put into our hands, that we should stop in its progress, and add to the calamities of the creditors of whose situation I had so often drawn a melancholy picture. The present delays will occasion very serious ones in passing the accounts through the French Boards, and shut my mouth when I complain of them; and a question, as has already been intimated to me, of some importance will arise, on which I pray you to give me your instruction, that I may be prepared when it shall happen. It is said that if the sum overruns the 20,000,000, the Government will consider itself in no way bound to make up the loss of interest occasioned by the act of our Board. If they refuse to add this to the certificate, under an apprehension that it may swell the debt, what am I to do? to let the whole business lay till I receive your order, or take the interest on ourselves? The loss of interest by the delay of the Board, by the consequent delay of the French Boards, and by the litigations it may give birth to, will not fall much short of a million of livres.

If the minister in France is, as these gentlemen contend, to have no control over the Board, neither to advise them nor to receive information from them, his situation with the Government will, in many cases, be extremely painful, and many inconveniences may arise both to our Government and its citizens.

I am fearful that our choice of Mr. McClure has been very unfortunate; his opinion controls the Board, and he has so entirely lost the confidence of the public creditors that I fear nothing he can do in future will be satisfactory to those that are here or in America.

Enclosed are the letters which have passed between us, upon which you will found the best estimate of the subject.

I have the honor to be, sir, with the highest respect and esteem, your most obedient, humble servant,

ROBT. R. LIVINGSTON.

No. 498.

Mr. Madison, Secretary of State of the United States, to the Minister of Foreign Affairs of the French Republic, dated Department of State, November 4, 1803.

SIR: I was honored in due time with your letter of the 12th Prairial, (June 2,) and have now the satisfaction to inform you that the treaty and conventions of April 30 last have obtained the regular approbation of the several branches of our Government.

The solid considerations which led to this result, the mutual confidence with which the negotiations were conducted, and the promptness of the executory measures on both sides, give a character to the transaction which promises great and lasting advantages to the two nations. This may be expected, with the greater reason, as the treaty now concluded pursues the original spirit of their political relations, which, in excluding as much as possible sources of jealousy and collusion, invited to a friendly cultivation of every common interest. I did not fail to make known to Mr. Gallatin the passage in your letter having reference to his department. His explanations to Mr. Marbois will have shown how much he is disposed to accommodate, as far as circumstances will permit, the execution of the pecuniary articles of the convention to the arrangements of the French Government.

You will learn from Mr. Pichon, as well as from Mr. Livingston, the manner in which Spain has endeavored to embarrass here the transfer of Louisiana to the United States. It is presumed that she will have interfered with a like view at Paris. The effect of a proceeding which is equally unfounded and unexpected will doubtless be no other than a feeble demonstration of the good faith and honor which guarantee the execution of the treaty in all its parts. Persuaded, sir, of your personal disposition to promote such measures on the part of your Government as will most efficaciously concur with those taken by ours for securing an object so interesting to both, I feel the greater pleasure in offering the assurances, which I pray you to accept, of the very distinguished consideration with which

I have the honor to be, &c.,

JAMES MADISON.

No. 499.

Sundry Merchants and Captains of vessels to Mr. Livingston, dated Paris, November 4, 1803.

To his excellency Robert R. Livingston, Minister Plenipotentiary from the United States of America to the French Republic:

The long series of public services which have marked and employed your excellency's life, the benefits arising to our country from the late treaty with France, and the eminent advantages which it insures to the creditors of the United States, we trust are sufficient titles upon which to claim your indulgence in the present address.

We, the undersigned, citizens of the United States and creditors of the French Republic, take the liberty to express our disappointment in not seeing carried into effect the convention entered into by your excellency and James Monroe, Esq., on the part of our Government, with the French Republic, by which our accounts were to be liquidated, and bills given us for the amount on the Treasury of the United States. The total ignorance we are under relative to this procrastination, except in a few instances, induces us to request such information from your excellency as you may think proper to communicate, to enable us to form some opinion as to the propriety of our further attendance here, or whether it may not be better to seek the means of returning to our country.

We cannot refrain from suggesting to your excellency that the delay has caused many of us to part with a portion of our claims at half their value, to raise money to defray our expenses and to fulfil our engagements; whereas, had the accounts been liquidated and bills drawn, we could have realized their full amount. The difference is an actual loss of so much property that would have gone to the United States had the execution of the commission progressed according to our expectations, and what was contemplated by the framers of the convention.

A consciousness of your excellency's desire to advance the interest of your country and countrymen has induced us to address you, relying that your excellency will make such communication to us on the subject as may be expedient and proper.

We have the honor to be, with great regard and respect, your excellency's most obedient and very humble servants,

JOHN MITCHELL, *Chairman.*
SAM'L HAWKINS, } *Committee.*
JAMES SWAN, }
B. LANE, }
HARRY GRANT.
J. HOLMES.
B. CALLENDER.
PETER TORIS, } *For Vanuxem and for M. Miller.*
DENNIS McCARTHY JOHNSTON.
ZEPH. PLATT.
J. SINCLAIR.
BENJ. BEALE.
JOSHUA ORNE.
PAUL R. RANDALL, } *By his attorney, S. Hawkins.*
PETER R. LIVINGSTON.

Copy of a letter from Mr. Livingston, Minister Plenipotentiary of the United States to France, in answer to the foregoing, dated Paris, November 5, 1803.

GENTLEMEN: In answer to your polite address of this day, I can only say I have, from my first arrival in France, made every effort which circumstances would admit of to obtain full justice for such of my fellow-citizens as were creditors of France. Nor did I ever hesitate to make to those that applied to me for information the fullest communication, not considering this business as one which was in its nature secret, and deeming it of the utmost importance to the individual to know his true situation and his probable prospects. When, about two months before the conclusion of the treaty, my endeavors were so far crowned with success as to have the strongest hopes of effecting this desirable object, I did not wait for an application, but summoned the creditors together, and read them the letter of the minister, written by express order of the First Consul in answer to one addressed directly to him, by which he pledged himself that the debts should be promptly and fully paid. I then added my persuasion that this pledge should be carried into effect, as well because I had the utmost reliance upon his good faith, as because I hoped that his promise would form the basis of a treaty which would facilitate its execution. This treaty has been happily concluded; and I shall always do so much justice to the integrity of the First Consul as to believe that his desire to effectuate his promise was among the exciting causes to this important act.

I mention these circumstances, gentlemen, to show that nothing would induce me to withhold from you the fullest information on a subject in which you are so deeply interested, by the communication of my correspondence with the Commissioners, but an apprehension of affording some handle for malevolence to take hold of. I must confine myself, then, to tell you, gentlemen, in general terms, that the Commissioners have assured me, by letter, that they have always doubted their powers to act under the treaty till its ratification, and that this doubt, though it has not prevented them to take some steps which must facilitate the business, restrains them from the final adjustment of any account till that event is announced.

Accept, gentlemen, my sincere thanks for the polite manner in which you have noticed my services, and be assured that they will find their full reward in the satisfaction it affords to me to have been instru-

mental in procuring to you and other of my fellow-citizens, creditors of France, the justice they have so long sought, and which, I trust, they are upon the eve of obtaining.

I am, gentlemen, your most obedient, humble servant,

ROBT. R. LIVINGSTON.

No. 500.

Postscript of a letter from Mr. Madison, Secretary of State of the United States, to Mr. Livingston, dated November 9, 1803.

The President approves of the individuals appointed as Commissioners to liquidate the claims payable under the convention of the 30th of April last. But as it now appears that difficulties have arisen, and are likely to increase, respecting the true construction of that instrument, and especially as it seems more than possible that the twenty millions allotted for the payments to be made under it may be insufficient to cover all which in equity and by a sound interpretation ought to be included, it is the desire of the President that you apply to the French Government for its consent to suspend the issuing of any drafts upon the awards which may be given until it is ascertained whether the twenty millions be sufficient or not, and with a view to give time for such mutual explanations and arrangements as may tend to effectuate the true spirit and object of the convention. In taking this step you will refer yourself to the further communications you are to expect from your Government upon the subject, the application you may make upon it to that of France being intended only as a preliminary to a further development.

No. 501.

Mr. Livingston to the Minister of Exterior Relations of the French Republic, dated Paris, January 7, 1804.

SIR: Having seriously reflected upon your excellency's note of the 13th Nivose, I beg leave to submit to your consideration the result of those reflections. In this, I trust, you will find the strongest reasons to adhere strictly to the provisions of the convention, however it may occasion inconveniences to individuals.

You propose that where oppositions are interposed to the claims of American citizens under the convention, the existence of the opposition should be noted by the Bureau of Liquidation on the certificate, and that no payment should be made by the Government of the United States till this opposition is removed.

The first effect of such a measure would be to render a bureau established for the settlements of accounts a court of justice for the trial of titles. For either they must judge of the validity of the opposition, or the most trifling must be admitted—all being equal till tried.

The second effect would be the cruel hardships it would impose upon the creditors who have already been detained many years, at great expense, from their families and country in the pursuit of their claims. Numerous oppositions, well or ill founded, would be brought forward in the hope that the American creditor, worn out by expense and delay, would be ready to make a sacrifice of great proportion of his right, even to persons who were not entitled, with a view to facilitate his obtaining the remainder. The delay of payment, sir, has already occasioned very heavy sacrifices; let us not add to them by new regulations. Besides, sir, most of these claims are due to persons in America who have left no agent to settle their affairs, but merely to receive what may be due to them. These agents may be totally ignorant of claims that may be set up by French citizens against the absentee, and of course cannot contest them; so that the utmost injustice would be done if pretended oppositions were interposed, since they could not be taken off till the creditor brought his suit in the courts of the United States. What a door would not this open to fraudulent opposition?

A third difficulty would arise: many of these claims have been sold without any knowledge of claims against the holder. It would certainly be unjust to make the purchaser liable for the debt of the seller without notice of such debt, nor indeed would this be allowable in any court of law. Yet, doubtless, were we to enter into the regulation proposed, many oppositions would be entered on this ground, and the payment due to the assignee would be delayed.

Your propositions proceed upon the principle that credit has been given to the American or the French Government. This, I believe, sir, has very seldom happened, since the payment by France has always been considered as very remote; but when it has happened the French creditor has not failed to take an assignment or security upon the debt itself. In which case there will be no difficulty in granting him the certificates to the amount of his assignment. In every other case he will be in the same situation with other creditors. If his debtor is in France, he will have his remedy against him in the French courts of justice. If he is in America, the courts of law are open to him for the recovery of his debts. The American Government have always referred questions of law to the courts. They have granted large sums to French citizens on various occasions, and even under the convention of 1800, without ever suffering the money to be arrested by the American who might have a demand against the French citizen. They consider the business of the courts and the business of the bureaus as totally distinct; nor will they suffer one to interfere in the operations of the other. If another rule should be adopted here the conduct of the respective Governments would not be reciprocal.

To guard against these evils, sir, the convention has precisely marked out the rule for the bureaus, who are merely to settle the account without regard to the person who is to receive—and for the American minister, who is bound to give the bills to the party or to his assignee and to no other; so that, without a new convention, I consider myself as having no right to look beyond the persons who answer one or the

other of those descriptions. I flatter myself that your excellency will consider these reflections as conclusive, and discourage any attempt to delay the execution of the convention by the interposition of any opposition.

Accept, sir, the assurances of my high consideration.

ROBT. R. LIVINGSTON.

No. 502.

No. 94.—*Mr. Livingston to Mr. Madison, Secretary of State of the United States, dated Paris, January* 1, 1804.

[Extract.]

"The measures taken for carrying the treaty into effect are such as afford me the highest satisfaction, and I rejoice that the protests of the Spanish envoy has given good ground for taking the decisive measures, and explaining, by your act, the extent of your boundaries. The ratifications were received by the same conveyance. I enclose Mr. Talleyrand's note on the occasion. You will be astonished when I tell you that, upon asking the minister whether the Consul was pleased with the transaction and the manner of it, he told me that he was not, that Mr. Pichon should have annexed the resolution, &c., since the stock was not immediately created. I told him his idea was a very extraordinary one, when he knew that the laws were immediately to pass, and would have had a very ungracious appearance; that the President, instead of availing himself of the three months' delay, had resolved to create the stock as soon as he should hear of our possessing the country; that I thought the First Consul, instead of manifesting any displeasure, ought to be in the highest degree satisfied. He shrugged up his shoulders, and said he wanted the money, and had hoped there would have been no delay. He asked me when I thought the stock would come, and whether I could not contrive to turn it into money at an early day? I told him that I supposed that it might be expected by the end of January, and that I presumed he would find no difficulty in raising the money, since he had already turned it into bills, and anticipated a payment of 10,000,000 of those bills; that this was an affair to transact with the bankers. I mention these circumstances merely to show how rapid the wishes of the First Consul are, and how extremely difficult it is to count upon the natural course of things in transacting business with him.

"This, sir, greatly increases my anxiety at the postscript of your letter, in which you direct me to obtain permission to delay the issue of the bills till certain doubts are removed, and till it is ascertained what the amount of the claims will be, and till certain ulterior instructions arrive. It is impossible to see in what light he will consider this application; he will certainly view with astonishment the United States, who have hitherto pressed with such ardor the payment of the claims of their citizens, whose distress they have painted in such glowing colors, who have offered the most pointed complaints against the delays of the French Boards, now checking the progress of the business, and continuing the distress of their citizens. I sincerely wish, sir, that you had explained to me the doubts that have arisen under the treaty. I see none of any importance but which may easily be removed if the Commissioners (or rather Mr. McClure, for he governs the Board) shall entertain a sincere desire to accomplish their task. Nor do I see any reason to believe that the twenty millions will not cover all the just demands within the treaty; for, though the nominal sum is much higher, yet we know of a certainty that many claims have actually been discharged; that some are charged twice even in the provisional note; that many are in paper, and will be reduced to one-tenth of their apparent sum. Upon the whole, the provisional note cannot amount, inclusive of the interest, to ten millions; so that I have well founded reasons to believe that there will be no excess of debts beyond it which are not provided for. One million, at least, of interest will be added by the delay I am directed to obtain, and by the measures the Board have pursued; but that million is a charge against the United States, since it is solely occasioned by their act. The distress that the claimants here will feel by this delay, the derangements that it will make in mercantile speculations, will cause a very heavy loss to many. But, sir, how is this instruction to operate? The convention is now the law of the Board. What power exists to arrest its operation in any way but by enacting a new law, that is, by framing a new treaty? This, then, must go though all the forms; it must be sent back for ratification. How many months must elapse before this can be effected, since I have not yet received the instructions for its commencement? In the meantime, sir, in what a delicate situation am I placed! Suppose the acts are passed, the necessary certificates given, and the party applies to me for the bills—what answer am I to give? Will it be sufficient for me to plead an instruction for a breach of the law? Would it not have been infinitely better to have suffered the business to go on, and, if there had been an excess, for our Government to have paid it, and constituted themselves creditors of the French Government to that amount? The embarrassments to what this and other acts arising from different views of the subject, (among which may be counted the affair of the guaranty,) obliges me to act so inconsistently with myself, and to undo one day what I had done the day before, as to render my situation very irksome.

"If the Government sees through other eyes than those of its minister—if it founds its measures upon informations received through other channels, and some of those avowedly unfriendly to him—he is bound in honor to quit his station.

"The law, too, directing me to draw bills is such as is certainly not calculated to render me very easy. I am to be constituted debtor for millions, in an affair in which I have no personal interest, till I satisfy the accounting officers of the Treasury that I have drawn conformably to the convention. Thus my character, my fortune, are to be at the discretion of the accounting officers without any rule being prescribed to me, or to them, by which I am to obtain my acquittance. I should have expected, sir, that the proof should have been described in the law, so that, if it accompanied the bill, I should have been acquitted, and the books of the Treasury been at all times balanced. I am not to judge of the convention. The Commissioners tell me I have nothing to do with them. My bills can only be founded upon their certificate, and when this is produced it should serve as my discharge. It is upon this condition only that I will draw. It is probable that your instructions will prevent any bills from being drawn till after the time I have set for my resignation. Should it happen otherwise, I shall draw a special bill, referring

to the draft of the Board, which I shall annex to the bill, and I shall expect that the accounting officers, when they receive the bill, shall, at the same time, balance my account; for I will, in no event, stand on the books of the Treasury for unaccounted balances—no! not for a single moment. It is true that this mode of drawing will lessen the value of the bill to the holder who is compelled to part with it, because its payment will depend upon the contingency of the Treasury, considering the condition I annexed to the bill as good or bad. But it is the only way in which I will draw, until you are pleased, with the concurrence of the Secretary of the Treasury, to prescribe to me some such precise rule as will answer the object I have in view, which is, never to appear a public defaulter, or to commit my fortune, or that of my family, to such uncertain hazard as the opinion of the accounting officers in a country rent as ours by party. The Government have a right to command my time and my services, but they have no right to exact from me the sacrifice, or even the most distant hazard, of my fortune, beyond what I may voluntarily sacrifice to the support of my station. I shall send herewith an estimate, made upon the best grounds I can collect, of the amount of the debts when reduced to their true principles, and by this I think there is good reason to hope that all to which the convention refers, to wit: all debts incurred before the convention of 1800 will be paid without exceeding the twenty millions; or, if there is any excess, it will be so small that it will be better for our Government to discharge them than to stop the progress of the Board, and incur a heavy loss in expenses and interest. But, as your order leaves nothing to my discretion, I shall obey your commands and make the application you require, though my heart bleeds for the distress that it will occasion to many here, and the door that will be opened for speculating upon their losses."

No. 503.

Mr. Livingston to Mr. Madison, dated Paris, January 13, 1804.

[Extract.]

"The measures of the Commissioners exciting the utmost uneasiness and dissatisfaction among the creditors here, and as I doubt not that it will be extended to those of the United States, and afford ground for improper speculations upon their debts, I have been anxious to afford you a just view of the probable amount of the demand. In this I had hoped to have been aided by Mr. Skipwith, whose duty it certainly was to give me the most accurate information he could collect. I have received from him a list of claims, and I had hoped, as he gave me reason to believe, that he would annex such observations to it as would have served to direct my judgment; this, however, he has since declined, and he tells me that he has transmitted this list to you; the impropriety of his corresponding directly with you on public measures, without submitting his correspondence to my inspection, is so obvious that I trust it will receive your marked disapprobation. In the present instance, unless he has accompanied his list with very particular observations, it must lead you into error and deceive the American creditors greatly, as to his probable prospect of payment, since the whole list is a tissue of errors, and is calculated to render the amount of claims as large as possible, with what view I will not pretend to judge. The list contains a number of claims for which there is no foundation; a number that are paid, as Mr. Skipwith himself knows; a number for which no vouchers can be produced; a number that do not come under the treaty. I have endeavored to investigate the subject as well as I can do in the little time that has been left me, since I have lost the hope of Mr. Skipwith's aid in doing it, the result of which you will find in the enclosed statement. I send you the several notes on which the calculations are made, except one, No. 000; this I omit, because the particulars of this might bear the appearance of prejudging particular cases, though I have no doubt that the result will be what I have stated.

"Upon the whole, I have very little doubt that the twenty millions will cover the whole of the claims embraced by the convention, particularly if, as is manifestly just, the United States pay the interest, which will not amount to less than a million, incurred by the conduct and delays of their own officers. The Chef de Bureau, Mr. Guillaume, asserts that eighteen millions will more than cover all our demands. It is of the utmost importance that our Government should be well informed on this interesting subject, and that false views of it should not lead to delays and to such discouragements as may render our citizens the prey of speculators. It is much to be lamented that Mr. McClure has contrived to influence the mind of one of the Board, and to prevent that harmony between them and me which the public interest requires, and which we happily enjoyed till he came from England and joined the Board.

"Barnet has disapproved of all their transactions, but is weak and timid; when he cannot get them to take his advice he joins in their measures, and then acknowledges to me that they are wrong, and apologizes for them by saying that he cannot oppose his colleagues.

"When they were notified of the ratification of the treaty, they gave out that they would go on. But as far as I can learn, they are now doing nothing. It is certain they have sent up no accounts since the arrival of Mr. McClure. It is my duty to say that the public interest requires his immediate removal, as well as direct instructions to the Board to advise with the minister, and inform him of all the transactions, and that the same order should go to the Commercial Agent, whose business, in fact, at Paris, is, and ought to be, that only of a Commercial Secretary. I have no personal interest in urging this, since, I trust, that your first letters, after the receipt of this, will bring my permission to retire, but the public interest imperiously demands it. I have not thought it proper to apply to the French Government for permission to suspend the drawing of the bills, for, since the Board have stopped their proceedings, it will be unnecessary. I think it more prudent to leave the responsibility, since they chose to take it, with them, and lay it to our Government. Besides, as the French Government knows they are doing nothing, they will think the demand premature. This delay will also, as I trust, afford me a more ample detail of your reasons than I have yet received, and entitle me to combat the objections which, I doubt not, will be made here to the creation of new delays, since they are far from being pleased with those that have already intervened."

No. 504.

Mr. Livingston to Mr. Madison, dated Paris, January 18, 1804.

[Extract.]

"Nothing new has occurred since my last. I was mistaken when I said the Board were going on; they have, indeed, sent up six cases as "*susceptible of liquidation*," which is certainly the last business they have to do, and, as far as I see, except where doubts are raised, is totally unnecessary. The French Board have passed upon near half the causes, which ours might go through in ten days. But they touch none of them, and consume time and money in the copying, what I conceive to be, useless papers.

"Unless some direction is given with respect to them I have no doubt they will ultimately involve us with this Government, as they have already done with the creditors."

No. 505.

Mr. Madison to Mr. Livingston, dated January 31, 1804.

[Extracts.]

"In my letter of the 9th of November last I communicated the ideas entertained by the President with respect to the pecuniary provision in the last convention with France in behalf of our citizens. It is presumed that you will have found no difficulty in obtaining the concurrence of the French Government in suspending drafts in favor of any until the claims of all shall have been ascertained. Should the sum of $3,750,000 be insufficient for the payment of all, as becomes daily more probable, the least that ought to be attempted will be an apportionment of it among them. Perhaps more than this may now be attended with great difficulty, although it is clear that the patronage of the Government of the United States is due on prior considerations to some classes of the claimants than to others; to those, for example, whose property was wrongfully taken on the high seas by force, than to those who, by voluntary contracts, placed a confidence in the French Government, which was disappointed. It seems requisite, nevertheless, that some effort should be made in behalf of those whose claims were embraced by the convention of September 30, 1800, and not provided for by that of April 30, 1803.

"With this view the President thinks it proper that you should adjust with the French Government a provision for comprehending in the convention of 1803 the claims still remaining under the convention of 1800, and for apportioning the money payable at the Treasury of the United States among the claimants under both; or, as the object next to be pursued, a provision for apportioning among the whole the money so payable, and also the balance chargeable on France, according to the tenor of the last convention; or, as the object next in order, a provision for apportioning among the whole the money payable at the Treasury of the United States, leaving to the claimants under the last convention the balance from France to which it entitles them; or, lastly, a provision for apportioning among the claimants under the last convention the money so payable, instead of paying it in the order of settlement, or according to any other rule of preference.

"The first arrangement takes for granted that France considers herself bound, notwithstanding the last convention, to satisfy all the claims provided for by the first convention pretermitted by the last. The supposition is founded on several expressions and implications of its text, as the head of the fifth article, 'all agreements,' &c., and particularly in the closing words of Art. X, and with respect to debts, the provision is express in Art. XII. This construction is the more reasonable also, inasmuch as the reciprocal stipulations of the convention of 1800 in this particular were carried into immediate and full effect on the part of the United States; and as a contrary construction would imply the relinquishment, without equivalent, of vested rights never formally contested by France.

"Should France, however, be unlikely to admit her responsibility for the pretermitted claims, and there be danger that, by urging her responsibility at this time, an equitable modification of any sort may be rendered more difficult, it will be best to pass over the question for the present, taking care that no waiver be made which may either still further weaken the claims against France, or give color for turning them over against the United States.

"Neither of the succeeding alternatives will increase the balance payable by France, nor is it contemplated that in these or any other modifications whatever the Treasury of the United States is to be made chargeable with more than $3,750,000, or rather with more than so much of that sum as would satisfy the debts to which it is subjected by the last convention.

"The object of each of the proposed modifications is to distribute whatever is to be paid by the United States and by France among all the claimants, as well those omitted as those included in the last convention; and in such a manner that every claimant of both descriptions shall receive a fair proportion from the Treasury of the United States, as well of the balance to be paid by France.

"The claimants who were provided for in the last convention cannot justly complain of any arrangement that will replace on the same footing with themselves their fellow claimants left by the last, under the first convention, as being a retrospective measure working a disadvantage to them. The retrospective proceeding will be found to lie in the last convention, so far as it is disadvantageous in its operation, to those claiming under the first only. An act superseding a retrospective act is not itself retrospective. The effect of it is to restore and enforce the original rule of justice.

"Should the French Government refuse to concur in any proposition that will restore the latitude given to claims as defined by the first convention, and which is narrowed and obscured by the text of the last, it will be proper to settle with the Government, if it can be done, such a construction of this text as will be most favorable to all just claims, particularly those for freights, indemnities, property put in requisition, and the separate property of individuals who are concerned in the disqualifying partnerships

mentioned in the convention, which are said to be threatened with rejection by the Board at Paris. It is to be kept in view, however, that "in case the whole sum of $3,750,000 should not be absorbed by the construction of the Board, the construction settled with the French Government is not to enlarge the sum to be paid by the Treasury of the United States beyond that to which the Treasury would be made liable by the construction of the Board.

"It will occur to you that, in case the field of claims should be enlarged, the time for presenting and settling them ought to be lengthened. You can yourself best decide how far a prolongation of the time necessary for the claims now admissible before the Board may be necessary, and ought to be attempted.

"There is reason to believe that not a few of this description are yet to be forwarded from this side the Atlantic."

"The convention with Spain, which was not agreed to at the last session of Congress, has been resumed and ratified during the present. The objection to it was, that it did not provide, in sufficient extent, for repairing the injuries done to our commerce; particularly in omitting the case of captures and condemnations by French cruisers and Consuls within Spanish responsibility. As the convention does not abandon the omitted cases, but merely leaves them for further negotiation, it was judged best, on the whole, not longer to deprive that class of our citizens who are comprehended in the convention of the benefit of its provisions. The claims of the others will be pursued with due attention, and may, perhaps, be advantageously brought into the negotiation, with which Mr. Monroe and Mr. Pinckney will be jointly charged."

No. 506.

Mr. Madison to Mr. Charles Pinckney, Minister to Spain, dated February 6, 1804.

[Extract.]

"Your last letter, not already acknowledged, is that of August 2, continued on August 30.

"The Senate having resumed at the present session the convention with Spain, postponed at the last, have thought proper to ratify it; and the President has completed the act on the part of the United States.

"The instrument is now returned to you with these sanctions, in order to be exchanged for the ratification of his Catholic Majesty. You will hasten this formality as much as possible, and forward the result to the Government here, that no time may be lost in procuring to our citizens the benefit stipulated to them. To favor despatch, as well as to guard against casualties, duplicates and even triplicates will be proper.

"In concurring in this partial provision for the indemnities due from Spain, it is to be particularly understood that it proceeds from no other considerations than a wish to shorten the delay of relief to that portion of the claimants who are included in the provision, and a determination to avail the residue of the reserve, expressly made in behalf of their claims by the — article of the convention. When the decision of the Senate was postponed at the last session, it was justly hoped that, before the succeeding one, the Spanish Government would have yielded to the reasonableness and justice of giving to the provision the extent required by the United States; in which case the arrangements would have been simplified, and a foundation laid at once for closing all controversies on the subject. The final refusal of Spain to concur in these views has been thought to give a preference to the course now adopted.

"None of the pleas urged by the Spanish Government can in the least invalidate the justice of the claims for injuries committed by French citizens or agents within her jurisdiction.

"If his Catholic Majesty be sovereign in his own dominions, aliens within them are answerable to him for their conduct, and he, of course, is answerable for it to others. This is a principle founded too evidently in reason and usage to be controverted. As well might Spain say that a theft or robbery, committed in the streets of Madrid by a Frenchman on an American, is to be redressed by France, and not by her, as pretend that redress is to be sought for spoliations committed by cruisers from, or condemnations within Spanish ports. Nor is there any room for the distinction between the injuries proceeding from the French cruisers and the French Consuls. With respect to the Consuls, their acts were either authorized or not authorized by Spain; if authorized by Spain, Spain is answerable for giving them the authority; if not authorized by Spain, they could not be authorized at all; the law of nations giving them no such authority, and France having no right to give it; and being acts without authority, they are not to be regarded as consular acts, but as much the acts of private individuals as the cruisers, or any other irregularities committed or instituted by French citizens within the jurisdiction of Spain. To say that the Consuls derive their authority from the sanction given by Spain to the authority derived from France, without which sanction, positive or permissive, it is clear that the authority of France within the jurisdiction of Spain would be a nullity, is still to rest the condemnations by the Consuls on authority of Spain and to leave her responsible for them.

"Under every aspect, therefore, Spain is bound to do justice in this case to the citizens of the United States, unless she not only pleads a duress, suspending her free agency, and prostrating her national honor, but proves the reality of this duress; and not only proves this duress, but proves, moreover, first, that she did everything in her power to prevent the evil; next, that she did everything in her power to obtain reparation for it; and lastly, that in tolerating the evil she did not deliberately and wilfully surrender the neutral rights under her protection, to advantages, positive or negative, obtained or expected by herself from France.

"The suggestion that France was resorted to for redress is unfounded. It does not appear that any such resort was authorized by the Government of the United States; whilst the claims against Spain have been uniform and pressing. Nor is it believed that any interpositions have proceeded from the American legation at Paris. Had, indeed, such interpositions taken place they would in no respect lessen the obligations of Spain.

"Individuals may have made their applications to the French Government, but it will not be pretended that the merits of the question can be affected by that circumstance.

"The plea on which it seems that the Spanish Government now principally relies is the erasure of the second article from our late convention with France, by which France was released from the indemnities due for spoliations committed under her immediate responsibility to the United States. This plea did not appear in the early objections of Spain to our claims. It was an after thought, resulting from the insufficiency of every other plea, and is certainly as little valid as any other. The injuries for which indemnities are claimed from Spain, though committed by Frenchmen, took place under Spanish authority; Spain therefore is answerable for them. To her we have looked and continue to look for redress. If the injuries done to us by her resulted in any manner from injuries done to her by France, she may, if she pleases, resort to France as we resort to her. But whether her resort to France would be just or unjust is a question between her and France; not between either her and us, or us and France. We claim against her, not against France. In releasing France, therefore, we have not released her. The claims, again, from which France was released were admitted by France, and the release was for a valuable consideration in a correspondent release of the United States from certain claims on them. The claims we make on Spain were never admitted by France, nor made on France by the United States; they made therefore no part of the bargain with her, and could not be included in the release."

No. 507.

Mr. Livingston to Mr. Skipwith, dated Paris, February 20, 1804.

[Extract.]

"You say that the convention, if truly executed, would work the greatest injustice, and that you have mentioned your doubts to me; I confess, sir, I see none of these doubts or difficulties in the convention, which was clearly designed to embrace all debts due under the convention of 1800, and which does fully embrace all such, in the opinion of every man of common sense with whom I have conversed, yourself, and as I am told (though I know nothing of my own knowledge) the Commissioners, excepted. The only doubt you ever mentioned to me was, whether freight was included in the word *fourniture;* upon this, I confess, I never could see the smallest doubt, and so I have told you; *fourniture* is defined the act of providing, as also *provision* or supply, and in a peculiar manner embraces freight, either separately or as a part of the price of every foreign article, into which it must necessarily enter.

"I learn that the ingenuity of the Board has struck out a great variety of other difficulties which distress the claimants and the plain provisions of the treaty, but what they are I know not."

No. 508.

No. 1, F.—*Mr. Livingston to the French Minister of Exterior Relations, dated Paris, February* 24, 1804.

SIR: Doubts have arisen on the construction of one of the conventions, of 30th April last, between the United States and the French Republic, which relates to the debt to be discharged by the United States for account of the French Republic. I am anxious to know the opinion of the French Government on those articles on which such doubts have been raised, and the rather, as I am persuaded that a sense of justice, equally operating on France and the United States, will induce them to give it the most liberal construction.

The preamble of the convention expressly asserts that its object was to secure the payment of the sums due to the citizens of the United States, in compliance with the 2d and 5th articles of the convention of 8th Vindemiaire, an 9.

The 1st article is general, and refers to all such debts, but declares that they shall be paid according to subsequent regulations thereafter mentioned.

While the negotiations were pending, in order to form some general estimate of the amount and nature of the debt, the Minister of the Treasury, charged with the negotiation on the part of the First Consul, received from the Board of Comptability an account apperçu of the debts then before them; it was declared at the time by the accounting officer to be inaccurate, and was so understood by the plenipotentiaries on both sides, and it was even agreed that this should be endorsed on the note, but was, in the hurry of business, neglected, and for that reason has not been annexed to the convention itself.

It has been the constant intention of both contracting parties that debts equally just with those on the list should be equally paid, and not that they should be paid if unjust. It now appears that what was suspected is here. That many of the debts on the list have been paid, that others are not due, many greatly overcharged, and many charged twice under different heads; so that, upon a fair statement, there is the highest reason to believe that the whole of that note, including the embargo, together with the interest on the debt, will not exceed twelve millions of francs. The American Commissioners, I am informed, do not seem disposed to examine or order payment of any account that is not contained in that inaccurate list. I wish to know from your excellency whether the French Government acquiesces in this construction.

The second question arises upon the 4th article: It is insisted that the word *fournitures* does not include anything but provisions and goods, but neither supplies of money nor the freight of shipping to transport the articles furnished, nor charges which have accrued upon such ships, though admitted and recognized as just by the French Board.

I am so well satisfied that it is not the wish of the Government of the United States to make any advantage out of this circumstance, that I do not hesitate to declare that it was the intention of the American plenipotentiaries to render the treaty as extensive as the preamble indicates, and to include all

debts provided for by the convention of 1800, as far as the twenty millions would go, with some checks to prevent frauds by persons not truly American citizens, or the covering of foreign property under American names. That in translating the word *fournitures* by the word supply, they have fully expressed this intention, which still appears to me, upon consulting the best French authors, to be co-extensive with this idea, since it is anything that can be furnished.

Were it even equivocal, the express intention of the treaty, as collected from the preamble, should, I believe, according to the established rules for the construction of treaties, govern its sense.

Another question arises upon the tenth article: It remains to know whether the decisions of the American Board of Commissioners, when they reject a claim, is final, or whether they must, in every such case, refer their decisions, with the reasons on which they have founded them, to the minister of the United States, so that the ultimate determination may rest with the French Government.

Upon these questions I pray your excellency to afford me an early answer, in such form as will serve as a direction to the American Commissioners and to the French Boards, to the end that those who are excluded from the benefit of the convention of April last may make their application to the Government of France to provide some other means for the discharge of debts which they have acknowledged to be justly due.

It may be satisfactory to your excellency to know that, upon the best estimate I have been able to make, I have reason to conclude that the twenty millions will suffice for payment of the whole debt that can be justly claimed under the last convention, even in giving it the most liberal construction.

These different questions might have been properly examined by the Minister of the Public Treasury and me previous to any application to your excellency; but I thought best to refer them immediately to you, and if you find it proper to communicate them to Mr. Marbois, I am inclined to think there will be little difficulty in agreeing to an explanation conformable to the intentions of both our Governments.

Accept, sir, the assurances of my high consideration.

ROBERT R. LIVINGSTON.

No. 509.

Mr. Skipwith, Commercial Agent of the United States at Paris, to Mr. Livingston, dated Paris, February 25, 1804.

[Extract.]

"I have the honor of agreeing entirely with you, that treaties are the acts of Government, who may have their own views in the manner of explaining them, and that these views they communicate only to their minister," &c., &c. "But in regard to the convention, sir, I am confident that neither the French nor American Government have any hidden view; they can only wish equal justice to be done American claimants; and I wish that I may not always have the honor of disgreeing with you on the subject of my proceedings, as agent under the convention, as agent of our Government, charged in a special manner with interests of individuals in prize causes; or as the agent of a great portion of the numerous just claimants in the United States, who had a right to expect that we were both equally attentive to their true interests here. I wish, sir, you would give yourself the trouble of looking back to my letter to you of the 5th of April last, with my statement at the same time of the claims then within my knowledge here, and ask yourself for the solution, whether those things have not passed unnoticed, while a conjectural note, rendered by a subordinate bureau of this Government, without even a signature being attached to it, is not exclusively consecrated by the 2d article of the convention. You will never make me believe, sir, though I myself have heard you more than once say so, that Mr. Marbois was determined to have that note exclusively recognized. I think you must have said, or thought so, from some wrong inference of his or this Government's determination on that head; at least, no impartial aud discerning man will be persuaded that either he or them would have consented to it, had you presented or urged any other view of American claims."

"The men of common sense, with whom I may converse, I dare say, must be very few indeed, sir, to the circle of yours. It is with the little stock I have of my own I see directly the reverse of what you so positively assert, 'that, in the opinion of all men, myself, (and as you are told,) the Commissioners excepted, the late convention embrace all debts due under the convention of 1800.' The last convention, if I am not strangely deceived, is a convention of exceptions to the one of 1800. Deign, I beg you, sir, to look for a moment at the instrument itself. Does not the very first article of it prove that the convention of 1800, as it regards the debts, is to be executed according to the regulations which the late convention is found to contain.

"Among these we find, in the language of the convention, 'that no debts are to be comprehended but such as are due for *supplies, embargoes,* and prizes made at sea.' It is further declared in the 5th article, 'that the captures to be paid for are those of which the Council of Prizes have ordered restitution,' that the debts to be paid must be such 'as are entitled to the protection of the United States,' that the citizens claiming, 'must not have established houses of commerce in foreign countries, in partnership with foreigners,' and must not, 'by the nature of their commerce, be regarded as domiciliated abroad.' There are provisions found in the late convention, without going into a more minute analysis of it, alone sufficient to prove the fallacy of that part of your letter upon which I am at present remarking.

"In respect to freight, I do recollect asking you the question you state, and though I am not civilian enlightened enough to say how your solution of it, as relating to supplies, would be received in the application of the law, yet I confess I am pleased with it, and as far as that construction may be connected with my agency under the convention it was always and is my intention to support it in cases where freight, from the nature of their flag, &c., &c., are entitled to that support; whether the Board, as you intimate is the fact, have struck out that and a great variety of other difficulties, I know not; their proceedings remain to be judged by our Government; their conduct, as well as mine, by an impartial public; as men of high patriotism, pure views, and sound judgments, I esteem them."

No. 510.

Mons. Barbé Marbois, Minister of the Public Treasury, to the Minister of Exterior Relations of the French Republic, dated Paris, March 8, 1804.

[Translation.]

I received, Citizen Minister, the letter you did me the honor to write to me on the 16th of this month. I transmit to you the information you ask.

That one of the two conventions of the 10th Floreal, year 11, which is relative to the claims of Americans on the Republic, stipulates that it shall be discharged by the United States in deduction of what we owe them; the principal object of this convention was to give satisfaction to the citizens of the United States and to the American Government, by procuring the execution of the treaty of the 8th Vindemiaire, year 9. The stipulations of it had remained until then without being executed, and gave rise to pressing solicitations from Mr. Livingston. These solicitations had acquired additional weight by the assurances which the First Consul had charged you to transmit to this minister some time before the signing of the convention of the 8th Floreal, year 11. Under this view, we had no other interest than that of extinguishing to the amount of twenty millions of debts, and to do it in perfect harmony with the American legation, and in such way that the Government of the United States might see that the distribution of the sum and the order between the creditors were equitable, and could not give room to any grounded complaint.

But the debt not being authentically acknowledged, the matter of the treaty about to be concluded being still an uncertain claim, it was necessary to determine to whom should accrue a possible profit on the debt, in case it should not amount to twenty millions. This determination presented two difficulties equally to be feared: one was that, if the overplus was to revert to us, the creditors, or those who pretended to be such, would complain on account of the rejection of their pretensions, and suppose that the interest we had to diminish the mass of the debt made us difficult about the admission of the vouchers; it is to do away this supposition that it was expressly agreed that if this sum of debts did not amount to twenty millions *the overplus should not be claimed by France.*

I subjoin to this an extract of the papers which contain this precise disposition; it is the more liberal on our part, as we could have made use of good reasons in favor of a contrary disposition. The other difficulty arose out of the presumption that, if the overplus were to go to the benefit of the United States, such a stipulation might dispose the American Commissioners to reject, without sufficient cause, many of the claims, in order to reduce insomuch the sums to be paid by their Republic. It is to provide against this as much as possible that we agreed to consider a statement produced by the liquidation as an approximation of the American claims; but we were, at the same time, very far from considering all the articles comprised in this statement as acknowledged to be liquidated and sheltered from all revisal. Mr. Livingston and I agree on this head; we thought, at the same time, that articles not comprised in this note, (apperçu,) might be paid in virtue of the convention, and it is equally contrary to the spirit of this article, and to reason, and to the principles which guided us during all the negotiation, to suppose that legitimate debts would be discharged for the single reason of their not making a part of this note. The minister of the United States and myself think alike on this subject.

This declaration answers to the first inquiry made by Mr. Livingston. I had foreseen that, sooner or later, these difficulties would be raised, and it is on this occasion that I had the honor to write you on the 18th Floreal, year 11, (May 8, 1803.)

The second inquiry concerns the sense of the 4th article. In order to reply to it I must observe that the American ministers stipulated for the creditors, their fellow-citizens.

The article is conformable to the note which they themselves had furnished me, and they had used in them the word *supplies*, which we translate by "*fournitures.*" I do not hesitate in adopting the meaning which Mr. Livingston applies to this one, at the same time that it is liberal, so is it just; for it cannot be supposed that the negotiators wished to give a preference to one kind of claims, to the prejudice of money lent, or of debts due for freight; in fine, this meaning is grammatical; for money and all kinds of means of service are furnished, and this also embraces freight.

The American minister alone would have an interest in contesting this meaning. He could only do it by subtilties tended to weaken the debt, and a like intention was never manifested in the course of our negotiation.

The third question arises upon the sense of the 10th article. It appears to me resolved by the article itself. The results of the Board of American Commissaries cannot be definitive, and the whole article establishes clearly that they can only give opinions upon which Mr. Livingston and I will confer, and in case of disagreement the French Government will decide.

I know that there is a difference of opinion on these matters between Mr. Livingston and the American Commissioners. I hope, in all cases, that they will all be convinced that our only object is to do justice to all those who have a right to the twenty millions stipulated.

I have, &c.,

BARBE MARBOIS.

P. S. On reading over again your letter, Citizen Minister, I feel it my duty to express myself still more particularly on Mr. Livingston's third question; I think that, in order to prevent any delay in the delivery of the titles of payment of the debts acknowledged, it is important to define with precision the functions and authority of the Commissioners. You cannot, nor can I, have any direct relations with any other than the minister of the United States. It is, therefore, to him that they ought to transmit their provisional opinions and decisions, whether favorable or unfavorable to the claimants. I believe, also, that their functions ought to be confined to pronouncing on the following points:

"Is the claimant an American?"

"Is the claim (for American property) comprised in the treaty of the 8th Vindemiaire, year 9?"

No. 511.

Messrs. Mercer, Barnet, and Maclure, United States Commissioners of Claims, to Mr. Livingston, dated Paris, March 9, 1804.

SIR: We think it our duty to make to you the following representation: The records of our proceedings show that on this day there have been certified, under the direction of the convention, *forty-six* claims to be liquidated by the proper department of the French Government; and we have also certified *forty* others as not being embraced by its principles. No returns of any liquidation having been made in the first description, nor any objection offered to the latter, before the agent appointed under the 10th article of the convention, we submit to your judgment the propriety of urging the returns upon which our final certificates are to be granted.

Two reasons, arising from the convention, serve to point out the necessity of some step being taken to hasten this part of the business. The sum beyond which we can direct no liquidation to be made being limited, it becomes proper for us to know the amount of each liquidation. The time also being fixed within which "every necessary decision" is to be made is an additional cause for our calling your attention to this subject.

The claims founded upon the "conjectural note," as far as the state of the papers will permit us to decide, have received our opinion, those belonging to embargoes excepted. These papers, though expected in a few days, are not in such forwardness in the French office as to allow the agent of the United States to lay them before us.

We have the honor, &c.,

JOHN MERCER.
J. COX BARNET.
WM. MACLURE.

No. 512.

Mr. Livingston to Messrs. Mercer, Barnet, and Maclure, United States Commissioners of Claims, dated Paris, March 13, 1804.

GENTLEMEN: I have before me your letter of the 9th instant. The total ignorance in which you have thought it proper to keep me of all your proceedings has rendered it impossible for me, hitherto, to make any arrangements with the French Government for the final discharge of the debt due to our fellow-citizens, either out of the 20 millions to be paid by our Government or by the French Government, in case any debts due to them should not be comprised in the treaty. And now you have thought it proper to write to me, your letter leaves me totally in the dark as to the nature of your proceedings, and, of course, puts it out of my power to apply for what you call the returns, since, not knowing what your certificate is, I cannot possibly know whether any other is necessary than that already given. You speak in your letter of forty claims which you have certified as not being embraced by the convention. It appears to me that, in every such case, you should furnish me (and common justice would also require the parties) with the causes of your rejection, so that they might be specifically examined by the Minister of the Treasury, and ultimately by the French Government; for it cannot be supposed that it could be the intention of France, in the convention, to put 20 millions at the disposition of the United States, to pay the debts due from the former, and then leave it to agents, appointed by the latter, to determine how far they would or would not apply this sum to that object. The whole power of the Board only goes to an examination, and not to a final conclusion on any point whatever, except as to the two points contained in the certificate they are to give, to wit: That the debt is due to an American citizen; and that it existed before 30th September, 1800; and, at all events, the reasons of your rejection should be explained, that if valid the creditor might recur to France for payment. Having heard, though not from you, gentlemen, that you had doubts upon many parts of the convention, I thought it advisable to see how far the French ministers concurred with me in the construction of it. I do myself the honor to enclose my letter, together with Mr. Marbois' answer, in which the Minister of Exterior Relations fully concurs. I do not know how far you will consider this as a direction to you in your proceedings, but I shall conceive that I have done my duty in submitting it to your consideration; and I only regret that you have not long since sought instructions on doubtful points, which I shall always think, and I trust our Government will think, the most proper course.

You mention, as a reason for my pressing a final decision of the French Government, that there is a certain sum beyond which you can direct no liquidation. I confess I see no such direction to you in the convention; on the contrary, I think you are bound to liquidate the whole debt; because what is not payable by our Government must be discharged by France.

I have the honor to be, gentlemen, yours, &c.,

ROBERT R. LIVINGSTON.

JOHN MERCER.
J. COX BARNET.
WM. MACLURE.

No. 513.

Mr. Livingston to Mr. Skipwith, dated Paris, March 13, 1804.

SIR: I have this moment received your letter, with your correspondence with Mr. Defermon. I can only say that I agree with him exactly in sentiment, and that this is also the sentiment of the French

Government, as appears by a letter from Mr. Marbois to the Minister of Foreign Relations, which I have enclosed to the Commissioners for American Claims, and which they will doubtless communicate to you. I take this opportunity to inform you, in answer to two passages in your former letter that appeared to be erroneous: 1st, that upon a full investigation of your state of the claims I find it much more erroneous than that of Mr. Guillaume, of which you will be convinced, by its falling very considerably short in the general amount; of course great injustice would have been done by giving it a preference as you appear to wish; 2d, that I have preferred no complaint against the Board of Commissioners (as you assert) to the French Government; though Mr. Marbois communicated to me a petition (containing some statements of complaints) by those whose claims were rejected, in which they desired the French Government to provide means for the discharge of their demands if they were precluded from the benefit of the convention. This was shown me by Mr. Marbois, in consequence of the petition being sent in while I was in his cabinet on other business.

I am, &c.,

ROBERT R. LIVINGSTON.

No. 514.

Messrs. Mercer, Barnet, and Maclure, United States Commissioners of Claims, to Mr. Livingston, dated Paris, March 22. 1804.

[Extract.]

"In your letter to the Minister of Exterior Relations you say you have been told that we had doubts concerning the meaning of the convention, and mention the particular points on which these exist. Justice and a due regard to truth force us to contradict, in the most positive manner, this declaration. As yet we have felt no doubts or difficulties about the line of conduct prescribed to us as Commissioners under the convention; we have in no instance decided that *money* may not be embraced under the word *supply* or *fourniture*, or given any such opinion; nor have we on any occasion said that we should limit our examination to the claims founded upon the conjectural note, provided they did not exceed the 20,000,000 of livres. On the contrary, our records, as early as the 1st of August last, show that we entertain a very different opinion. Thus these reports, seeming to form the principal inducement for your official letter, being without foundation, we have a right to expect from you, sir, a conviction of its extreme impropriety as far as it relates to these, even could it have been justifiable under a different statement of the facts. With respect to our opinion of claims for freight, you have been more fortunate in the information you have collected. In believing that the French substantive *fourniture* cannot supply the place which might have been occupied by the French substantive *fret*, which has a precise, a definite, and even a technical meaning, we have felt neither doubt nor difficulty; and though we may not have consulted the best French authorities, when we do, we hardly expect to learn that our opinion is egregiously incorrect. Mr. Marbois thinks that, by a liberal construction, the word fourniture may be extended to the claims of freight. Though it would be extremely grateful for us to indulge our feelings in this respect, we cannot believe it our duty to take this liberty with a public trust. However just we may consider claims for freight to be examined apart from the convention, of which you cannot be more convinced than we are, yet as Commissioners we are not permitted to give way to our opinions upon abstract principles of justice. To do this would be as unjustifiable as to neglect the positive duties enjoined upon us, or rather the one act would amount to the other. But, sir, where is the difficulty upon this point, or why consult the French Government for our information? If your opinion be correct, that we can determine nothing, and that our decisions of every sort are to be submitted to your superintending care, why not wait until these cases come before you in the form which seems to be prescribed in the convention? You will then have an opportunity of taking your own view of the convention, or of adopting that of the French Government, and applying such construction to its various parts as you may think correct. This will place the responsibility of each agent, acting under the authority of the United States, where it ought to rest. Should it be the opinion of our Government that we have been too rigorous in our construction of this part of the convention, we assure you that we shall have more satisfaction in abandoning than we now feel pleasure in adhering to it. Your observations, addressed to the Minister of Exterior Relations, upon the character and probable amount of the conjectural note being intended to show the absurdity of an opinion which *we* never entertained, might not, perhaps, be considered as claiming our attention, and certainly would not had they not proceeded from any other person than yourself. But having your correspondence before us, and seeing therefrom the high estimation in which you once held that paper, it becomes us to remind you of your former opinions; ours have been uniform upon its character, as our records show, however you may at this moment shrink from the recollection of that note being solemnly made a part of the compact; it is now too late; conventions that passed during the negotiations—things that were intended to have been done, but were forgotten—will perhaps tend very little to mend the deformities which are seen upon its face, or relieve your mind from the reflections that must fill it, when you reconsider your former opinions, recorded by your own pen, of the importance attached to that paper. The more these deformities are, the greater will be the surprise that it should have ever gained the rank it does hold under the convention. The convention says it is a part of itself. To fix this, the language is as strong as any that could be used for that purpose; it was received at your hands. Your single letter of the 7th of July, in answer to one addressed from this Commission, jointly to yourself and Mr. Monroe, stands recorded in this office, in which you say the 'note delivered to you by Mr. Skipwith was, as he informed you, received directly from me as the conjectural note referred to in the convention.' At that moment, which was the most proper one for giving an opinion upon the note, you lent your aid in maintaining its character, and the only endorsement which we perceive it has is that of your single name. Never, until reading your letter to the Minister of Exterior Relations, could we expect to see you unfriendly to it. Your letters, which we can never forget, are before us. In that of the 16th of November, when you undertook to censure our conduct for not first examining the liquidated claims—which we did not do, for the simple reason that none such were in existence—you use

language in reference to this note which we never will call upon you to reconcile with that you have lately held. You say 'if any doubts could possibly exist on that subject, that doubts must give way upon seeing the lists given in, both by the French Boards and Mr. Skipwith. *The first of which is expressly* referred to in the convention.' Again you remark, 'besides, the liquidated claims are specially referred to in the list by their names and dates.' Here such was your affection for the conjectural note that you adhered to it when, among its other absurdities, it mentioned a description of claims which did not exist. Sir, you were not content with this, giving way to your feelings, because we would not obey the conjectural note upon a point it was impossible for us to do; you not only reminded us of the responsibility, in departing from it, which we owe to our country, and which we will always submit to, but threatened us with our being answerable in our private capacity to individuals.

"Your words are these: 'Your duty then is plain; and in taking up any other rule than that which you admit is prescribed by the convention, you act without authority, and must render all your acts doubtful, and in my opinion not only make yourselves answerable to the Government collectively, but in your individual capacity to any person that you may injure, by stepping out of the line which you yourselves admit to be prescribed to you.'

"After these extracts from your letters, you will hardly charge us with insincerity in declaring our surprise at your letter to the Minister of Exterior Relations, in which, among other things, you say that note never was annexed to the convention. We will press this subject no further. In giving to the conjectural note only that preference which it holds under the convention, by first deciding the claims found upon it, you will see us again, as we hope you always will when they come in contact, sacrificing our feelings as individuals to our duty as Commissioners.

"As to the calculations which you make upon the probable result of the conjectural note which may be embraced by the convention, we possess no data by which to judge of their correctness, and of course furnish you none. Being unconnected with the liquidations to be made in the French bureaus upon such claims as we say are susceptible of it, and not knowing, if your construction of the convention be a sound one, how many of our rejections may be resuscitated by the French Government, we can at present have no opinion upon the subject. Time and the progress of the business can alone shed the light which is necessary to produce satisfaction upon this head. We are willing to wait for the result as far as our reputations are involved. We do not know whether the class of claims arising from prize causes, and the 3,377,906 livres which were in the French offices on the 30th of April, 1803, but not upon the conjectural note, were before you when your calculations were made. Were we, sir, to take that species of evidence in forming a judgment of what your opinions will be upon the particular claims that may come before you under the forms of the convention, which you have received in guessing at ours, and thereupon founding an official letter, we should be less inclined to believe that twelve or twenty millions will cover the debts even found upon the conjectural note than we are at present."

No. 515.

Mr. Livingston to Messrs. Mercer, Barnet, and Maclure, United States Commissioners of Claims, dated Paris, March 22, 1804.

[Extracts.]

"Your observations on the propriety of my endeavoring to clear up doubts on the convention, by an application to the French Government, need no particular notice. When I shall believe that the President, in making me his minister, or Mr. Monroe and myself, in fixing upon you for Commissioners, meant to give you a control over the official conduct of the minister, I shall submit to you the reasons of my measures. Some very happy circumstances, however, have arisen from those I have adopted in this instance. 1st. They have settled the opinion of the French Government, at least upon the subject of freight, and thereby assured that justice to a number of our fellow-citizens which you declare you do not consider yourselves as authorized to afford them. 2d. They have also called forth an opinion, which you certainly have not before given, that *money* is to be considered as *supply*. It was quite, however, as natural that the French word *fourniture* would supply the place of the French substantive *fret* as that of the French substantive *argent*. But you, I presume, gentlemen, know how to justify the ingenious distinction you make. 3d. And if they had not produced a change in your sentiments, they will at least relieve the anxiety of a great number of our fellow-citizens, who have, I believe, without the exception of a single creditor in Paris, believed that you did not intend to liquidate any debt not included in the provisional note. It is possible, and I must now presume so from your assertion, that they inferred thus from your silence, yet the fact is that many of them came to me directly from the Board, and from Mr. Skipwith, in great apparent distress, shortly after you began your operations for the second time, and inquired whether they were precluded by not being on the provisional note, asserting that they had been so informed by some or all the Commissioners, or by their agent; and it is also a fact that this opinion is even now generally entertained by every American creditor in Paris that I have conversed with. It would have been happy, then, gentlemen, if you had thought proper at an earlier day to make an avowal of a contrary sentiment; and I shall felicitate myself in having procured it even at this late hour, since it is not only necessary to the peace, but to the essential interest of creditors. Claims of this class might otherwise be, and probably have been, from the prevalence of a contrary sentiment, the object of speculation at an under value.

"These reasons, as well as the propriety of fixing and making known the sentiments of the French Government on this important point, evince the advantages that have already resulted from my taking their sense on this subject.

"A great many pages of your letter is taken up in reasonings and quotations to show that I considered the provisional note as giving a priority to the cases mentioned in it. Upon this I never entertained any doubt, nor does my letter to the Minister of Exterior Relations maintain a contrary sentiment. You say you embraced with pleasure the earliest means of enabling me to remedy the mischiefs that would result from your delays, and you did this by informing me, after you had sat nine months, and passed forty-five

cases, that you had done so. The first notion you ever thought proper to give me on this subject being by your letter of the 9th instant, whatever my solicitude may be upon this subject, so interesting to many of our fellow-citizens, yours, gentlemen, does not seem ever to have been greatly awakened.

"I find, as you say, that you did not clearly comprehend the clause of my letter which speaks of the difficulty of making arrangements with the French Government for the discharge of the debt due out of the twenty millions to be paid by our Government, or by the French Government, in case the debts due by them should not be comprised without information as to the form of your certificate; and yet a little attention, one would have imagined, would have rendered it very plain, and not inconsistent with my idea of drawing bills so early as last September.

"Not foreseeing any of the difficulties or delays which have arisen in the execution of a very simple trust, I presumed that you would have passed a great proportion of the cases upon which there was no doubt in the course of a few weeks; and I found no difficulty in adjusting the forms of your Board, and that of the French Board, in such manner as to occasion no delay; for at that time the Board had none of those scruples which prevented my free communications with them. When they acted otherwise, it was not in my power to make arrangements which might or might not be necessary, according to the forms in which the certificate of the Board was drawn; and what that was, they did not think proper to communicate. A reason of personal delicacy, also, restrained me from pressing this business for the few claims that had passed. The first claims that the Board passed, before Mr. Maclure's arrival gave birth to the subsequent delays, included one of my brother. Had I got the former settled, I must have drawn bills for this; and when I saw from the conduct of the Board that many months were to elapse before other claims were liquidated, I did not choose to expose myself to the censure of partiality by giving him a preference over other creditors.

"The second member of the paragraph is equally obvious. Such debts as were justly due, but not payable out of the twenty millions, because not embraced by the convention, are still a charge upon the French Government. Till, therefore, I knew what claims you had rejected, and upon what principle, it was out of my power to make any arrangements with them. In this view, therefore, as well as many others, your secrecy and want of communication with me has been injurious to the public creditor."

"I could wish you had been more explicit, as I am at a loss to guess at your meaning when you speak of my having *taken steps, in concurrence with certain individuals in Paris, in relation to the Board.* I have taken no steps with any individual, other than as far as possible to calm the anxiety of the claimants, and to lessen the resentments that they have universally felt at the delays, the secrecy of the Board, and the hauteur with which they have so generally complained of having been treated."

No. 516.

Mr. Madison to Mr. Livingston, dated March 23, 1804.

[Extract.]

"In my letter of the 31st of January, expressive of the wishes of the President in relation to such modifications of the late convention with France as might impart its benefits more equally and justly among the claimants, it was omitted to suggest an arrangement for the immediate relief of such of them as are in that country, and might suffer from the disappointment and delay consequent upon the endeavor to effectuate the proposed modifications. It has however occurred, as a reasonable attention to their situation, that there should be made to them, after the adjustment of their claims by the Board, a partial advance of bills upon the Treasury to an amount which might certainly fall within the sums to be ultimately paid them, after the curtailings which the proposed modifications shall require, of the sums liquidated as due from France, under the provisions of the convention as it now stands. You will be pleased, therefore, to consider this suggestion as a part of the plan for remodifying it, and, with the consent of the French Government, take measures for its being carried into effect."

No. 517.

Postscript of a letter from Mr. Livingston to Messrs. Mercer, Barnet, and Maclure, United States Commissioners of Claims, dated Paris, March 26, 1804.

"P. S. I have kept my letter of yesterday open that I might send you copies of Captain Sinclair and Mr. Johnson's certificates, hereunto annexed. I believe you will, upon reading them, admit that some of the Board at least have supposed that money was not supplies, and that they have all of them given the American creditors reason to believe that they considered no claim as within the convention that was not in the provisional note. If further proof of this is necessary, it shall be furnished to you.

"For what purpose this idea was encouraged, and the American claimant not only distressed but essentially injured by the depreciation of his claim, you, gentlemen, have to account to them and to the public; and still more so if, as you say, you never changed your sentiment, or to an avowal of that which you openly have declared on your first assembling."

No. 519.

Messrs. Mercer, Barnet, and Maclure, to Mr. Livingston, dated Paris, April 30, 1804.

[Extract.]

"The principles which we have deduced from the convention of the 30th April, 1803, and applied to the claims, were noticed generally in our letter to you of the 22d March, but it may not be improper to repeat them here. We consider the claims of American citizens upon the French Government, due under the convention of 1800, as directed to be settled according to the regulations and principles established in that under which we have been appointed. We have therefore considered it our duty to inquire—

"1st. Whether the debt was due in its origin to an American citizen?

"2d. Whether it existed before the 30th September, 1800?

"3d. Has such an American citizen established a house of commerce in foreign countries in partnership with foreigners?

"4th. Can he, by the nature of his commerce, be considered as domiciliated abroad?

"5th. Has he, under the circumstances of his case, a right to the protection of the United States?

"6th. Was the merchandise or other property American when it passed into the hands of the French Government?

"7th. Does the claim arise from supplies, embargoes, and captures made at sea, excluding from the word supplies, freight, indemnity, and demurrage, except where they are claimed as incidental to embargoes?

"8th. In prize cases we shall examine whether order of restitution has been made by the Council of Prizes. Whether the insufficiency of captors is shown.

"9th. We consider it correct to examine the cases upon the conjectural note before any other, to decide upon them according to their respective dates, when the state of the papers will allow us to preserve this order.

"10th. We consider it a fair construction of the convention that we have no authority to direct any liquidation after the 20,000,000 of livres shall be covered, and that our duties here will terminate on the 21st of October next, that being the day, according to our information, which will complete the year from the time when the ratification was exchanged at Washington.

"It appears that there are at present one hundred and forty-eight claims in the French Office of Liquidation alone, not included in the conjectural note; copies of sundry papers belonging to sixty of them being before us, their amount, exclusive of the interest, appears to be upwards of six millions of livres. What proportion of them may be embraced by the principles of the convention we are unable at present to determine, not having come, in the order of our proceedings, to such an examination as to decide definitively upon their merits.

"We have directed the liquidation of one hundred and forty-seven cases found upon the conjectural note, including ninety-seven which arise from the Bordeaux embargo. You will perceive that we can form no idea of what will be their amount, as we have no agency in the liquidation. We learn from Mr. Skipwith that only sixteen of them have been finally liquidated; should this part of the business be permitted to linger as it has done, we despair of seeing, in the language of the convention, '*every necessary decision made*' within the time limited therein. This circumstance obliges us to request your attention to the subject of our letter of the 9th of March. The motives that induced us to write it are strengthened by this statement of our progress and that of the French Departments. We do not expect, however, that it will be in your power to obtain for us complete information as to the amount of the liquidations before we shall have finished with the conjectural note, as we shall be engaged but a few days longer with the claims founded upon it. The nominal amount of the principal on the note being nearly the sum for which we consider the United States responsible, and the liquidations not being made, we can see no course left for us to take, except in future so to modify our certificate of admission as to render the liquidation to be made thereon conditional, and dependent upon the amount which may be ultimately due upon the note."

No. 520.

Mr. Livingston, Minister to France, to Messrs. Mercer, Barnet, and Maclure, dated Paris, May 1, 1804.

GENTLEMEN: I have received your letter of the 30th April. I reserve myself to make, at a moment of leisure, the observations it gives birth to. I have always considered your previous certificate of a debt being susceptible of liquidation, not only as totally unnecessary, but actually injurious in every case in which the French Board were disposed to liquidate, since it was only designed to save them trouble, and this applies to every case which they had taken up previous to your certificate. The object of this letter is to send you an extract from one I have received from the Secretary of State, dated 31st January, previous to mine in which I speak of your delays, and enclose your first letters. It is evident that the Secretary of State had received some relation that had given him improper impressions of the convention. The mode, however, in which the President wishes to have the doubts *which it is supposed to contain*, and extend it, as was always intended, to every case in the treaty of 1800, you will observe is exactly that which I had previously taken to remove your doubts, and lead you to a just and liberal construction of it. To this you thought proper to reply by thirteen pages of censure and abuse; I am now to request you, in future, to conform strictly to the explanations of the treaty contained in the note of Mr. Marbois, the Minister of the Treasury, to Mr. Talleyrand, of 17th Ventose, (16th March,) since this note has been approved by the minister, and is so far to be considered as an assent of the French Government to that liberal construction of the convention that the President's wishes, concurring with common justice, require. The extract also shows the sense of our Government upon the narrow construction you appear to put upon a clause of the convention that was never intended to preclude the claims of American citizens who had not been domiciliated abroad, so far as it related to their individual claims,

but to such partnership connexion as could only be claimed by the house, which, from its nature and situation, should be considered as foreign. If your doubts on this head still remain, I shall proceed, agreeably to the order of my Government, to obtain from France such further explanation as will serve to judge your decisions. I shall, for this purpose, expect to receive from you, from time to time, a report of those decisions of the principles by which they are governed, whenever they narrow the limits, which it is the wish of the President, as it was the intention of the parties, to give to the convention.

I am, &c.,

ROBERT R. LIVINGSTON.

Extract of a letter from the Secretary of State [referred to in the preceding letter of Mr. Livingston] to Mr. Livingston, Minister Plenipotentiary of the United States at Paris, January 31, 1804.

"Should the French Government refuse to concur in any proposition that will restore the latitude given to claims as defined by the first convention, [convention of 1800,] and which is narrowed and obscured by the text of the last, it will be proper to *settle with the Government*, if it can be done, such a construction of this text as will be most favorable to all just claims, particularly those for freight, indemnities, and property put in requisition, and the separate property of individuals who are concerned in the disqualifying partnerships mentioned in the convention, which are said to be threatened with rejection by the Board at Paris."

No. 521.

Messrs. Mercer, Barnet, and Maclure, to Mr. Livingston, dated Paris, May, 2, 1804.

SIR: We have just received your favor dated yesterday. Having never felt ourselves authorized to take for our conduct any other rules than those prescribed by the convention of 1803, we shall continue to decline acting upon your construction of that instrument instead of our own. Until you obtain from the French Government, to be sanctioned by the authority of our own, the modifications which it now appears you are required to propose, we shall pursue the principles which, upon the most mature deliberation, we believe fairly deducible from the convention as it now stands. Solicitous, from the beginning, to do only what that directs, and to obtain only the approbation of the administration whose agents we are, we derive infinite consolation from the extract which you send us of the Secretary of State's letter. It contains, notwithstanding your construction, a complete justification, as far as it goes, of the meaning which we have given to the convention. "When the latitude given to the claims as defined by the convention of 1800, which is *narrowed* and obscured by the text of the last, *shall be restored*," we will then readily change our opinions with the changes which will then be regularly made.

We do not consider a correspondence between yourself and the ministers of the French Government, upon the subject of national compact, ratified by the supreme authority of each country, as changing its character, and must, therefore, decline giving to it that influence which you require.

You say, "if our doubts still remain, you will proceed, &c.;" our letters in your possession sufficiently show that we had no doubts; that we consider our construction of the convention as clear and correct; and, if your intention in proceeding is to remove doubts which we have entertained, it will be unnecessary; but if you intend, in obedience to the above extract, to make such modifications in the convention of 1803, as to embrace claims which at present it rejects, we shall consider it our duty to take them as parts of the convention, when they shall be sanctioned by the proper and competent authorities.

We have the honor to be, sir, your obedient servants,

JOHN MERCER.
J. COX BARNET.
WM. MACLURE.

No. 522.

Mr. Livingston to Messrs. Mercer, Barnet, and Maclure.

PARIS, *May* 2, 1804.

GENTLEMEN: I have this moment received your letter of this date. In a matter of such consequence as that on which we write it is necessary that there should be nothing equivocal. I am, as you find, directed by the President to settle with the Government of France, if it can be done, such a construction of the text of the convention as will be most favorable to all past claims, particularly for freights. On the subject of freight, I have obtained an official note from the French Government, and submitted the same to you. In this I have anticipated the wish of the President. I shall proceed to get their decisions upon the other points which the President thinks are obscure in the convention, since there is no doubt that they are obviously within the intention and meaning of that instrument. I wish to know whether, in this case, you are disposed to pay them that respect which can alone render the explication useful, or whether I am to understand that you will, in every case, adhere to the sense which *you* have put upon the convention, whatever may be the decision of the French Government in concurrence with the wish expressed by the President? I now ask you, gentlemen, explicitly to inform me what you mean by the *constituted authorities* in your letter? and whether it is your intention to consider every explication of the treaty by the French Government, given at the request of the President, either as a nullity to which you will pay no respect, or as an act that requires a formal ratification before it influences your decision?

This I understand to be the sense of your letter of this day; but, as your letter may lead to very important consequences, I beg that I may be furnished with such a reply as will leave no doubt upon the

subject. As the Government's express is only detained till I can communicate to the President your answer, and the measures that it will oblige me to take, I pray you to reply to this as soon as you find it convenient, and I would also wish to know (whatever sentiment you may collectively express as a Board) whether you individually concur therein.

I am, gentlemen, your most obedient, humble servant,

ROBT. R. LIVINGSTON.

No. 523.

Messrs. Mercer, Barnet, and Maclure, to Mr. Livingston, dated Paris, May 3, 1804.

SIR: Your letter of yesterday is just presented. It was not our intention to leave you in doubt about the meaning of our answer. We are not surprised, however, that you should have felt doubts as to what we intended to say, since you have read it with so little attention as to call upon us for the explanation of an expression which it does not contain. Our answer was written with the short extract of the Secretary of State's letter before us. We, of course, used the language which that uses. You are directed to make *to the French Government propositions* for restoring the latitude found in the convention of 1800; *and, upon their refusing to concur in these propositions, to settle with the Government*, if it can be done, a certain construction of the last convention. These instructions are given for the purpose of producing a change in a national compact to which the supreme authorities of each country, according to the forms of their respective constitutions, have given validity. This cannot be changed so as to have an influence upon the convention of 1803, but by the intervention of the same authority which brought it into existence. As yet we have seen no act of the *French Government* upon this subject. The note of Mr. Marbois, written before the arrival of your instructions, and embracing points to which those do not apply, as well as some to which they do apply, is not clothed with the authority competent to change, on the part of France, the convention as it now stands.

If we are bound to follow the opinions of Mr. Marbois in one part of his letter we are equally bound to follow the whole. This would confine us in the examination of American claims to two points only, when the convention expressly requires that we should apply to them all the principles which it contains. We are not apprised, by the extract from your instructions, whether it is the wish of the administration that we should pursue this course. If we are bound to follow the opinions of the officers of the French Government in their construction of *one part* of the convention, we are equally bound to take their construction upon *every other part*, and that by occasionally transmitting to us, through you, their opinions upon separate and detached papers, the convention, which is sanctioned by the highest authorities of both countries, would become annihilated by their subordinate agents, and the establishment of this Board be rendered an absurdity. Though the letter of Mr. Marbois is not that act of the French Government which is necessary to introduce in its parts the modifications which are desired by none more than ourselves, yet it serves the useful purpose of showing what may be the disposition of the Government when it shall be addressed in obedience to the instructions which you have received from the American administration. The language of these is plain: it is that you shall attempt to restore with the French Government the latitude given to the claims by the convention of 1800; but, upon failing in this, then *to settle with the Government* a certain construction. By the Government, as used in your instructions, we understand to be meant the same authority on the part of France which ratified the convention now proposed to be changed. The modifications to be made must be equal in validity to the provisions of the convention; and to have this character they must be stamped with the same authority. When this shall be done according to the well known usages of both Governments, the disposition which we have shown to adhere rigorously to the convention ought to have been a sufficient pledge to you of the readiness with which we shall pursue the changes which will then become a part of it. But, sir, to leave no doubt on your mind of our meaning, we will state your question and our answer. You ask "whether we will, in every case, adhere to the sense which we have put upon the convention, whatever may be the decisions of the *French Government* in concurrence with the wish expressed by the President?" Our answer is that we will adhere, in every instance, to the sense which we have put upon the convention, except where the changes produced by the French Government, as explained above, shall alter its character in conjunction with the wishes of the American administration, conveyed to us according to the principles of the Federal Constitution. To know how far the modifications which you may make with the French Government are sanctioned by the views of the administration, and how far these again are sanctioned by the Federal Constitution, though we cannot for a moment indulge the belief but they are in perfect accordance with them, we shall expect not only the act of the French Government which shall contain the modifications, but a full view of the wishes of the American administration, conveyed in their own language as far as they use any in relation to this Board. As yet you have communicated but twelve lines of their despatches, expressly relating to your duties and not ours. They are intended to make a part of the basis of your negotiation, upon the result of which we may be required to take another view of the convention. If you have received any opinions from the administration of what it wishes our conduct to be we shall be happy to have them before us. They shall receive from us that respectful attention to which they are entitled.

We have the honor to be, sir, your obedient servants,

JOHN MERCER.
J. COX BARNET.
WM. MACLURE.

No. 524.

Mr. Livingston to the Secretary of State of the United States, dated May 3, 1804.

[Extracts.]

"Mr. Leonard delivered on the 26th of April your favor of the 31st January, together with a triplicate of the same; the duplicate of which, I suppose, has been sent by some other conveyance, but has not yet reached me; so that, till his arrival, I had no letter from you since the 15th January. I also received by the same messenger your favor of the 7th February. Nothing would be more happy than the arrival of the stock; its delay has occasioned great anxiety, as the bankers were on the spot ready to take up their bills, which the present state of things made the Treasury very anxious to turn into money. I have happily got rid of this very burdensome deposit, and paid over the bills and the stock, and got a full discharge by triplicate receipts, one of which I forwarded to Mr. Gallatin. I should be happy if the business of the commission had been as readily terminated; and am sorry that you have not been able to find the leisure to consider it, as I think you would have found many real difficulties in the way of its settlement. Your instructions to negotiate a new explanatory treaty proceeds upon the idea that the convention does not include all the bona fide debts provided for by the convention of Morfontaine. Whatever inaccuracy there may be in the expression, it was certainly the intention to make it extensive, except so far as to preclude foreigners and foreign property from its provisions. The first article shows clearly that this was the object of the treaty; nor do I think that the subsequent words control, though they certainly somewhat obscure the sense. The fact was, I had drawn the convention with particular attention; it did not exactly meet with Mr. Monroe's ideas, to whom the subject was new; it produced some modifications, and these again, which would have fully answered our purposes, were struck out by Mr. Marbois' wish to give a preference to debts that had a certain degree of priority in the French bureaus. The moment was critical; the question of peace or war was in the balance, and it was important to come to a conclusion before either scale preponderated. I consider the convention as a trifle compared to the other great object; and as it had already delayed us many days, I was ready to take it under any form, being persuaded that the intention was fully declared, and that the interest of both nations concurred with the justice due to individuals in giving it a liberal construction; that the principles on which it was to be settled would meet with no difficulty; and had it not been for our unfortunate selection of Commissioners, the whole would have been determined before now, and near two millions of interest would have been saved to the public, and much distress to the creditors; my idea of the manner in which this business should have been taken up is fully detailed in my former letters; and in a bargain of such advantage to our country, and which has astonished all Europe, I think we should have no hesitation to comply with it literally, and even to take upon ourselves the satisfaction of our claimant citizens, if it should exceed the amount of a million of dollars, and render ourselves creditors of the French Government for the excess. But my sentiment can have no weight in this business; it is my duty and my intention, as far as possible, to comply with your instructions. Your letter suggests two modes of rendering the construction of the convention sufficiently extensive to embrace all the objects of the convention of 1800; the first is a new negotiation, and next such an explanation by the French Government as will do away the doubts that narrow the construction. As I know that the French Government believe the last convention embraces all the objects of the first, if I were to propose a new convention on these points they would tell me that it was unnecessary; they would insist upon our executing it in the most liberal manner, which they can force us to do as the ultimate decision lays with them, and they would call upon us to pay the accumulating interest; besides which the whole busines would, in that case, be suspended till the new convention was ratified, to the great injury of the public creditors and the manifest loss of interest. The second mode of removing doubts had early suggested itself to me, and had the Commissioners at Paris consulted me their doubts would have been dispelled as soon as mentioned. This, however, they refused to do; when, after some time, I was informed of the nature of them, I made the application to the French Government contained in my note of the 24th of February last, transmitted to you. You find the answer was such as the President wishes to have. The Commission have not, however, thought fit to act upon it; I have, since the receipt of your favor, written them the enclosed letter, transmitting an extract of your direction; and should they after this refuse to conform to the explanations given by the French Government I shall probably find it necessary to comply with the general wish of the creditors of this Government and suspend them; for, as the treaty reserves to the French Government, it would be very absurd to say that our Board shall not be governed by their constructions of the convention, when that construction is such as does the most ample justice, and is most conformable to the wish of our own Government. Indeed, the easiest and simplest way to arrive at a just construction of the treaty and a termination of all the difficulties is to remove the present Commissioners and substitute others. There is a passage in your letter on this subject that is so repugnant to my own feelings that I believe I have misunderstood the sense of it. After directing me to get a construction of the convention as will be most favorable to all *just claims*, particularly for freight, &c., you add, "it is to be kept in view, however, that in case the whole sum of 3,750,000*d* should not be absorbed by the construction of the Board, the construction settled with the French Government is not to enlarge the sum to be paid by the Treasury of the United States beyond that to which the Treasury would be liable by the *construction of the Board;*" the only sense in which I can understand this is, that you are willing that justice should be done if it cost you nothing; but if, after having made a bargain which you acknowledge to be good, you can still make a saving out of the purchase money at the expense of the just claims of our fellow-citizens or of France, by setting up the unjust and illiberal constructions of the Board, I must adhere to such construction. I believe, sir, I must have misapprehended you in the paragraph, which I should find the utmost pain in carrying into effect, as repugnant to the liberal spirit which has hitherto governed our negotiations. The attempt, too, would add as little to our pecuniary acquisitions as to our character for candor and liberality; for the French Government foresaw that as the Commissioners were *mere agents* of our Government, that a great proportion of the twenty millions given by them for the payment of their debts might go into the hands of the Treasury, if our agents chose to narrow the construction of the convention, and thus the creditors be left unsatisfied, or turned over upon them; they therefore insisted (and we could not dispute the propriety of the demand) that, as we were only their bankers till the debt was paid, they should have the ultimate decision in cases which our agents thought proper to reject. Now it is certain that France

will take care, if there are any claims due under the convention of 1800 unsatisfied by the narrow construction of our agents, to extend the last convention to all such claims. The attempt, therefore, to save any part of the purchase money, at the expense of France or the creditors, to which the ingenuity of our agents appears to be at present directed, would be as futile as it is disreputable. You see in Mr. Marbois' letter the light in which our Board are viewed; and you may, therefore, be persuaded that little attention will be paid to their construction; which, therefore, it will be more honorable, as well as more just, for us to render as liberal as possible in the first instance, for, as the Board are considered as mere examining Secretaries, these illiberalities would be imputed to a wish in our Government to make a saving out of the money of France, intrusted to us for the most just and fair objects, and that at the expense of our citizens whose distresses we have so often and so fully described. I have in my former letters explained to you my reasons for not directly applying to the Government for more time as you instruct me; happily the ministers have yet neglected to make the arrangements that are necessary to precede the drawing of the bills, and though this arises from mere inadvertence, and I could have the order in twenty-four hours, yet I have thought it better to leave the delay at their door and not at ours, because it will not only afford us an apology but give a reason for not charging ourselves with the interest. I shall still pursue this policy till they have themselves removed every obstruction to the drawing of the bills, after which I shall, in compliance with your order, ask for further time, though I apprehend many inconveniences from the request. I mentioned to you the necessity of instructing me on the subject of the interest that shall accumulate on account of our delay; I am very sorry you are not explicit on that subject, unless I am to understand as implied in your direction that our Treasury shall in no case be charged beyond the twenty millions. If so, what reply am I to make if the French Government agrees to give a further time, but insists on our paying the accumulating interest? If I refuse it, they will think it very extraordinary that we should retain their money in our Treasury after having received a full equivalent for it, and that they should, for our convenience, pay interest on their own capital; can I ask this? or, if I do, can I expect that so unreasonable a request will be granted? Will they not impute all the past and future delays to very improper motives? If they will only grant the delay on these terms what am I to do? I am totally uninstructed, unless, as I have mentioned, the not charging the Treasury further is, as I understand it, a positive and overruling instruction that is to supersede the other if they cannot both be obtained. I shall act upon this supposition, and, to avoid bringing this question to a point soon, take no steps to make the necessary arrangements for drawing the bills, and perhaps avail myself of this moment for going to England; so much time will be gained by this as will enable you to reply to the difficulties stated in my several letters, and afford me some precise and decided instructions thereon. I do not think, with you, that there are just claims which have not yet been brought in. After the convention of Morfontaine, our people expected payment, and sent their claims, and more particularly since the last convention, the claims that have lately come in were for the most part very doubtful ones, and a longer time will only open a door to frauds, nor does it seem reasonable that the whole mass of creditors should be distressed by withholding of their debt on account of the negligence of those who have not brought forward their demands in four years from the year 1800. It is to be considered, too, that all our difficulties have arisen from this negligence. We calculated the demands upon the debts brought forward, and we much more than reviewed them. Now a great excess of new ones increase the mass; will it not also be a question whether we have a right to diminish the payment of those whom the treaty provides for, by letting in others who have neglected to avail themselves of its advantages? As, therefore, your instructions on this head are discretionary, I shall wait your ulterior orders for its execution. I have taken measures for ascertaining, as far as possible, the amount of the demands now in the French bureaus. It has struck me that the simplest way to attain the object the President has in view, (a distribution of the debt,) with the least distress to the creditors, and without accumulation of interest, will be to get the French Government to certify only the principal in the first instance, and to leave the interest uncertified; by this means I may satisfy all the creditors the amount of their principal, and the apportionment may take place, on the interest for which, if a new negotiation is necessary and a ratification of a new convention, there will be no accumulation of interest and much distress avoided. There is a circumstance attending all these delays that is very unpleasant; we have always represented the finances of the United States as being in the most flourishing state; this Government will naturally conclude, however, that if we had the money ready to meet the demand we would not incur an accumulation of interest; and they will view the whole conduct of the Commissioners as a chicane on the part of our Government to defer the payment, and more particularly if we endeavor to throw the interest upon France, or act in such a way as to appear to approve of these measures. The First Consul has already informed the minister that he expects the business will be brought to a close, and expressed some resentment at the delay. I attribute a considerable part of my weight here to the frank and open manner that I have endeavored on all occasions to maintain, and which I have declared to be the leading character of the President and administration of my country; this has created a confidence of which I feel the good effect in every transaction. I shall be distressed to take a step which may bear another face. In settling the sums due from embargoes, the French Government have, contrary to all expectations, granted more even than was asked in many cases, by applying one general principle of an old law to the cases, so that you will have to correct in the estimate I gave you the deduction I had made on that account, so that it is not improbable that there will be an excess of debt beyond the twenty millions, besides the interest we have suffered to accumulate; but what the amount of that excess will be I cannot yet ascertain."

"I shall cause the inquiry you directed as to application here for spoliations committed in Spanish ports; I do not myself recollect any; yet it is very possible that they may have been made even by me, since I should not have hesitated, had I been applied to, to have made them, upon the presumption that both Governments were liable where the spoliation was made in one country under a commission granted by another."

No. 525.

No. 106.—*Mr. Livingston to Mr. Madison, dated Paris, May* 4, 1804.

[Extracts.]

"SIR: I informed you in my last of my intention to comply with your instructions, and to obtain from this Government such an explanation of the convention as would embrace all the objects the President wished, and then to have proceeded to draw bills for the principal of the debts, leaving the interest as a fund for equalizing the demands, by dividing it among the creditors. By this means the further interest would have stopped, and the wants of the claimants would have been relieved; more than three millions of capital, which is now locked up, would have been usefully employed. I have assigned to you my reasons for preferring this to a new modification of the treaty, which would have required a new ratification and a new appropriation law. But what further influenced me is a conviction that no new convention will now be listened to, and that the very mention of it would bring on resolutions to carry the present one rigorously into effect. But the Commissioners, true to the system they have invariably pursued of embarrassing every measure, and distressing, as far as lays in their power, the public creditors, have, as you find by the enclosed letters absolutely refused to pay any attention to any such explanations as the French Government may consent to, and persist in maintaining that their own is, and shall be, the only construction of the convention, till it is modified by a new one."

"I have the satisfaction of seeing that not a single person here, native or foreigner, puts the misconstruction upon the convention that they do."

"I know that the First Consul is already dissatisfied, and that Mr. Talleyrand has orders to inquire into the reasons of their delay. The whole business is taken out of Mr. Marbois' hands. They have never been pleased at the delays the other parts of the treaty have met with. Be assured that, if a peace should be patched up to-morrow, or the descent be successful, the whole treaty would be rendered doubtful for our non-performance of this essential part of it. I speak not from prejudice, sir, but I think it a duty I owe to my country to tell you that, should delicacy lead to half-way measures, should you rely upon the conciliatory dispositions of the minister that is to succeed me, you hazard much more than you are aware of, particularly if you should appoint some not perfectly agreeable here. There is no medium. Those Commissioners must be removed, not only to satisfy the public creditors, but this Government, and to avoid the most dangerous consequences. Their obstinacy has, I think, its source in a belief that I am soon to go away, and that I shall be succeeded by a gentleman upon whose friendship they can rely. Should the gentleman they allude to be my successor, it would be the strongest reason for their removal. He will want every possible support here, for very obvious reasons." "If every agent is, at this distance from the seat of Government, to act in defiance of the advice and without the control of the minister, you will never be sure for a month of not being embroiled with foreign nations. I shall get out of the way as soon as possible, and spend a month in England, in order to prevent any application of this Government, which will force me to draw the bills, or to take upon myself the charge of breaking the convention. It appears to me that, before I return, the President will have had time to have considered the convention, to have seen that it is capable of being made to embrace every object of the convention of 1800, by very simple explanations, and to have given precise orders for its execution; and, I trust, he will have seen from my letters, and the complaints of the creditors, sufficient cause to have displaced the Commissioners long before this arrives. Another and a much better set may be elected here without difficulty, and the whole business closed in a few months. Should he, however, be of opinion that a new convention should be negotiated, no inconvenience can arise from the delay, since such a new convention cannot be carried into effect till after the next Congress shall have made the necessary appropriations; and, on the first notice of his intention, a new one may be set on foot under more favorable circumstances than the present. Indeed, this is not the moment to undertake anything new; the great arrangements for the change in the Government occupy the minister's whole time; and, as I have told you, the business relative to the convention has, within a few days, been taken out of Mr. Marbois' hands and placed in Mr. Talleyrand's, for reasons which you may in part conjecture, but which are too delicate for me to mention at present. The affair of the creation of an emperor goes on rapidly, and will be concluded in a very short time; many important consequences will result from it to France and to Europe. Your minister should be instructed how to act on the change, which you may consider as certain.

"I have the honor to be, sir, with the most respectful consideration, your most obedient, humble servant,

"ROBERT R. LIVINGSTON."

No. 526.

Mr. R. Livingston to Mr. Madison, dated June 19, 1804.

[Extract.]

"I am at a loss to tell upon what ground Mr. Skipwith informed you that the dissatisfaction arising from the delays of the Board had subsided, since every day has added to them, and to my embarrassments about them. I sincerely wish that you had afforded yourself the leisure to examine the convention attentively. I believe it would have appeared that no new one was necessary to make it embrace all the objects that can interest our citizens, and in this opinion Mr. Monroe, with whom I have conversed on the subject in London, fully agrees.

"On the part of the French Government, I shall find a disposition to give it the utmost latitude. To what end there should a new treaty be negotiated which must create great delays and some legal questions at home, even if I should find a disposition in the French Government to enter upon the subject, which, however, I am persuaded I shall not. As to an equal distribution of the 20,000,000, there seems to be some equity in it, and I shall endeavor to obtain their consent to it, if the 20,000,000 should fall

short, which is not yet ascertained, nor can be till the accounts are passed. Your direction to draw for a certain amount in favor of such persons as may be here, and in distress, is imposing upon me a very disagreeable task, since it puts it upon me to discriminate between persons equally entitled, and that while I am acting under a law which aims to render me personally responsible. *Nor can it be* necessary; for if I draw for only so much as such persons would certainly be entitled to, if a dividend was made of the 20,000,000, there can be no reason why this advantage may not be extended to all the creditors; many of those in America are doubtless distressed as well as those in Paris. I have therefore concluded, that, upon full consideration, it would be conformable to the President's wishes, and more consonant to the objects of the treaty, (as soon as I can receive the information necessary,) to make the dividend among all the creditors, if I can obtain the consent of the French Government thereto, and in the meantime, as your instructions are express as to a new treaty, I shall put in a note on the subject, though I fear the effect will only be a more rigid construction of the present one, and some complaint about the delay in its execution. On the subject of interest, I fear that this Government will not reason as you do. They have, it is true, stipulated to pay the interest, but at the same time they provided that there should be as little accumulation of interest as possible, by forming a Board who should make all the preparatory steps even before the ratification. The twenty millions was the money of France from the moment Louisiana was delivered, but the United States retained it in their hands, and by an act of their own servants here keep it from being applied to the uses to which it was appropriated by France. Is it not then extremely unreasonable that they should pay near two years' interest upon money of which the United States have the use? If so, why may not the United States retain this money ten years as well as two, and thus double the debt against the French Government? I must candidly confess that it appears to me that every day the liquidation has been unnecessarily protracted by our Board creates a fair claim against our own Government for the accumulation of interest; nor do I see any other way of getting rid of it than that I have hinted, to wit: that the French Board have, through negligence, not yet put the last hand to such accounts as have been passed, (a subject on which I have purposely been silent till now, that I find the Commission have begun to go on in earnest, as I am informed.) Whether they will admit the plea I know not, especially when they find that in truth this circumstance has caused no delay, since I am instructed to apply for a still further time. My own sentiment is, and always has been, that we should have drawn as fast as the accounts were settled, and even if the sum had exceeded the twenty millions, have paid it to our citizens and become creditors ourselves of the French Government—the excess, if no interest had been suffered to accumulate, would have been too trifling to notice, and would have been amply compensated by the uses to which this capital would have been applied in our own country. I am, however, sensible that this could not have been done but by the consent of the Congress."

No. 527.

Mr. Livingston to the Minister of Exterior Relations, dated Paris, June 27, 1804.

The undersigned Minister Plenipotentiary of the United States to the Minister of Exterior Relations:

SIR: The President of the United States being apprehensive that some expressions in the convention of Paris of the 30th April, 1803, go to narrow the ground of payment to the creditors of France which was provided by the treaty of Morfontaine has directed me to propose to the French Government such an explanatory convention as will do away all doubts upon that subject and render the latter treaty (as was originally intended) co-extensive with the first. The cases upon which doubts have arisen are: 1st. Demands for freights and indemnities. 2d. The separate property of American citizens connected with foreign houses; and 3d. Vessels taken after the treaty of 1800 and prior to the ratification.

The President, also, apprehending that the sum of twenty millions reserved out of the purchase money for Louisiana will not be adequate to [the] discharge of all the demands, and though he doubts not that whatever it will fall short will be faithfully discharged agreeably to the convention of Morfontaine, as it is confirmed by the Royal word of the Emperor; still, as no provision is yet made for the discharge of such surplus, (if any there should be,) owing probably to a belief that the twenty millions would be adequate to the object, I am directed to negotiate for the consent of the French Government that the sum of twenty millions be equally apportioned among all the creditors, as well as such further sum as may be due from the French Government, if the twenty millions should not be adequate to the object, and, in the meantime, that the drafts on the Treasury of the United States should be wholly suspended till the amount of such debt is accurately ascertained, or at least that the drafts be for only such a portion of the debts as will render it practicable to divide the same when the whole amount is known.

Your excellency will see the justice of this request on the part of the President of the United States, and I flatter myself will give them the support they merit with his Majesty the Emperor.

I pray you to accept the renewal of my assurances of high consideration.

ROBERT R. LIVINGSTON.

No. 528.

Translation of letter from Mr. Marbois, Minister of the Public Treasury of France, to Mr. Livingston, dated July 1, 1804.

PARIS, *le 11th Messidor, an* 12, *(July* 1, 1804.*)*

SIR: The Minster of Exterior Relations sent me a letter which you wrote to him on the 19th ultimo. In consequence of which, and of the invitation of Mr. Talleyrand, I am about to apply to the Director General of Liquidation for the proofs you find necessary.

I observe, sir, your desire to form an approximate estimate of the debt, and to ascertain by how much it will exceed the twenty millions fixed upon for its liquidation. I request you to bear in mind that, during the negotiation in which I had the honor of being engaged with you, the sum of twenty millions of francs had been determined on in order to extinguish the whole American claim and the interest up to the day of the treaty, the entire execution of which the convention of the 10th Floreal, an 11, (April 30, 1803,) had for its object.

In regard to the stagnation of funds in the Treasury of the United States, long as they remain unemployed, I have reason to believe that your Government will delay the payment of them until you have informed them when they will become due, and when it will be in their power to meet them. There can be, therefore, no room for an accumulation of interest in consequence of the stagnation of the funds. I am not less convinced, sir, of the necessity of giving you the information you desire. Mr. Defermon having permitted no interruption in the undertaking, but, at my solicitation, I am persuaded that, through my request to him he will not delay the order to continue it.

I pray you, sir, to accept the assurance of my high consideration.

BARBE MARBOIS.

[Note subjoined to the original by Mr. Livingston.]

N. B. To this note I gave no answer, because I wished this business to come to me by a direct answer from the minister, in which case my answer, contesting the principles here hinted at, will come before the Emperor, and I will endeavor so to word them as to apply directly to his feelings.

No. 529.

Mr. Livingston to Mr. Defermon, Counsellor of State, dated Paris, July 15, 1804.

SIR: I have been honored by your letter of the 22d Messidor, in which you take notice of the number of new claims that have come in since the treaty, and express your surprise at their having been delayed for so long a period as eight or ten years, and desire to know whether I can give you any information on the subject, particularly of those from St. Domingo, which, as you say, compose a great proportion of the list. I am sorry to say, sir, that I am totally uninformed on the subject, which I have seen with as much surprise as you have, and not without much regret, since it has tended to deceive us in the estimate we made of the debt in forming the late convention. That small sums should not have been demanded before some express provision was made for the discharge of American claims is not surprising; but that many, and to a very considerable amount, and which must have made great part of the fortune of the claimants, should have been kept back till lately, is very extraordinary, and, perhaps, would justify a very strict examination into the nature and foundation of such claims. Be assured, sir, that while the President of the United States is extremely solicitous that full justice should be done to the claimants, he would see, with pain, any demand that bore the face of imposition on the Government of France, and will readily concur with you in their detection, if any fraud exists.

I embrace this opportunity, sir, to offer you my assurances of high respect and consideration.

ROBERT R. LIVINGSTON.

No. 530.

Mr. Madison to Mr. John Armstrong, Minister to France, dated July 15, 1804.

[Extract.]

"Should any change in the French Government have taken place, rendering the style of your credentials inapplicable, you will be at no loss for the proper explanation. Should the new Government refuse to receive you without others, in another form, you will, of course, transmit the earliest notice. In the meantime, it may be expected that informal communications will enable you to pursue, with due effect, the objects claiming your attention.

"For such of these objects as were committed to your predecessor, the necessary instructions will be found in the correspondence of this Department with him. To these I refer you; remarking, only, that, if the equitable remodification proposed for the payments to be made to American creditors, under the article allotting twenty millions of livres for the purpose, cannot take effect without a formal convention, it is the intention of the President that such a one should be prepared and executed.

"As the French Government has no interest in objecting to the arrangements desired here, it is presumed that it will neither reject them nor require a more formal authority on your part for the negotiation. It need not be observed that, in whatever may be done, expedition is equally due to the interest of the creditors and to the solicitude of the President in their behalf."

No. 531.

Mr. Livingston to Mr. Madison, dated Paris, July 25, 1804.

[Extract.]

"Since my last, 24th June, I have, in pursuance of your instruction, put in the enclosed notes on the subject of the convention. I have yet received no such official answer as will justify my further proceedings; since, till they determine either to open the negotiation you require, or reject it, or till

they consent to a partial draught. Mr. Talleyrand is now absent, and Mr. Marbois' powers do not go to this object; so that I have been compelled to write again to Mr. Talleyrand for some precise answer. In the meantime, the French Board are making every exertion to get through the accounts, and have set, at my request, some additional clerks to work.

"In a conversation I had with Mr. Talleyrand, I find that they have no inclination to open any new negotiation, and that the Emperor has taken up the idea that the twenty millions was to cover the whole demand under the convention, and, for this reason, he will make it embrace as many objects as possible. Marbois finds himself in a disagreeable situation, because though this was also his intention, and he induced the Emperor to believe so, yet he admits that the words do not justify his construction that he proposes to set up, to wit, that the convention only applies to accounts that had actually been presented at the time; if so, which is, indeed, the fact, for we had no conception that anything due before September, 1800, could remain unasked 30th April, 1803, the twenty millions will not only cover the whole demand, but also leave a considerable excess in the hands of our Government. That he sees also, and has proposed to me to confine the sense of the convention to the debts actually presented; but to add, that, as there may be others which, though not standing so favorably from the neglect which induces a presumption against them, yet we consent to admit them. To this I tell him that I can only construe the convention agreeably to its letter; that if, as he supposes, and as it is strictly the fact, it is only confined to debts actually presented, it must rest with the generosity of our Government to apply the overplus money, which they may possibly do, in confidence that the French Government will also make provision to cover any deficit. Thus the matter rests at present."

No. 532.

Mr. Livingston to Mr. Madison, dated Paris, August 28, 1804.

[Extract.]

"I have yet received no answer to my note on the subject of the debt; this has arisen from two causes: first, the absence of the Emperor and ministers; next, their wish to know how far the 20,000,000 will comprise the whole of them, as they are very fearful of being charged beyond that. There is no doubt, from the strict manner in which they examine the accounts, that if the debts are confined to the words of the convention, to wit, to all that had been presented prior to its date, that it will not amount to 16,000,000, and I very much believe, that even including so much of what has since been presented which can be proved, that it will not exceed the 20,000,000. As the bureaus are going on very rapidly, I hope that I shall know before it is necessary to draw any bills."

No. 533.

Mr. Livingston to Mr. Madison, dated Paris, August 29, 1804.

[Extract.]

"Though I have received yet no formal answer to my note on the subject of the debt, yet I believe I have pretty well ascertained that it will reject any new negotiation, and that it will insist that we were to pay the whole of the debts due before the treaty of Morfontaine that came within the description of the treaty even if it exceeded the sum of 20,000,000."

No. 534.

The Minister of Exterior Relations to Mr. Livingston, dated Aix la Chapelle, 19 *Fructidor, an* 12, *(September* 6, 1804.)

[Translation.]

SIR: I have received the letters which you have done me the honor to write me, to demand that a new convention be concluded between France and the United States to explain the different clauses of that of the 10th Floreal, an 11, (May 1, 1803,) relative to American credits, and which may prescribe the manner of paying such creditors as are not comprehended in the list annexed to this convention.

The dispositions of the arrangement of the 10th Floreal, (May 1,) and the explanations which the plenipotentiaries intrusted with this negotiation have given to each other, cannot leave any doubt as to the clauses which appeared to you to-day susceptible of development. You will not have forgotten that it was then agreed upon between the two Governments to place under the charge of the United States all the claims of Americans upon France; to make an approximate valuation of them, the respective plenipotentiaries agreed to take as a basis the sum of all the claims, as well liquidated as unliquidated, which have been presented to the French Government by the Americans; this sum amounted to twenty millions, and as there was room to expect that the unliquidated portion would undergo some reduction,

the American plenipotentiaries were persuaded that, even by admitting afterwards some claims which might not have been comprehended in the list, this addition of claims, compensated by the reduction that others would undergo at the time of the liquidation, could never exceed 20,000,000, the whole amount.

It was in consequence of these dispositions that some months ago you demanded the admission of different claims which had not been inscribed upon the list of liquidation; the French Government has shown itself disposed to consent thereto to the amount of twenty millions, so that they do not at any time hereafter exceed this sum, and that no part of the American claims be placed to the account of France.

In adhering to these dispositions, conformable to the treaty of 10th Floreal, (May 1,) and from which his Imperial Majesty will not deviate, any explanatory convention would be superfluous; and the intention of his Imperial Majesty is, to keep from all future question an affair completely terminated. The convention of the year 11, (1803,) foresaw the whole case; the whole of the American claims are to be placed to the account of the Federal Government; a list of them has been made. The liquidation of the articles of which it is composed shall be decided before the rest, if it does not reach the sum of twenty millions; other claims will be comprehended therein, but none shall be which exceed this sum, because it is at this point that the two Governments are agreed to stop.

You will, moreover, acknowledge, sir, that, if subsequent to these different payments, which will be made in conformity to the convention of the 10th Floreal, year 11, (May 1, 1803,) the United States had deemed it proper to admit, by an operation which to them might have been expedient, some other titles of claims before those which would have been reciprocally acknowledged by both Governments, France would not, under any circumstances, have been obliged to take cognizance of this operation, and to take it upon herself to guarantee the results of it; her engagements only proceed from her conventions; the same care and fidelity will be adopted by her in the observance as in the maintenance of the clauses.

Accept, sir, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

No 535.

Mr. Livingston to Mr. Madison, dated Paris, September, 14, 1804.

[Extract.]

"I enclose the reply of the minister upon the subject of the debts. It is in the language I expected; and were it not that I was in hourly expectation of the arrival of General Armstrong, who will have your full instructions, I should reply to it, and show that when we assumed to pay to the amount of the twenty millions, it was not intended to discharge France from any excess, since the *words* of the treaty will justify this construction; though, in good faith, we really believed that we were making a gaining bargain, and for that reason procured the assurance that the excess should belong to us. This, from the statements we received both from the Treasury and from Mr. Skipwith, we had every reason to believe, and it would be candid to own that in one of the draughts, which was substantially agreed to, we justified the construction the minister has put upon the treaty. This article was, in rewording the convention, struck out without attention by Mr. Marbois, and as we saw the advantage it might give us was not observed on by Mr. Monroe and myself till he had left us; and, indeed, it seems to be almost too sharp to say we were to gain if the debts fall short, but not lose if they exceeded. I believe, however, that this is now a question of no moment, since there is every reason to think that the whole amount of claims due before the 30th of September, 1800, will fall very short of the twenty millions, even including the additional interest; for the French Board having examined them with great attention, found numbers, as might be expected, unproved; numbers fraudulent, and many paid to the agents of the parties here, who have neglected to give their principals information of it, and have again brought them forward, and now allege that they had forgotten the credit."

No. 536.

Mr. John Armstrong, Minister Plenipotentiary of the United States to France, to his excellency Barbe Marbois, Minister of the Public Treasury in France, dated Paris, May 20, 1805.

[Extract.]

"Your excellency says in the 6th and 7th paragraphs of your note that 'nothing can be more opposed to the true sense of the convention than Mr. Armstrong's definition of the respective duties resulting from it; that it is obviously the French Government that owes and that pays, and not that of the United States, whose minister is charged only to deliver bills in payment of debts liquidated and allowed by the French Government, and that this source of error is renewed in all the points of discussion upon which Mr. Armstrong enters.'

"I am very far from asserting or insinuating that I may not be in error—an opinion is certainly not infallible because it is mine; but if, on this occasion, I am wrong, I have both the consolation and excuse of being so in very respectable company; for not only the three ministers negotiating and framing the convention, but the two sovereigns also, who ratified it, have fallen into the same error.

"That this conclusion is neither hasty nor inconsiderate will be seen by examining the 3d article of the treaty, which contains these words: 'The principal and interest of the said debts shall be *discharged by the United States* by orders drawn by their Minister Plenipotentiary on their treasury.'

"Words cannot be selected more clear or precise. They leave nothing to doubt or to construction. They define expressly the mode in which, and the party by whom, payment shall be made; and it is only

extraordinary that, with this article under your eye or within your recollection, your excellency should still contend that the *French Government* is the *payer*. But into this deduction you seem to have been necessarily drawn by your premises, which, to my view, are totally unfounded.

"Your argument stands thus: 'France owes certain debts to citizens of the United States; these debts are now to be paid; therefore France is to be considered the payer.' In this statement two or three material facts are altogether omitted, viz: That France has already paid these debts, to the amount of twenty millions of francs, by her transfer of Louisiana to the United States; that the United States have actually received this transfer sixteen months ago, and, in consideration thereof, have made arrangements for fulfilling all the obligations it imposes. Between the United States and citizens acknowledged to be her own there can be no immediate authority. Her responsibility is complete, and their confidence has never been shaken."

No. 537.

Mr. Skipwith, Commercial Agent of the United States at Paris, to the Secretary of State of the United States, dated Paris, January 1, 1804.

[Extract.]

"The President and every impartial man must regret that the twenty millions granted by the convention for the payment of American claimants is not to be equally divided among them. I cannot believe that this Government would have opposed such a repartition; nor would they now refuse to accede, should it be possible to propose it. Indeed, in a conference with Mr. Marbois, on Friday evening last, he assured me that his Government would readily consent to any reasonable modification of the convention, whereby our Government might dispose of the twenty millions as they pleased, provided such modification did not impose on the French Government the necessity of making any further advance."

No. 538.

Mr. Skipwith, United States Consul, to Citizen Berlier, Councillor of State and President of the Council of Prizes, dated Paris, 27th Nivose, an 12, *(January* 18, 1804.*)*

[Translation.]

CITIZEN: You are not ignorant that, in virtue of the last convention between the French Republic and the United States, every prize taken from the Americans, for which an appeal has been entered, and the restitution of which has been ordered by the Council, must be, in case of the insolvency of the captors, reimbursed by the French Government out of a portion of the funds arising from the price of Louisiana, which both Powers have agreed to appropriate to the payment of the claims of the citizens of the United States.

Among the ships whose owners may come under the necessity of applying for this distribution there are some who were captured by privateers out of the French Antilles, having set sail either from St. Domingo, Guadaloupe, or from other possessions of the Republic, respecting the appeals laid before the Council of Prizes, and the sentences passed against these ships by the tribunals or other colonial authorities. It became necessary to send to those places the decrees of the Council for the summons of the captors, and for the papers of the procedures that led to their condemnation, against which they have protested.

None of the ordinances, however, have led to any result, although it has been more than a year since all of them were issued. No one could, it is true, promise himself any speedy prospects at a time when order was hardly restored in the various possessions of France, but who could now assign a period to these delays, when the intercourse of the colonies with the metropolis had been rendered almost impossible by the war; such delays could not but have been an injury to the captured, but their greatest cause of complaint is, to see themselves exposed to the loss of their rights under the convention, even in the case where the Council pronounced in their favor. Indeed, the duty relative to the execution of this convention ought to be irrevocably terminated within the space of a year; beyond which time no citizen of the United States should partake of the advantages resulting from it. But the commission charged with the performance is in complete activity; and the political situation of the colonies leaves no room to hope that the formalities, prescribed by the ordinances of the Council, can be immediately complied with; or, at least, that official information can be given of the execution of these ordinances as long as the war continues; and in this case, which is more than probable, the convention would not take effect in regard to a class of claims therein specially designated, and which, I venture to say, merited the particular attention of both Powers. It is, therefore, time to use such means as to prevent this disadvantage, whether by reviving from the present time those judgments rendered against ships, to obtain which the captured have produced sufficient evidence; or, at least, by fixing upon a term beyond which this revival shall take effect, should the captors not appear; proportioning, however, this delay as well to the urgency of circumstances as to the time already elapsed since the despatch of the ordinances of the Council of Prizes.

I must request you, Citizen President, to take into consideration the object of this letter, wherein many commercial houses of the United States are deeply interested, and to acquaint me, as soon as you possibly can, with the measures you may judge proper to take in consequence.

I avail myself of this occasion to present to you the assurance of my distinguished consideration.

FULWAR SKIPWITH.

No. 539.

Process verbal of the session of the Council of Prizes of the 11th Pluviose, year 12, (February 1, 1804.)

[Translation.—Extract.]

"After the reading of the letter from the Commercial Agent of the United States of America, dated 27th Nivose last, wherein he gives a statement that, in consequence of the difficulties presented by the actual state of the war to the intercourse of the colonies, the Americans interested in the affair of prizes, respecting which the Council has issued citations against the captors, are exposed to the loss of their rights under the convention concluded between the French Republic and the United States relative to the price of Louisiana, a part of which is allotted to the payment of American claims; he, in consequence, demands, in order that the term fixed upon by this convention may not expire before a decree be made relative to the claims laid before the Council, that it revise from the present time those judgments rendered against those ships; to obtain which, the captured have produced competent evidence; or that, at least, it fix upon a period beyond which this revisal shall take place if the captors do not appear, proportioning, however, this as well to the urgency of circumstance, as to the time already elapsed since the despatch of the ordinances of the Council.

"After having heard the observations of Citizen Lacoste, and those of the Commissary of Government, considering that the citizens of the United States of America have, more than all others, the means of corresponding with the ports whereat judgments were rendered for the confiscation of prizes; that, in their quality of neutrals, their navigation was entirely free, and that communications with the French colonies were open to them, whose ports they frequent in great numbers; and, therefore, it is incumbent upon those among them who are claimants to use due diligence to compel the captors to appear, or at least to prevent their departure, by publishing a notice of the ordinance of citation obtained against them; that if the effect of these ordinances were to be by any means retarded, the only remedy would be that both Powers consent to the continuation of the period first fixed upon by the convention.

"As to the Council, all it can do is to decide promptly on all the cases brought before it, accordingly as they are prepared to receive the decision; that the forms prescribed for, and an accordance with, the principles of justice] do not permit it to give judgment before the due preparation of the proceedings, one of the chief points of which is, that the parties be heard or duly cited; that, for the same reason, it cannot enjoin a delay fatal to the captors, for it would be unjust to punish them, by depriving them of their rights, for having disobeyed a rigorous citation which they could not have known; and, again, that such an act is not within the jurisdiction of the Council.

"The Council have resolved that, in the actual state of things, it could not make any change in the order established to preserve the respective rights of the parties relative to prizes made under American colors and carried into the colonies. This resolution will be transmitted to the Commercial Agent of the United States by the President of the Council."

Correct copy of extract.
The Secretary General of the Council of Prizes, sitting at Paris, the oratory.

CALMLET.

No. 540.

COUNCIL OF PRIZES.

Citizen Berlier, Councillor of State, President of the Council of Prizes, to Mr. Skipwith, Commercial Agent of the United States, dated Paris, the 25th Pluviose, year 12, (February 15, 1804.)

[Translation.]

The Council, sir, to which I have communicated the letter which you did me the honor to write me on the 27th of last month, and whereby you require, in the affairs of American prizes carried into the colonies, a revisal, the promptness whereof must correspond with the open delay the claimants were subjected to by the convention recently concluded between the French Republic and the United States, thought that, under the actual state of things, it could not change anything from the order established for the preservation of the respective rights of the parties in affairs of this nature. You will find, in the hereto annexed extract of its verbal process, the motives of its deliberation, of which I hasten, in compliance with your desire, to give you information.

Safety and esteem.

T. BERLIER, *President.*

No. 541.

Mr. Skipwith, United States Consul at Paris, to Mr. Livingston, dated Paris, June 22, 1804.

[Translation.]

SIR: All my efforts, for more than a year, to obtain for the owner of the ship Rover the application of the last convention between the United States and France, not having produced any effect, I find

myself under the necessity of applying to you, and of claiming your interference to bring this subject to a close, the principal circumstances of which I will give you as succinct an account as possible.

The *Rover*, Captain Patton, was captured in 1799 by the French privateer the Sans Facon, fitted out at Malaga by Peter La Rochelle; in 1803 the Council of Prizes annulling the judgment given by the French Council at St. Croix of Teneriffe, ordered the restitution of the ship and cargo, or rather their value, for they were sold by virtue of the first decision.

I immediately sent to my colleague, at Malaga, the decision of the Council, with the papers requisite for its execution, but the steps he took, assisted by the Commercial Agent of the Republic, to effect it, were entirely useless. It happened that Pierre La Rochelle, the real or pretended owner of the privateer *Sans Facon*, had fled, without having left at Malaga either property or security. They had recourse to the customary proceedings against the Spanish house, which was this owner's security, but with as little success.

I then addressed myself to the Minister of Exterior Relations, who, in a letter of the 20th Fructidor, year 11, remarked to me that he had written to Spain to demand of the Court of Madrid an order to compel this house to deposit the amount of the security which it had signed for the Sans Facon; I sent this information to my colleague at Malaga, who, more than three months after, wrote to me that neither the Commercial Agent of the Republic nor the Spanish Governor had received the authority or orders which were expected, and afterwards he satisfied me of the trivial effects of the instructions which the Minister of the Exterior Relations assured me he had communicated to the French minister at Madrid on this subject.

The result of these circumstances, a short expose of which is given, was the evident impossibility of recovering in Spain the value of the *Rover* and her cargo; and even had the signers to the security bond been compelled to deposit the sums they had signed, those sums were so much less than the value claimed that it would have afforded no great advantage.

So that nothing more was left to the owner of the Rover than the remedy pointed out by the 5th article of the convention. I wrote, in consequence, to the Minister of Exterior Relations to ask him to cause a decree, that, as the owner had actually become a creditor of the French Republic, he should be admitted under the liquidation established by the convention before cited.

The minister replied that he had submitted the affair to the Minister of Marine, and some time after, upon a letter lately received from me, having consulted the Director General of Liquidation, he was asked by the Director what papers I could exhibit? I therefore, in April last, sent him these papers; they show clearly the repeated steps taken at Malaga and their inefficacy.

I have since submitted this subject to the Department of Marine, of Exterior Relations, of the General Liquidation of the Public Debt, without having been able to obtain any decision whatever.

I therefore take the liberty, sir, to recommend the subject to your consideration, at the same time requesting that the Minister of Exterior Relations be reminded thereof. The object is to admit that the *Rover* comes within the case provided for by the convention, and to empower the Council of Liquidation to regulate in consequence the amount of the sum to which the owners are entitled.

I have the honor to be, with respect, sir, your most obedient servant,

FULWAR SKIPWITH.

No. 542.

Mr. Livingston to Mr. Skipwith, United States Consul General at Paris, dated Paris, June 25, 1804.

SIR: I return you the papers in the case of the Rover. Our Government supposes that, as to all prizes taken by privateers fitted out of Spanish ports and sold in such ports, they have a just claim upon Spain, and they have denied, as the Spanish Court insist, that we have made any demand upon France for such prizes, and have written to know whether their opinion on this head is correct. I cannot, therefore, knowing their sentiments on this subject, weaken their claim upon Spain by any application that may strengthen the pretensions of that Court to exonerate themselves.

I am, sir, your most obedient, humble servant,

ROB. R. LIVINGSTON.

No. 543.

Mr. Skipwith, Consul General of the United States at Paris, to Mr. Livingston, dated Paris, June 28, 1804.

SIR: I beg leave to observe, in reply to your letter of the 25th instant, returning the papers in the case of the Rover, that at present I am apprehensive no claim for that vessel can be maintained against the Spanish Government, because, if I do not mistake the late treaty with that Power, it leaves open all cases so situated for future discussion; but between France and the United States there does exist a convention in which there is no exclusion of cases situated as the Rover. Under the late convention there may be a claim for this vessel; there has been already a considerable claim in the case of the Barbara, submitted by authority of this Government to their and the American Commissioners for liquidation. It is, therefore, relinquishing a chance almost certain to prevent the case of the Rover coming before our Board of Commissioners, and embracing the very precarious one of future negotiations between the United States and Spain, in respect to property captured by French armed vessels and condemned in the ports of his Catholic Majesty.

I have the honor to be, respectfully, sir, your most obedient servant,

FULWAR SKIPWITH.

No. 544.

Mr. Skipwith, Commercial Agent of the United States at Paris, to the Secretary of State of the United States, dated Paris, July 18, 1804.

[Extract.]

"The enclosed copies of correspondence between our minister and myself, respecting the American vessels captured by French privateers and condemned in the different ports of Spain, I deem of sufficient importance to communicate, though I presume the minister himself will not fail to make you fully acquainted with the subject upon which it treats. With this correspondence you also have an authentic list of those captures, of the privateers that captured them, and likewise the names of the ports, as far as they could be obtained at the Council of Prizes, in which those privateers had been fitted out.

"Altogether ignorant as I have been, until the date of our minister's letter of the 25th ultimo, of our Government intending to seek redress from that of Spain on the ground of those condemnations, and observing that the principle of indemnification was not positively provided for in our late treaty with that country, I was induced, in the instance of the vessel called the Rover, to lay an appeal before the Council of Prizes, upon which a judgment in favor of both vessel and cargo has since been granted, and I have to add, has very lately been submitted by authority of this Government to their and the American commission for liquidation. In making this appeal it never once occurred to me that I might be acting contrary to the wishes of the President, and especially since our minister had never afforded me the slightest intimation to that purport; still this appeal was not entered until the Council had received a great number of others, and rendered judgments in favor of several, as is proven by the list here enclosed. I have communicated the minister's letters to me on this subject to our Board, who have already the cases of the Rover and the Barbara before them; whether they will consider themselves at liberty to withhold their decisions on those cases, I am not able to say."

No. 545.

Mr. Skipwith, Consul General of the United States, to General Armstrong, Minister Plenipotentiary of the United States, dated Paris, January 2, 1805.

[Extract.]

"If my memory does not deceive me, you observed some days ago, in the course of conversation on the subject of my letter of the 13th ultimo, making known the necessity of my being supplied with a certain amount of money to enable me to institute judicial proceedings on thirty-five cases of capture or depredation on American vessels, that you would be disposed to make such an advance for account of the United States, provided it had been ever done here or elsewhere by our Government. I cannot say that any such advance has been made by any minister of the United States in Paris. Indeed, I recollect on a similar application some years ago to Messrs. Pinckney, Marshall, and Gerry, then Envoys Extraordinary from the United States, they declined making the advance, on the ground that, considering the rupture and probability of a war between France and America, the following up of those prize causes appeared to them unnecessary and inexpedient."

No. 546.

Mr. Delegrange to Mr. Barnet, certified by Mr. Skipwith, dated Paris, January 9, 1806.

[Extract.]

"I have it in my power at last to inform you of the producing before the Council of Prizes of such of the American cases as required our most immediate attention. Enclosed I have the honor of sending you a detailed statement of the same, to the number of sixteen. The whole of which, the Ganges excepted, are for captures posterior to the convention of 1800, and even some have been made after that of 1803; no doubt therefore but a favorable issue may be expected for the whole of them.

"Among the number of those remaining with me, respecting which I have already reported to Mr. Skipwith and yourself, there are some that require and shall obtain my early attention. Besides the above sixteen cases of a nature to be laid before the Council of Prizes, there were three which have been submitted to the Department they respectively belonged; they are the following, viz:

"1st. In the case of the Rover, Patton master, I have written a memorial in the two languages, the object of which was to show that said vessel and her cargo having been restored by the Council of Prizes on the 17th Brumaire, 10th year, and the captors having proved insolvent, said case was embraced by the convention of 1803. My memorial having been delivered to Mr. Skipwith, by whom the same was signed and presented, I am ignorant of the issue, and must suppose the case to be now under your valuable care and direction.

"2d. The schooner Thereza, Williamson master, owned by Champayne and Deyme, of Baltimore. This vessel was captured by a national sloop-of-war, and condemned at Guadaloupe on the 22d Prairial, 3d year. An appeal having been entered by the captured, the Tribunal Civil of Bassaterre, by their decree of the 22d Ventose, 9th year, have reversed the condemnation and awarded a full restitution which, as the capture was made by a national vessel, must be effected by Government. This case was, from its nature, entitled to the benefit of the Louisiana treaty, but the papers having been received at too late a period, I could see no way of redress but by an application to the Marine Minister, and through him to the

French liquidation. I accordingly drew up a memorial, which Mr. Skipwith presented on the 23d of March last, and as this important case must require your attention and inquiries at the marine, I enclose my *Cronillon* of said memorial for your information, with a tender of my further services in case they should be wanted.

"3d. Ship Krow-Princen, owned by Robert Montgomery, Esq., Consul United States at Alicant. The condemnation in this case having been reversed by the Council of Prizes in the year 1801, and the captors having proved insolvent, I, in Mr. Skipwith's name, as attorney to the captured, drew up a memorial to the liquidation, in order to show that the case was embraced by the convention; I am ignorant of the issue, as the case has continued under Mr. Skipwith's direction. I leave some papers remaining with me; as to my rough draught of the memorial, it must have remained with Mr. Skipwith.

"The sixteen cases produced to the Council of Prizes being under my immediate direction until a decision takes place, I keep the rough draught of my memorials, of which, should the enclosed statement not be sufficient, you may have communication at any time."

19TH CONGRESS.] No. 438. [2D SESSION.

MESSAGE OF THE PRESIDENT AT THE COMMENCEMENT OF THE SESSION.—DOCUMENTS RELATING TO THE COLONIAL TRADE WITH GREAT BRITAIN.—RELATING TO AFFAIRS WITH BRAZIL.

COMMUNICATED TO CONGRESS DECEMBER 5, 1826.

Fellow-citizens of the Senate and of the House of Representatives of the United States:

The assemblage of the Representatives of our Union in both houses of Congress, at this time, occurs under circumstances calling for the renewed homage of our grateful acknowledgments to the Giver of all Good. With the exceptions incidental to the most felicitous condition of human existence, we continue to be highly favored in all the elements which contribute to individual comfort and to national prosperity. In the survey of our extensive country, we have generally to observe abodes of health and regions of plenty. In our civil and political relations, we have peace without and tranquillity within our borders. We are, as a people, increasing with unabated rapidity in population, wealth, and national resources; and whatever differences of opinion exist among us with regard to the mode and the means by which we shall turn the beneficence of Heaven to the improvement of our own condition, there is yet a spirit animating us all which will not suffer the bounties of Providence to be showered upon us in vain, but will receive them with grateful hearts and apply them with unwearied hands to the advancement of the general good.

Of the subjects recommended to Congress at their last session, some were then definitely acted upon. Others, left unfinished but partly matured, will recur to your attention, without needing a renewal of notice from me. The purpose of this communication will be to present to your view the general aspect of our public affairs at this moment, and the measures which have been taken to carry into effect the intentions of the Legislature as signified by the laws then and heretofore enacted.

In our intercourse with the other nations of the earth, we have still the happiness of enjoying peace and a general good understanding; qualified, however, in several important instances, by collisions of interest and by unsatisfied claims of justice, to the settlement of which the constitutional interposition of the legislative authority may become ultimately indispensable.

By the decease of the Emperor Alexander of Russia, which occurred contemporaneously with the commencement of the last session of Congress, the United States have been deprived of a long-tried, steady, and faithful friend. Born to the inheritance of absolute power, and trained in the school of adversity, from which no power on earth, however absolute, is exempt, that monarch from his youth had been taught to feel the force and value of public opinion, and to be sensible that the interest of his own Government would best be promoted by a frank and friendly intercourse with this Republic, as those of his people would be advanced by a liberal commercial intercourse with our country. A candid and confidential interchange of sentiments between him and the Government of the United States, upon the affairs of Southern America, took place at a period not long preceding his demise, and contributed to fix that course of policy which left to the other Governments of Europe no alternative but that of sooner or later recognizing the independence of our southern neighbors, of which the example had, by the United States, already been set. The ordinary diplomatic communications between his successor, the Emporer Nicholas, and the United States, have suffered some interruption by the illness, departure, and subsequent decease of his minister residing here, who enjoyed, as he merited, the entire confidence of his new sovereign, as he had eminently responded to that of his predecessor. But we have had the most satisfactory assurances that the sentiments of the reigning Emperor towards the United States are altogether conformable to those which had so long and so constantly animated his imperial brother; and we have reason to hope that they will serve to cement that harmony and good understanding between the two nations, which, founded in congenial interests, cannot but result in the advancement of the welfare and prosperity of both.

Our relations of commerce and navigation with France are, by the operation of the convention of June 24, 1822, with that nation, in a state of gradual and progressive improvement. Convinced by all our experience, no less than by the principles of fair and liberal reciprocity, which the United States have constantly tendered to all the nations of the earth, as the rule of commercial intercourse which they would universally prefer, that fair and equal competition is most conducive to the interests of both parties, the

United States, in the negotiation of that convention, earnestly contended for a mutual renunciation of discriminating duties and charges in the ports of the two countries. Unable to obtain the immediate recognition of this principle in its full extent, after reducing the duties of discrimination so far as it was found attainable, it was agreed that at the expiration of two years from the 1st of October, 1822, when the convention was to go into effect, unless a notice of six months on either side should be given to the other that the convention itself must terminate, those duties should be reduced one-fourth; and that this reduction should be yearly repeated until all discrimination should cease while the convention itself should continue in force. By the effect of this stipulation three-fourths of the discriminating duties which had been levied by each party upon the vessels of the other in its ports have already been removed; and, on the 1st of next October, should the convention be still in force, the remaining fourth will be discontinued. French vessels laden with French produce will be received in our ports on the same terms as our own; and ours, in return, will enjoy the same advantages in the ports of France. By these approximations to an equality of duties and of charges, not only has the commerce between the two countries prospered, but friendly dispositions have been, on both sides, encouraged and promoted. They will continue to be cherished and cultivated on the part of the United States. It would have been gratifying to have had it in my power to add, that the claims upon the justice of the French Government, involving the property and the comfortable subsistence of many of our fellow-citizens, and which have been so long and so earnestly urged, were in a more promising train of adjustment than at your last meeting; but their condition remains unaltered.

With the Government of the Netherlands the mutual abandonment of discriminating duties had been regulated by legislative acts on both sides. The acts of Congress of the 20th of April, 1818, abolished all discriminating duties of impost and tonnage upon the vessels and produce of the Netherlands in the ports of the United States, upon the assurance given by the Government of the Netherlands that all such duties operating against the shipping and commerce of the United States in that Kingdom had been abolished. These reciprocal regulations had continued in force several years, when the discriminating principle was resumed by the Netherlands in a new and indirect form, by a bounty of ten per cent. in the shape of a return of duties to their national vessels, and in which those of the United States are not permitted to participate. By the act of Congress of 7th January, 1824, all discriminating duties in the United States were again suspended, so far as related to the vessels and produce of the Netherlands, so long as the reciprocal exemption should be extended to the vessels and produce of the United States in the Netherlands. But the same act provides that, in the event of a restoration of discriminating duties to operate against the shipping and commerce of the United States in any of the foreign countries referred to therein, the suspension of discriminating duties in favor of the navigation of such foreign country should cease, and all the provisions of the acts imposing discriminating foreign tonnage and impost duties in the United States should revive and be in full force with regard to that nation.

In the correspondence with the Government of the Netherlands upon this subject, they have contended that the favor shown to their own shipping by this bounty upon their tonnage is not to be considered as a discriminating duty. But it cannot be denied that it produces all the same effects. Had the mutual abolition been stipulated by treaty, such a bounty upon the national vessels could scarcely have been granted consistently with good faith. Yet, as the act of Congress of 7th January, 1824, has not expressly authorized the Executive authority to determine what shall be considered as a revival of discriminating duties by a foreign Government to the disadvantage of the United States, and as the retaliatory measure on our part, however just and necessary, may tend rather to that conflict of legislation which we deprecate than to that concert to which we invite all commercial nations as most conducive to their interest and our own, I have thought it more consistent with the spirit of our institutions to refer the subject again to the paramount authority of the Legislature to decide what measure the emergency may require, than abruptly, by proclamation, to carry into effect the minatory provisions of the act of 1824.

During the last session of Congress treaties of amity, navigation, and commerce, were negotiated and signed at this place with the Government of Denmark, (in Europe,) and with the Federation of Central America, (in this hemisphere.) These treaties then received the constitutional sanction of the Senate by the advice and consent to their ratification. They were accordingly ratified on the part of the United States, and, during the recess of Congress, have been also ratified by the other respective contracting parties. The ratifications have been exchanged, and they have been published by proclamations, copies of which are herewith communicated to Congress. These treaties have established between the contracting parties the principles of equality and reciprocity in their broadest and most liberal extent. Each party admitting the vessels of the other into its ports, laden with cargoes the produce or manufacture of any quarter of the globe, upon the payment of the same duties of tonnage and impost that are chargeable upon their own. They have further stipulated that the parties shall hereafter grant no favor of navigation or commerce to any other nation which shall not, upon the same terms, be granted to each other; and that neither party will impose upon articles of merchandise, the produce or manufature of the other, any other or higher duties than upon the like articles, being the produce or manufacture of any other country. To these principles there is, in the convention with Denmark, an exception with regard to the colonies of that Kingdom in the Arctic Seas, but none with regard to her colonies in the West Indies.

In the course of the last summer, the term to which our last commercial treaty with Sweden was limited has expired. A continuation of it is in the contemplation of the Swedish Government, and is believed to be desirable on the part of the United States. It has been proposed by the King of Sweden that, pending the negotiation of renewal, the expired treaty should be mutually considered as still in force; a measure which will require the sanction of Congress to be carried into effect on our part, and which I therefore recommend to your consideration.

With Prussia, Spain, Portugal, and in general all the European Powers, between whom and the United States relations of friendly intercourse have existed, their condition has not materially varied since the last session of Congress. I regret not to be able to say the same of our commercial intercourse with the colonial possessions of Great Britain in America. Negotiations of the highest importance to our common interests have been for several years in discussion between the two Governments, and on the part of the United States have been invariably pursued in the spirit of candor and conciliation. Interests of great magnitude and delicacy had been adjusted by the conventions of 1815 and 1818, while that of 1822, mediated by the late Emperor Alexander, had promised a satisfactory compromise of claims which the Government of the United States, in justice to the rights of a numerous class of their citizens, was bound to sustain. But, with regard to the commercial intercourse between the United States and the British colonies in America, it has been hitherto found impracticable to bring the parties to an understanding

satisfactory to both. The relative geographical position and the respective products of nature cultivated by human industry had constituted the elements of a commercial intercourse between the United States and British America, insular and continental, important to the inhabitants of both countries. But it had been interdicted by Great Britain, upon a principle heretofore practiced upon by the colonizing nations of Europe, of holding the trade of their colonies, each in exclusive monopoly to herself. After the termination of the late war this interdiction had been revived, and the British Government declined including this portion of our intercourse with her possessions in the negotiation of the convention of 1815. The trade was then carried on exclusively in British vessels, till the act of Congress concerning navigation of 1818, and the supplemental act of 1820, met the interdict by a corresponding measure on the part of the United States. These measures, not of retaliation but of necessary self-defence, were soon succeeded by an act of Parliament opening certain colonial ports to the vessels of the United States, coming directly from them, and to the importation from them of certain articles of our produce, burdened with heavy duties, and excluding some of the most valuable articles of our exports. The United States opened their ports to British vessels from the colonies upon terms as exactly corresponding with those of the act of Parliament as, in the relative position of the parties, could be made. And a negotiation was commenced by mutual consent with the hope, on our part, that a reciprocal spirit of accommodation and a common sentiment of the importance of the trade to the interests of the two countries, between whom it must be carried on, would ultimately bring the parties to a compromise, with which both might be satisfied. With this view, the Government of the United States had determined to sacrifice something of that entire reciprocity which in all commercial arrangements with foreign powers they are entitled to demand, and to acquiesce in some inequalities disadvantageous to ourselves, rather than to forego the benefit of a final and permanent adjustment of this interest to the satisfaction of Great Britain herself. The negotiation, repeatedly suspended by accidental circumstances, was, however, by mutual agreement and express assent, considered as pending, and to be speedily resumed. In the meantime another act of Parliament, so doubtful and ambiguous in its import as to have been misunderstood by the officers in the colonies who were to carry it into execution, opens again certain colonial ports upon new conditions and terms, with a threat to close them against any nation which may not accept those terms as prescribed by the British Government. This act, passed in July, 1825, not communicated to the Government of the United States, not understood by the British officers of the customs in the colonies where it was to be enforced, was nevertheless submitted to the consideration of Congress at their last session. With the knowledge that a negotiation upon the subject had long been in progress, and pledges given of its resumption at an early day, it was deemed expedient to await the result of that negotiation, rather than to subscribe implicitly to terms the import of which was not clear, and which the British authorities themselves, in this hemisphere, were not prepared to explain.

Immediately after the close of the last session of Congress, one of our most distinguished citizens was despatched as Envoy Extraordinary and Minister Plenipotentiary to Great Britain, furnished with instructions which we could not doubt would lead to a conclusion of this long controverted interest upon terms acceptable to Great Britain. Upon his arrival, and before he had delivered his letters of credence, he was met by an order of the British Council, excluding, from and after the first of December now current, the vessels of the United States from all the colonial British ports, excepting those immediately bordering upon our Territories. In answer to his expostulations upon a measure thus unexpected, he is informed that, according to the ancient maxims of policy of European nations having colonies, their trade is an exclusive possession of the mother country. That all participation in it by other nations is a boon or favor, not forming a subject of negotiation, but to be regulated by the legislative acts of the power owning the colony. That the British Government, therefore, declines negotiating concerning it; and that, as the United States did not forthwith accept purely and simply the terms offered by the act of Parliament of July, 1825, Great Britain would not now admit the vessels of the United States, even upon the terms on which she has opened them to the navigation of other nations. We have been accustomed to consider the trade which we have enjoyed with the British colonies rather as an interchange of mutual benefits than as a mere favor received; that, under every circumstance, we have given an ample equivalent. We have seen every other nation holding colonies negotiate with other nations, and grant them, freely, admission to the colonies by treaty; and, so far are the other colonizing nations of Europe now from refusing to negotiate for trade with their colonies, that we ourselves have secured access to the colonies of more than one of them by treaty. The refusal, however, of Great Britain to negotiate, leaves to the United States no other alternative than that of regulating or interdicting altogether the trade on their part, according as either measure may affect the interests of our own country; and, with that exclusive object, I would recommend the whole subject to your calm and candid deliberations.

It is hoped that our unavailing exertions to accomplish a cordial good understanding on this interest will not have an unpropitious effect upon the other great topics of discussion between the two Governments. Our Northeastern and Northwestern boundaries are still unadjusted. The Commissioners, under the seventh article of the treaty of Ghent, have nearly come to the close of their labors; nor can we renounce the expectation, enfeebled as it is, that they may agree upon their report to the satisfaction or acquiescence of both parties. The commission for liquidating the claims for indemnities for slaves carried away after the close of the war has been sitting with doubtful prospects of success. Propositions of compromise have, however, passed between the two Governments, the result of which, we flatter ourselves, may yet prove satisfactory. Our own disposition and purposes toward Great Britain are all friendly and conciliatory; nor can we abandon but with strong reluctance the belief that they will, ultimately, meet a return, not of favors, which we neither ask nor desire, but of equal reciprocity and good will.

With the American Governments of this hemisphere we continue to maintain an intercourse altogether friendly, and between their nations and ours that commercial interchange, of which mutual benefit is the source and mutual comfort and harmony the result, is in a continual state of improvement. The war between Spain and them, since the total expulsion of the Spanish military force from the continental territories, has been little more than nominal; and their internal tranquillity, though occasionally menaced by the agitations which civil wars never fail to leave behind them, has not been affected by any serious calamity.

The Congress of ministers from several of those nations which assembled at Panama, after a short session there, adjourned to meet again, at a more favorable season, in the neighborhood of Mexico. The decease of one of our ministers on his way to the Isthmus, and the impediments of the season which delayed the departure of the other, deprived us of the advantage of being represented at the first meeting of the Congress. There is, however, no reason to believe that any of the transactions of the Congress

were of a nature to affect injuriously the interests of the United States, or to require the interposition of our ministers had they been present. Their absence has, indeed, deprived us of the opportunity of possessing precise and authentic information of the treaties which were concluded at Panama, and the whole result has confirmed me in the conviction of the expediency to the United States of being represented at the Congress. The surviving member of the mission, appointed during your last session, has accordingly proceeded to his destination, and a successor to his distinguished and lamented associate will be nominated to the Senate. A treaty of amity, navigation, and commerce has, in the course of the last summer, been concluded by our minister plenipotentiary at Mexico with the United States of that confederacy, which will also be laid before the Senate for their advice with regard to its ratification.

In adverting to the present condition of our fiscal concerns and to the prospects of our revenue, the first remark that calls our attention is that they are less exuberantly prosperous than they were at the corresponding period of the last year. The severe shock so extensively sustained by the commercial and manufacturing interests in Great Britain has not been without a perceptible recoil upon ourselves. A reduced importation from abroad is necessarily succeeded by a reduced return to the Treasury at home. The net revenue of the present year will not equal that of the last, and the receipts of that which is to come will fall short of those in the current year. The diminution, however, is in part attributable to the flourishing condition of some of our domestic manufactures, and so far is compensated by an equivalent more profitable to the nation. It is also highly gratifying to perceive that the deficiency in the revenue, while it scarcely exceeds the anticipations of the last year's estimates from the Treasury, has not interrupted the application of more than eleven millions during the present year to the discharge of the principal and interest of the debt, nor the reduction of upwards of seven millions of the capital of the debt itself. The balance in the Treasury on the 1st of January last was five millions two hundred and one thousand six hundred and fifty dollars and forty-three cents. The receipts from that time to the 30th of September last were nineteen millions five hundred and eighty-five thousand nine hundred and thirty-two dollars and fifty cents. The receipts of the current quarter, estimated at six millions of dollars, yield, with the sums already received, a revenue of about twenty-five millions and a half for the year. The expenditures for the three first quarters of the year have amounted to eighteen millions seven hundred and fourteen thousand two hundred and twenty-six dollars and sixty-six cents. The expenditures of the current quarter are expected, including the two millions of the principal of the debt to be paid, to balance the receipts. So that the expenses of the year, amounting to upwards of a million less than its income, will leave a proportionally increased balance in the Treasury on the 1st of January, 1827, over that of the 1st of January last. Instead of five millions two hundred thousand there will be six millions four hundred thousand dollars.

The amount of duties secured on merchandise imported from the commencement of the year till the 30th of September is estimated at twenty-one millions two hundred and fifty thousand dollars, and the amount that will probably accrue during the present quarter is estimated at four millions two hundred and fifty thousand, making for the whole year twenty-five millions and a half, from which the drawbacks being deducted will leave a clear revenue from the customs, receivable in the year 1827, of about twenty millions four hundred thousand dollars, which, with the sums to be received from the proceeds of public lands, the bank dividends, and other incidental receipts, will form an aggregate of about twenty-three millions—a sum falling short of the whole expenses of the present year little more than the portion of those expenditures applied to the discharge of the public debt beyond the annual appropriation of ten millions by the act of March 3, 1817. At the passage of that act the public debt amounted to one hundred and twenty-three millions and a half. On the first of January next it will be short of seventy-four millions. In the lapse of these ten years fifty millions of public debt, with the annual charge of upwards of three millions of interest upon them, have been extinguished. At the passage of that act of the annual appropriation of ten millions, seven were absorbed in the payment of interest, and not more than three millions went to reduce the capital of the debt. Of the same ten millions at this time scarcely four are applicable to the interest, and upwards of six are effective in melting down the capital. Yet our experience has proved that a revenue consisting so largely of imposts and tonnage ebbs and flows to an extraordinary extent with all the fluctuations incident to the general commerce of the world. It is within our recollection that, even in the compass of the same last ten years, the receipts of the Treasury were not adequate to the expenditures of the year, and that in two successive years it was found necessary to resort to loans to meet the engagements of the nation. The returning tides of the succeeding years replenished the public coffers until they have again begun to feel the vicissitude of a decline. To produce these alternations of fullness and exhaustion, the relative operation of abundant or unfruitful seasons, the regulations of foreign Governments, political revolutions, the prosperous or decaying condition of manufactures, commercial speculations, and many other causes not always to be traced, variously combine. We have found the alternate swells and diminutions embracing periods of from two to three years. The last period of depression to us was from 1819 to 1822. The corresponding revival was from 1823 to the commencement of the present year. Still we have no cause to apprehend a depression comparable to that of the former period, or even to anticipate a deficiency which will intrench upon the ability to apply the annual ten millions to the reduction of the debt. It is well for us, however, to be admonished of the necessity of abiding by the maxims of the most vigilant economy, and of resorting to all honorable and useful expedients for pursuing with steady and inflexible perseverance the total discharge of the debt.

Besides the seven millions of the loans of 1813, which will have been discharged in the course of the present year, there are nine millions which, by the terms of the contracts, would have been and are now redeemable. Thirteen millions more of the loan of 1814 will become redeemable from and after the expiration of the present month; and nine other millions from and after the close of the ensuing year. They constitute a mass of thirty-one millions of dollars, all bearing an interest of six per cent., more than twenty millions of which will be immediately redeemable, and the rest within a little more than a year. Leaving of this amount fifteen millions to continue at the interest of six per cent., but to be paid off, as far as shall be found practicable, in the years 1827 and 1828, there is scarcely a doubt that the remaining sixteen millions might, within a few months, be discharged by a loan at not exceeding five per cent., redeemable in the years 1829 and 1830. By this operation a sum of nearly half a million of dollars may be saved to the nation, and the discharge of the whole thirty-one millions within the four years may be greatly facilitated, if not wholly accomplished.

By an act of Congress of March 3, 1825, a loan for the purpose now referred to, or a subscription to stock, was authorized, at an interest not exceeding four and a half per cent. But at that time so large a portion of the floating capital of the country was absorbed in commercial speculations, and so little

was left for investment in the stocks, that the measure was but partially successful. At the last session of Congress, the condition of the funds was still unpropitious to the measure; but the change so soon afterwards occurred that, had the authority existed to redeem the nine millions now redeemable by an exchange of stocks or a loan at five per cent., it is morally certain that it might have been effected, and with it a yearly saving of ninety thousand dollars.

With regard to the collection of the revenue of imposts, certain occurrences have, within the last year, been disclosed in one or two of our principal ports, which engaged the attention of Congress at their last session, and may hereafter require further consideration. Until within a very few years, the execution of the laws for raising the revenue, like that of all our other laws, has been insured more by the moral sense of the community than by the rigors of a jealous precaution or by penal sanctions. Confiding in the exemplary punctuality and unsullied integrity of our importing merchants, a gradual relaxation from the provisions of the collection laws, a close adherence to which would have caused inconvenience and expense to them, had long become habitual; and indulgences had been extended universally, because they had never been abused. It may be worthy of your serious consideration whether some further legislative provision may not be necessary to come in aid of this state of unguarded security.

From the reports, herewith communicated, of the Secretaries of War and of the Navy, with the subsidiary documents annexed to them, will be discovered the present condition and administration of our military establishment on the land and on the sea. The organization of the Army having undergone no change since its reduction to the present Peace Establishment in 1821, it remains only to observe that it is yet found adequate to all the purposes for which a permanent armed force in time of peace can be needed or useful. It may be proper to add that from a difference of opinion between the late President of the United States and the Senate, with regard to the construction of the act of Congress of March 2, 1821, to reduce and fix the Military Peace Establishment of the United States, it remains hitherto so far without execution that no Colonel has been appointed to command one of the regiments of artillery. A supplementary or explanatory act of the Legislature appears to be the only expedient practicable for removing the difficulty of this appointment.

In a period of profound peace, the conduct of the mere military establishment forms but a very inconsiderable portion of the duties devolving upon the administration of the Department of War. It will be seen by the returns from the subordinate departments of the Army that every branch of the service is marked with order, regularity, and discipline. That, from the Commanding General through all the gradations of superintendence, the officers feel themselves to have been citizens before they were soldiers, and that the glory of a Republican Army must consist in the spirit of freedom by which it is animated, and of patriotism by which it is impelled. It may be confidently stated that the moral character of the Army is in a state of continual improvement, and that all the arrangements for the disposal of its parts have a constant reference to that end.

But to the War Department are attributed other duties, having, indeed, relation to a future possible condition of war, but being purely defensive, and in their tendency contributing rather to the security and permanency of peace; the erection of the fortifications provided for by Congress and adapted to secure our shores from hostile invasion; the distribution of the fund of public gratitude and justice to the pensioners of the Revolutionary war; the maintenance of our relations of peace and of protection with the Indian tribes; and the internal improvements and surveys for the location of roads and canals, which, during the last three sessions of Congress, have engaged so much of their attention, and may engross so large a share of their future benefactions to our country.

By the act of the 30th of April, 1824, suggested and approved by my predecessor, the sum of thirty thousand dollars was appropriated for the purpose of causing to be made the necessary surveys, plans, and estimates of the routes of such roads and canals as the President of the United States might deem of national importance in a commercial or military point of view, or necessary for the transportation of the public mail; the surveys, plans, and estimates for each, when completed, to be laid before Congress.

In execution of this act, a Board of Engineers was immediately instituted, and have been since most assiduously and constantly occupied in carrying it into effect. The first object to which their labors were directed, by order of the late President, was the examination of the country between the tide waters of the Potomac, the Ohio, and Lake Erie, to ascertain the practicability of a communication between them, to designate the most suitable route for the same, and to form plans and estimates, in detail, of the expense of execution.

On the 3d of February, 1825, they made their first report, which was immediately communicated to Congress, and in which they declared that, having maturely considered the circumstances observed by them personally, and carefully studied the results of such of the preliminary surveys as were then completed, they were decidedly of opinion that the communication was practicable.

At the last session of Congress, before the Board of Engineers were enabled to make up their second report, containing a general plan and preparatory estimates for the work, the Committee of the House of Representatives upon Roads and Canals closed the session with a report, expressing the hope that the plan and estimate of the Board of Engineers might at this time be prepared, and that the subject be referred to the early and favorable consideration of Congress at their present session. That expected report of the Board of Engineers is prepared and will forthwith be laid before you.

Under the resolution of Congress authorizing the Secretary of War to have prepared a complete system of cavalry tactics, and a system of exercise and instruction of field artillery for the use of the militia of the United States, to be reported to Congress at the present session, a Board of distinguished officers of the army and of the militia has been convened, whose report will be submitted to you with that of the Secretary of War. The occasion was thought favorable for consulting the same Board, aided by the results of a correspondence with the Governors of the several States and Territories, and other citizens of intelligence and experience, upon the acknowledged defective condition of our militia system, and of the improvements of which it is susceptible. The report of the Board upon this subject is also submitted for your consideration.

In the estimates of appropriations for the ensuing year upwards of five millions of dollars will be submitted for the expenditures to be paid from the Department of War. Less than two-fifths of this will be applicable to the support and maintenance of the Army. A million and a half, in the form of pensions, goes as a scarcely adequate tribute to the services and sacrifices of a former age; and a more than equal sum, invested in fortifications, or for the preparations of internal improvement, provides for the quiet, the comfort, and happier existence of the ages to come. The appropriations to indemnify those unfortunate remnants of another race, unable alike to share in the enjoyments and to exist in the presence of civiliza-

tion, though swelling in recent years to a magnitude burdensome to the Treasury, are generally not without their equivalents in profitable value; or serve to discharge the Union from engagements more burdensome than debt.

In like manner the estimate of appropriations for the Navy Department will present an aggregate sum of upwards of three millions of dollars. About one-half of these, however, cover the current expenditures of the Navy in actual service, and one-half constitutes a fund of national property, the pledge of our future glory and defence. It was scarcely one short year after the close of the late war, and when the burden of its expenses and charges was weighing heaviest upon the country, that Congress, by the act of April 29, 1816, appropriated one million of dollars annually, for eight years, to the *gradual increase of the Navy*. At a subsequent period this annual appropriation was reduced to a half a million for six years, of which the present year is the last. A yet more recent appropriation, the last two years, for building ten sloops-of-war has nearly restored the original appropriation of 1816, of a million for every year. The result is before us all. We have twelve line-of-battle-ships, twenty frigates, and sloops-of-war in proportion, which, with a few months of preparation, may present a line of floating fortifications along the whole range of our coast, ready to meet any invader who might attempt to set foot upon our shores. Combining with a system of fortifications upon the shores themselves, commenced about the same time, under the auspices of my immediate predecessor, and hitherto systematically pursued, it has placed in our possession the most effective sinews of war, and has left us at once an example and a lesson from which our own duties may be inferred. The gradual increase of the Navy was the principle of which the act of April 29, 1816, was the first development. It was the introduction of a system to act upon the character and history of our country for an indefinite series of ages. It was a declaration of that Congress to their constituents and to posterity that it was the destiny and the duty of these confederated States to become, in regular process of time, and by no petty advances, a great naval power. That which they proposed to accomplish in eight years is rather to be considered as the measure of their means than the limitation of their design. They looked forward for a term of years sufficient for the accomplishment of a definite portion of their purpose, and they left to their successors to fill up the canvass of which they had traced the large and prophetic outline. The ships-of-the-line and frigates which they had in contemplation will be shortly completed. The time which they had allotted for the accomplishment of the work has more than elapsed. It remains for your consideration how their successors may contribute their portion of toil and of treasure for the benefit of the succeeding age, in the gradual increase of our Navy. There is, perhaps, no part of the exercise of the constitutional powers of the Federal Government which has given more general satisfaction to the people of the Union than this. The system has not been thus vigorously introduced, and hitherto sustained, to be now departed from or abandoned. In continuing to provide for the gradual increase of the Navy, it may not be necessary or expedient to add for the present any more to the number of our ships; but should you deem it advisable to continue the yearly appropriation of half a million to the same objects, it may be profitably expended in providing a supply of timber to be seasoned, and other materials for future use; in the construction of docks, or in laying the foundations of a school for naval education, as to the wisdom of Congress either of those measures may appear to claim the preference.

Of the small portions of this Navy engaged in actual service during the peace, squadrons have continued to be maintained in the Pacific Ocean, in the West India seas, and in the Mediterranean, to which has been added a small armament to cruise on the eastern coast of South America. In all they have afforded protection to our commerce, have contributed to make our country advantageously known to foreign nations, have honorably employed multitudes of our seamen in the service of their country, and have inured numbers of youths of the rising generation to lives of manly hardihood, of nautical experience, and skill. The piracies with which the West India seas were for several years infested have been totally suppressed; but in the Mediterranean they have increased in a manner afflictive to other nations, and, but for the continued presence of our squadron, would probably have been distressing to our own. The war which has unfortunately broken out between the Republic of Buenos Ayres and the Brazilian Government has given rise to very great irregularities among the naval officers of the latter, by whom principles in relation to blockades and to neutral navigation have been brought forward to which we cannot subscribe, and which our own commanders have found it necessary to resist. From the friendly disposition towards the United States constantly manifested by the Emperor of Brazil, and the very useful and friendly commercial intercourse between the United States and his dominions, we have reason to believe that the just reparation demanded for the injuries sustained by several of our citizens from some of his officers will not be withheld. Abstracts from the recent despatches of the commanders of our several squadrons are communicated with the report of the Secretary of the Navy to Congress.

A report from the Postmaster General is likewise communicated, presenting in a highly satisfactory manner the result of a vigorous, efficient, and economical administration of that Department. The revenue of the office, even of the year including the latter half of 1824 and the first half of 1825, had exceeded its expenditures by a sum of more than forty-five thousand dollars. That of the succeeding year has been still more productive. The increase of the receipts in the year preceding the first of July last over that of the year before exceeds one hundred and thirty-six thousand dollars, and the excess of the receipts over the expenditures of the year has swollen from forty-five thousand to nearly eighty thousand dollars. During the same period contracts for additional transportation of the mail in stages for about two hundred and sixty thousand miles have been made, and for seventy thousand miles annually on horseback. Seven hundred and fourteen new post offices have been established within the year, and the increase of revenue within the last three years, as well as the augmentation of the transportation by mail, is more than equal to the whole amount of receipts and of mail conveyance at the commencement of the present century, when the seat of the General Government was removed to this place. When we reflect that the objects effected by the transportation of the mail are among the choicest comforts and enjoyments of social life, it is pleasing to observe that the dissemination of them to every corner of our country has outstripped in their increase even the rapid march of our population.

By the treaties with France and Spain, respectively, ceding Louisiana and the Floridas to the United States, provision was made for the security of land titles derived from the Governments of those nations. Some progress has been made, under the authority of various acts of Congress, in the ascertainment and establishment of those titles; but claims to a very large extent remain unadjusted. The public faith, no less than the just rights of individuals and the interest of the community itself, appears to require further provision for the speedy settlement of those claims, which I therefore recommend to the care and attention of the Legislature.

In conformity with the provisions of the act of 20th May last, to provide for erecting a penitentiary in the District of Columbia, and for other purposes, three commissioners were appointed to select a site for the erection of a penitentiary for the District, and also a site in the county of Alexandria for a county jail, both of which objects have been effected. The building of the penitentiary has been commenced, and is in such a degree of forwardness as to promise that it will be completed before the meeting of the next Congress. This consideration points to the expediency of maturing at the present session a system for the regulation and government of the penitentiary, and of defining the class of offences which shall be punishable by confinement in this edifice.

In closing this communication I trust that it will not be deemed inappropriate to the occasion and purposes upon which we are here assembled to indulge in a momentary retrospect, combining in a single glance the period of our origin as a national confederation with that of our present existence, at the precise interval of half a century from each other. Since your last meeting at this place the fiftieth anniversary of the day when our independence was declared has been celebrated throughout our land; and on that day, while every heart was bounding with joy and every voice was tuned to gratulation, amid the blessings of freedom and independence which the sires of a former age had handed down to their children, two of the principal actors in that solemn scene—the hand that penned the ever memorable declaration and the voice that sustained it in debate—were, by one summons, at the distance of seven hundred miles from each other, called before the Judge of all to account for their deeds done upon earth. They departed, cheered by the benedictions of their country, to whom they left the inheritance of their fame and the memory of their bright example. If we turn our thoughts to the condition of their country, in the contrast of the first and last day of that half century, how resplendent and sublime is the transition from gloom to glory. Then, glancing through the same lapse of time, in the condition of the individuals, we see the first day marked with the fullness and vigor of youth, in the pledge of their lives, their fortunes, and their sacred honor to the cause of freedom and of mankind; and on the last, extended on the bed of death, with but sense and sensibility left to breathe a last aspiration to Heaven of blessing upon their country, may we not humbly hope that to them, too, it was a pledge of transition from gloom to glory, and that while their mortal vestments were sinking into the clod of the valley, their emancipated spirits were ascending to the bosom of their God.

JOHN QUINCY ADAMS.

WASHINGTON, *December* 5, 1826.

DOCUMENTS FROM THE DEPARTMENT OF STATE RELATIVE TO COLONIAL TRADE WITH GREAT BRITAIN.

COMMUNICATED WITH THE PRECEDING MESSAGE OF THE 5TH OF DECEMBER, 1826.

List of papers.

Mr. S. Canning to Mr. Adams, October 25, 1822.
Mr. Adams to Mr. S. Canning, November 11, 1822.
Mr. S. Canning to Mr. Adams, November 18, 1822.
Same to same, December 4, 1822.
- (*a*) Letter from Barbadoes, September 21, 1822. (Extract.)
- (*b*) Statement of British Brig Ceres, September 21, 1822.
- (*c*) Statement of American Schooner Industry, September 21, 1822.

Same to same, December 18, 1822.
- (*a*) British Consul to Mr. Canning, December 17, 1822.
- (*b*) Collector of Kingston to British Consul, October 21, 1822.

Same to same, January 13, 1823.
- (*a*) Collector of Halifax, December 9, 1822.
- (*b*) Governor of St. Christopher, December 9, 1822. (Extract.)
- (*c*) Certificate of Collector at Basseterre, December 9, 1822.

Mr. Adams to Mr. S. Canning, January 15, 1823.
Mr. S. Canning to Mr. Adams, January 25, 1823.
Memorandum communicated, February 17, 1823.
Mr. Adams to Mr. Rush, June 23, 1823. (Extracts.)
- (*a*) Mr. S. Canning to Mr. Adams, March 27, 1823.
- (*b*) Mr. Adams to Mr. S. Canning, April 8, 1823.
- (*c*) Mr. Canning to Mr. Adams, April 10, 1823.
- (*d*) Same to same, May 17, 1823.
- (*e*) Mr. Adams to Mr. Canning, May 24, 1823.

Same to same, June 26, 1823.
Mr. Rush to Mr. Adams, August 12, 1824. (No. 10, extracts.)
- (*a*) Protocol of 3d conference, August 12, 1824.
- (*b*) Protocol of 16th conference, August 12, 1824. (With paper L.)
- (*c*) Protocol of 25th conference, August 12, 1824.
- (*d*) Protocol of 26th conference, August 12, 1824. (With paper W.)

Mr. Addington to Adams, September 7, 1823.
Mr. Adams to Mr. Addington, November 11, 1823.
Mr. King to Mr. Clay, November 11, 1823. (Extracts.)
Mr. Clay to Mr. Gallatin, June 19, 1826. (Extracts.)
Mr. Gallatin to Mr. Canning, August 26, 1826.
Mr. Canning to Mr. Gallatin, September 11, 1826.
Mr. Gallatin to Mr. Clay, September 22, 1826. (Extract.)
- (*a*) Mr. Gallatin to Mr. Canning, September 22, 1826.

Mr. Vaughan to Mr. Clay, September 28, 1826.
Mr. Clay to Mr. Vaughan, October 11, 1826.
Same to same, October 19, 1826.
Mr. Vaughan to Mr. Clay, October 20, 1826.
Mr. Clay to Mr. Gallatin, November 11, 1826.

Mr. Stratford Canning to Mr. Adams.

WASHINGTON, *October* 25, 1822.

SIR: A letter addressed by the Comptroller of the United States Treasury to the Collectors and other officers of the customs, for the purpose, in part, of explaining under what modifications the President's proclamation, by which the ports of the United States have been declared open to British vessels arriving from his Majesty's colonies in North America and the West Indies, is to be understood as going into operation, has lately been pressed upon my notice by several of his Majesty's Consuls. The letter in question is dated the 14th of last month, and has since been printed in the public journals. On examining its contents I have found that it describes British vessels entering the harbors of the United States in virtue of the above mentioned proclamation, as liable to a duty of one dollar per ton for tonnage and light money, and their cargoes as liable to the discriminating duty of ten per cent., which is levied on goods imported in foreign vessels not privileged by treaty. I have also observed that, according to the tenor of the Comptroller's letter, the vessels of either country trading between the ports of the United States and such of his Majesty's colonies as the President's proclamation enumerates, are restricted, when coming from the West Indies, to the importation of articles the growth, produce, or manufacture of the West Indian colonies, and to the importation of articles the growth, produce, or manufacture of the North American colonies, in the case of such vessels having cleared out from any of the specified ports in that quarter. This restriction, and the extraordinary duties imposed upon British vessels and their cargoes, in pursuance of the Comptroller's letter, appear to my understanding so much at variance with the spirit and intention of the act of Parliament by which the newly opened trade is regulated, and to answer, indeed, so imperfectly to the leading principle set forth in the act of Congress on which the President's proclamation is grounded, that I esteem it an indispensable duty to anticipate the special instructions of my Government by soliciting your immediate attention to the subject.

In the act of Parliament, passed during the last session, entitled "An act to regulate the trade between his Majesty's possessions in America and the West Indies, and other places in America and the West Indies," it is expressly declared, as the intention and meaning of the act, that the privileges thereby granted to foreign ships and vessels shall be confined to the ships and vessels of such countries only as give *the like* privileges to British ships and vessels in their ports in America and the West Indies. It is essential, therefore, as far as this country is concerned, to ascertain, in the outset, that British ship owners are able, under the existing regulations, to engage in the new trade on a footing of fair competition with the American; and I think it will be no less evident to you, sir, than it is to me, that such can hardly be the case so long as British shipping is rendered liable to a tonnage duty higher, by 94 cents the ton, than that exacted from American vessels, and while the merchandise imported into the former is subject to a discriminating duty of ten per cent.

Any difference in the charges imposed in the ports of the United States on the vessels of the two countries, navigating, in other respects, under similar circumstances, must necessarily give an undue advantage to the favored party. The difference, in the present instance, if not counterbalanced by similar discriminating duties in the colonial ports, would probably have the effect of excluding British vessels from all participation in this branch of commerce. If colonial duties, of a similar nature, operating to the disadvantage of American shipping be already either in existence or in immediate contemplation, no such fact, and no such intention can, at least, be inferred from the provisions of the act of Parliament at present in force. The general tenor of the act may be regarded, on the contrary, as warranting a very different conclusion; and the eleventh and twelfth enactments, in particular, appear to have been framed with the view of securing to foreigners a fair and liberal participation in the British colonial trade, as far as it has been deemed advisable to open it. Such, indeed, is the care with which this object has, to all appearance, been provided for, that the condition of reciprocity, to which I have already adverted, and the power intrusted to the King in Council, of withdrawing the privileges offered by the act of Parliament from countries not giving the like privileges in return to British vessels, would seem to have become indispensable, as strict matter of justice, for the due protection of British navigation.

It is difficult to suppose that there can be any want of inclination on the part of the American Government to avail itself of the opening afforded by the above mentioned act of Parliament. To whatever degree the regulations specified in the Treasury circular may have the effect of embarrassing or interrupting the intercourse between this country and his Majesty's colonies in the West Indies and North America, the terms of the act of Congress eventually authorizing the President to open the ports of the United States to British vessels coming from those colonies bear evidence that the American Legislature, in passing the act of last session, had no restrictions in view but such as should appear to have a *specific* counterpart in the enactments of the British Parliament.

With respect to the other regulation, by which the vessels of either country, engaged in trading between the ports of the United States and his Majesty's colonies in North America and the West Indies, are restricted to the importation of articles the growth, produce, or manufacture, of the particular description of colonies from which, in each voyage, they have cleared out, the Comptroller represents in his letter as being meant to correspond to the following provision contained in the third section of the act of Parliament, namely, that no articles, enumerated in the schedule, shall be imported in any foreign ship or vessel, unless shipped and brought directly from the country or place of which they are the growth, produce, or manufacture.

Whatever may have been the intention with which this regulation was framed, it is evidently a mistake to describe it as corresponding to the above mentioned clause in the British act of Parliament. The fact is, that the range of the American restriction is beyond comparison more extensive than that of the British.

A few words will suffice to verify this assertion.

To open a commercial intercourse between the United States and certain of his Majesty's colonies in North America and the West Indies is an object common to the act of Congress, to the act of Parliament, and to the President's proclamation. The act of Parliament in providing, with respect to this country, that the vessels of the United States should be allowed to import into the said colonies no articles but what are "brought directly from the country or place of which they are the growth, produce, or manufacture," establishes no distinction whatever between one part of the United States and another. A vessel, for example, belonging to Boston, and clearing out for the colonies from that harbor, would be permitted, I conceive, under the provisions of the act, to import the tobacco of Virginia and the cotton of

Louisiana no less than any other of the enumerated articles which happen to be the produce or manufacture of that immediate neighborhood. The American regulation, on the contrary, will not allow a British vessel, clearing out from Halifax, for instance, or from St. John's, though otherwise duly qualified, to import into the United States the produce or manufacture of the West Indies, nor will it admit of Canadian and other North American produce being imported in a British vessel when coming from a port of the West Indies, creating thereby a distinction which affects exclusively his Majesty's colonies, constituting, as they do in this instance, one of the two parties reciprocally concerned, and which, as a countervailing measure, has no real foundation in any provision of the act of Parliament.

The view which I have taken of this restriction is wholly independent of the practical inconvenience, if any, with which its operation may be attended. It is sufficient for the present to show that, in order to entitle it to the character of a corresponding regulation, the act of Parliament to which the Comptroller's letter refers should be proved to contain a provision establishing between the productions of the northern and southern parts of the United States, when imported into his Majesty's colonies, a similar distinction to that which the regulation contains with reference to the productions of those colonies.

The preceding remarks are presented to your consideration, sir, under a persuasion, derived from the public acts to which they refer, that the American Government will, itself, be anxious to lose no time in relieving the newly opened trade from any charge or restriction originating within its authority which is found not to answer in strict reciprocity to any existing enactment or regulation on the side of Great Britain.

I beg, sir, that you will accept the assurances of perfect consideration with which I have the honor to be, sir, your most obedient, humble servant,

STRATFORD CANNING.

Hon. JOHN QUINCY ADAMS, *Secretary of State.*

Mr. Adams to Mr. Canning.

DEPARTMENT OF STATE, *Washington, November* 11, 1822.

SIR: Your letter of the 25th ultimo having been laid before the President of the United States, I am directed to assure you of the disposition of this Government to co-operate with that of Great Britain in every measure necessary for opening the commercial intercourse between the United States and the British colonies in America upon principles of liberal reciprocity.

This policy was manifested in the act of Congress, passed at their last session, authorizing the President, by anticipation, to open the ports of the United States to British vessels from the ports of the British colonies in the West Indies, which might, in the interval before the next session of Congress, be opened to the vessels of the United States.

It was equally manifested by the executive Government when, immediately after receiving advice of the act of Parliament of the 24th of June last, "to regulate the trade between his Majesty's possessions in America and the West Indies, and other places in America and the West Indies," the proclamation was issued on the 24th of August, wherein, by a liberal construction of the act of Congress of the 6th of May, the ports of the United States were opened to British vessels coming from any of the ports of the British colonies in America which, by the act of Parliament, were opened to the vessels of the United States.

But the authority of the President was limited by the act of Congress of the 6th of May last to the opening of the ports of the United States to British vessels employed in the trade and intercourse between the United States and the British islands or colonies opened by the act of Parliament to the vessels of the United States, subject to such reciprocal rules and restrictions as the President might, by his proclamation, make and publish, "anything in the laws entitled an act concerning navigation, or an act entitled an act supplementary to an act concerning navigation, to the contrary notwithstanding."

The act of Congress does not authorize the President to extend to British vessels coming from the British ports in America the privileges enjoyed by British vessels from the European British ports by virtue of the convention of July 3, 1815, nor to remit duties levied upon British and all other foreign vessels not especially privileged by treaty or by mutual privilege sanctioned by law; nor to repeal any discrimination prescribed by other acts of Congress, than the two navigation acts above specified. The tonnage duty of one dollar, and the additional ten per cent. upon the duties levied on importations in foreign unprivileged vessels, are prescribed by other acts of Congress, and altogether independent of any restrictions which had been imposed on the commercial intercourse between the United States and the British colonies in America. They can be revoked only by the same authority by which they were enacted.

The act of Parliament does not extend to vessels of the United States, admitted by it into the colonial ports, the privileges secured to the same vessels entering the British ports in Europe, by virtue of the convention of July 3, 1815. It does not admit the vessels of the United States into the colonial ports on the same terms as they are admitted into the European ports. It admits them only on a footing of *exceptions* to a general system of exclusion, and under circumstances of a strong and marked discrimination to the advantage of British vessels, with which they must encounter competition in the same intercourse. Their admission is only to certain enumerated ports. They are permitted to introduce only certain enumerated articles, from which are excluded the most essential articles of the produce of the United States, and most needed in the colonial ports.* They are admitted only to a direct trade, both from the United States to the enumerated ports, and from the enumerated ports to the United States. They are subject to the payment, without credit, and before admission, of duties, in many cases, almost equivalent to prohibition; and to a very heavy *export* duty in addition to the duties prescribed by the act of Parliament. Nor does it appear that, with regard to the important article of port charges, they can claim admission upon the same footing of British vessels. To counteract these disadvantages, under which they must submit to enter in competition with British vessels employed in the same navigation, the regulations prescribed in the proclamation, and the additional tonnage and other discriminating duties provided by the laws of the United States are surely not more than sufficient. Nor can the United States, in imposing discriminations, the *effect* of which will be to restore to their own vessels *that equal advantage of competition* of which they would be deprived by discriminations operating against them, be confined

to the mere *specific* counterparts of restrictions instituted by the other party to the commerce. Had they been so confined, they might have designated a specific list of articles to be admitted from all the British colonies, and, besides subjecting them to duties nearly prohibitory, might have excluded the article of rum, for example, from the list.

The colonies of Great Britain in the West India Islands are, in respect to every object of commerce and navigation, as distinct from those in North America as any two nations are from each other. Separated by an ocean, and having scarcely a single article of commercial interchange in common, the productions of neither can, in the natural course of trade, be objects of export from the other. Instead, therefore, of excluding from admission all the articles of the produce of both, with the exception of a small enumerated list, the proclamation has authorized the general admission of all the articles from either of its own natural growth or produce, excluding only the admission from either of those articles which it never could export but in consequence of their having been before imported to it from abroad.

On the first perusal of the act of Parliament for opening the colonial ports, it was perceived that, to the satisfactory accomplishment of the objects interesting to the commercial intercourse between the United States and the British colonies in America, which it was believed to be the intention of its enactment to promote, a further free communication and understanding between the two Governments would be necessary. The proclamation was forthwith issued, commensurate with the authority given to the President by the act of Congress, understood in the most enlarged import of the words in which it was given; and by an immediate instruction to the minister of the United States at London he was empowered to make known to your Government as well the disposition of this country to meet with fair and equal reciprocity this and every overture on the part of Great Britain for opening the commercial intercourse between the United States and the British colonies in this hemisphere, as the conviction of this Government that further measures on both sides would be indispensable to obtain that result in a manner satisfactory to both. That they may be adopted in concert, either by further legislation or by convention, is referred to the consideration and submitted to the option of your Government.

I pray you, sir, to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

Mr. Canning to Mr. Adams.

WASHINGTON, *November* 18, 1822.

SIR: In answer to the disposition which you express in your letter of the 11th instant, to co-operate on the part of your Government in every measure necessary for opening the commercial intercourse between the British colonies in America and the ports of the United States on principles of liberal reciprocity, I can only assure you of my readiness to transmit your communication to his Majesty's ministers.

The American envoy in London, whom you describe as having been empowered some weeks ago to make a declaration of similar purport, has doubtless by this time apprised the British Government of the views entertained by his cabinet. He will probably be enabled to satisfy you that the British Legislature, in adopting the measures already in force for opening the colonial trade, has carried its liberality to an extent which can only be justified by the persuasion that every one of those measures will be met by foreign Governments with a prompt and complete return. As the representations which I thought it my duty to address to you on the 25th ultimo were grounded upon the very principle which you acknowledge, I learn with regret that the President has not been invested by Congress with power to remove the discriminating duties by an immediate exercise of his discretion.

You will remember, sir, that the object of my former letter was to point out the serious and unexpected disparity subsisting between the provisions of the new act of Parliament and the regulations enforced by the Treasury circular of September the 14th. I thought myself warranted in supposing that it was naturally the wish and intention, no less than the interest of the United States to abstain from originating any discrimination in the charges imposed upon the vessels of the respective countries. A desire to extend the principle of reciprocity to all possible cases can hardly preclude the application of that principle to those which already exist. But what is the situation of the two parties at this moment? A British vessel entering a port of the United States from one of the enumerated colonies is subject to a heavy discriminating duty on its tonnage and to another on its cargo, from both which charges the American trade is free. No such inequality appears to exist on the other side. There is reason, on the contrary, to believe that in his Majesty's colonies the vessels of both nations, trading under the new act of Parliament, are at present subject only to the same duties. I have already shown that the necessary consequence of this state of things is to give the American trader a most undue and preponderating advantage over his British competitor. It might, in fact, be proved to conviction, by a short and obvious calculation, that a continuance of the present system must soon exclude the shipping of Great Britain from all participation in this trade.

You will allow me, sir, to observe that the question here at issue does by no means involve a comparison between the terms on which the vessels of the United States are received into his Majesty's European ports and those on which they are permitted to trade with the enumerated colonies. The colonial commerce stands, as it has always stood, on separate grounds. The very terms of the commercial treaty to which you have adverted establish this fact. By the late act of Parliament a direct trade has been declared open, on condition of reciprocity, between certain of his Majesty's colonial ports and the neighboring islands and countries, of which the United States are one. Within the limits of the trade thus opened it is that the privileges, of which a return in like privileges is the declared condition, must naturally be sought. So long, therefore, as it appears that the vessels of the two countries engaged in this direct trade are admitted, on payment of equal charges, into the colonial ports, it is surely not a strange or intemperate pretension to expect that they should also be admitted on the same equal terms into the harbors of the United States. The charges and restrictions of a detailed nature which you represent as disadvantageous to the American trade, however inconvenient they may prove in themselves, can never be admitted as proper subjects of complaint while the other parties, native as well as foreign, to the same branch of commercial intercourse, are equally subject to their operation.

With respect to the limitation on imported articles, the form of which limitation, whether the articles admitted or the articles prohibited be mentioned by name, is sufficiently immaterial, it will be found that the 17th and 18th sections of the act of Parliament provide with care for a perfect equality of competition. It is expressly enacted in those sections that British built vessels are subject, in common with foreign vessels, to the restrictions affecting the articles imported, as well as the number of places at which the importation of them is permitted. As countervailing measures, the efficacy of the discriminating duties may surely be questioned, since the very exaction of them by one party must necessarily imply the right of imposing them by the other.

I cannot dismiss this subject without noticing the reasons which you have given in support of the distinction taken in the proclamation of August 24 between his Majesty's West Indian colonies and those which are situated in North America. Their separation by sea and the different nature of their productions are stated as circumstances entitling them to be viewed, commercially, as distinct and unconnected nations. Whatever may be the merits of this doctrine in its bearing on commercial law, it cannot be true with regard to the two discriminated portions of his Majesty's colonies without being equally applicable to the northern and southern divisions of this extensive country. The productions of New England are quite as distinct from the staple exports of Louisiana and Georgia as the productions of Canada can possibly be from those of Jamaica. That the several territories should, in the one instance, be divided by the ocean, and, in the other, by a vast continental region, is a difference of little weight in the eye of commerce. You need not be told, sir, that the sea is, unquestionably, the most rapid conductor of commercial intercourse. With the aid of nautical science, it serves to approximate nations, and brings the most remote into a sort of neighborhood with each other. Hence it was that, observing the act of Parliament to contain no restriction affecting the importation of the enumerated articles from one part more than from any other of the United States, I thought myself bound to point out the utter inapplicability of the term "corresponding" to the restrictive regulation announced in that character by the American Government. I venture to repeat that this restriction has no counterpart in the act of Parliament. The limitation on the nature of imports with which you confront it is altogether of a different nature, and rests on principles generally acknowledged.

In further confirmation of the view which I have taken of this question, I may appeal to the official and recorded decisions of the Treasury. In a letter dated the 29th of September, 1817, and addressed by the head of that Department to the Collectors of the Customs, it is expressly declared that the word "country," as employed in the first section of the act concerning navigation, is to be "considered as embracing all the possessions of a foreign State, however widely separated, which are subject to the same supreme executive and legislative authority."

I avail myself, with pleasure, of this opportunity to repeat to you, sir, the assurance of my distinguished consideration.

STRATFORD CANNING.

Hon. JOHN QUINCY ADAMS, *Secretary of State.*

Mr. Canning to Mr. Adams.

Mr. Stratford Canning presents his compliments to the Secretary of State, and, agreeably to his request, encloses copies of the two statements relative to the charges levied on British and alien vessels in British West Indian ports, which he put into Mr. Adams' hands yesterday. He adds an extract of a letter from a commercial house at Barbadoes, concerning the same subject, which he had the honor of showing to Mr. Adams some time ago.

WASHINGTON CITY *December* 4, 1822.

Extract of a letter from a respectable house in Barbadoes, dated September 25, 1822.

"We are in a new era in the commerce of these islands. The act of Parliament to regulate the trade between his Majesty's possessions in America and the West Indies, and other places in America and the West Indies, reached us on the 11th of August, and we received, three days ago, President Monroe's proclamation, founded thereon, of the 24th ultimo. How all this *will work* remains to be seen by and by. At present we can only tell you that, by an order from the Commissioners of the Customs in London to the customs here, which accompanied the act, foreign vessels are to be subject to the same fees exacted upon British vessels, and no higher. So that we may suppose that British vessels from these islands are to pay the same fees as American vessels in the United States, and that our vessels are to be no longer subject to the tonnage duty of one dollar per ton, and will pay six cents only, the same as American and British vessels from Europe; and, furthermore, that the produce of these islands imported into the States in British bottoms will also be relieved of the additional duties heretofore enacted in foreign bottoms. We look for information from you on all these points."

Truly extracted.

GILBERT ROBERTSON.

STATEMENT.

Owners of British brig Ceres, of 251 tons, in account with Daly & Morton.

1822.		£.	s.	d.
September 10.	To cash paid fees at entry	57	15	0
October 5.	To cash paid at clearing (in ballast)	23	10	0
	To cash paid pilotage	9	0	0
	Currency	90	5	0

The pound currency is equal to three dollars. At Baltimore this brig has had to pay a tonnage duty of $251, though entering only in ballast.

American schooner Industry, Captain Stufro, 116 tons register, at Kingston, to Lucius Carey, Dr.

1822.		£.	s.	d.
September 23.	To cash paid Collector of custom-house, entry	4	17	6
	To cash paid Comptroller	1	12	6
	To cash paid Surveyor	1	6	8
	To cash paid waiter and searcher	1	6	8
	To cash paid Naval Officer	3	15	0
	To cash paid Receiver General for tonnage duties	11	10	2
	To cash paid for hospital	5	11	3
	To cash paid Secretary	1	16	8
	To cash paid pilotage in and out	6	0	0
October 3.	To cash paid Collector of custom-house, clearance	8	1	8
	To cash paid Comptroller	2	13	9
	To cash paid Surveyor	1	6	8
	To cash paid waiter and searcher	1	6	8
	To cash paid Naval Officer	4	10	7½
	To cash paid Receiver General at £2 5s. To cash paid hospital 13s. 4d.	2	18	4
	To cash paid transient tax office	1	9	2
	To cash paid clerk of the peace	1	2	6
	To cash paid health office	1	0	0
	To cash paid Secretary		10	0
	Currency	62	15	9½

The pound currency is equal to three dollars.

Mr. Canning to Mr. Adams.

WASHINGTON, *December* 18, 1822.

The undersigned presents his compliments to the Secretary of State, and requests his attention to the two accompanying papers, being copies, the one of a letter from his Majesty's Consul at Baltimore, the other of a letter addressed to that gentleman by the Collector of the Customs at Kingston, in Jamaica, both confirmatory of the fact already communicated to the Government of the United States with respect to the non-existence of any discrimination in the charges levied on British and alien vessels entering the colonial ports of his Majesty, under the provisions of the act of Parliament passed on the 24th of last June.

STRATFORD CANNING.

Mr. Crawford to Mr. Canning.

BRITISH CONSULATE, *Baltimore, December* 17, 1822.

SIR: I have the honor to transmit for your information a letter just received from the Collector of the port of Kingston, Jamaica, by which it will be found that no higher duties or port charges are payable on American vessels and their cargoes in that island than are levied on those of Great Britain.

The American schooner "Rising Sun" has just arrived here from Barbadoes, the captain of which vessel states that he was informed by the Collector of the port that the same duties, &c., were payable alike on British as American vessels and cargoes.

I have the honor to be, &c., &c., &c.,

JOHN CRAWFORD.

Right Honorable STRATFORD CANNING.

Mr. Macdowall to Mr. Crawford.

KINGSTON, *Jamaica, October* 21, 1822.

SIR: I am honored in receipt of your esteemed favor of the 6th ultimo, and I lose not a moment in answering your several queries, which are of the greatest importance to the mercantile world.

I beg to state, for your information, that at present no distinction is made in fees to officers, duties on tonnage, or other island dues, (*i. e.*, hospital and gunpowder dues,) between British vessels and those of the United States coming from the same countries; pilotage and harbor master's charges are also the same on vessels of both nations.

Goods of the growth and production of the United States of America, which may be legally imported, are liable to and pay the same duties, whether brought here in vessels of Great Britain or those of the States.

For these reasons, I conceive it will only be an act of justice that any duties charged on British ships arriving in the United States, and to which their own vessels are not subject, should be done away with.

I have the honor to be, &c.,

H. MACDOWALL.

JOHN CRAWFORD, Esq., *Baltimore.*

Mr. Canning to Mr. Adams.

WASHINGTON, *January* 13, 1823.

The undersigned, his Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, in communicating to the Secretary of State the enclosed papers which he has recently received in further confirmation of the fact already, as he conceives, established by sufficient evidence, that no discriminating duties are levied under his Majesty's authority on American vessels now trading between the United States and the British colonies in North America and the West Indies, under the provisions of an act of Parliament bearing date the 24th of June, 1822, is unable to conceal the impressions with which he observes so many weeks allowed to pass away without a removal of the like discriminating duties from the vessels of his Majesty's subjects when entering the ports of the United States from the above mentioned colonies.

In the daily hope of receiving a satisfactory communication from the American Government, the undersigned has abstained for some time from pressing the Secretary of State further than by transmitting to him such documents as he has occasionally received in corroboration of his previous statements. He now feels it his duty to express a distinct conviction that the Government of the United States will see the propriety of enabling him, without further delay, to inform his Majesty's ministers and the colonial authorities, definitively, whether the discriminating duties to which he refers are to be withdrawn from British vessels trading with this country, in pursuance of the President's proclamation of August 14, and under an expectation, which can hardly be disappointed, without injustice, of being at once admitted to the fair and full operation of such acts of Congress, including that of March 3, 1815, as appear to have an immediate application to the case.

The undersigned has the honor to repeat to the Secretary of State the assurance of his perfect consideration.

STRATFORD CANNING.

Hon. JOHN QUINCY ADAMS, *Secretary of State, &c.*

Copy of a letter from the Collector and Comptroller of his Majesty's customs at Halifax, transmitted by his Majesty's Consul at Baltimore.

CUSTOM-HOUSE, *Halifax, December* 9, 1822.

SIR: We have the honor of informing you that we are not aware of any duties or fees, authorized by act of Parliament, being received on foreign vessels at this port, other than those directed to be enforced on vessels belonging to his Majesty's subjects.

We are, &c., &c., &c.,

THOS. N. GETTEN, *Collector.*
J. WALLACE, *Comptroller.*

Extract from a letter from the Captain General and Governor of St. Christopher, Neirs, Anguilla, and the Virgin Islands, addressed to his Majesty's Consul General in the United States.

"You will perceive, on reference to the accompanying document, that the American vessels are admitted into these ports, paying the same duties as those to which British vessels are subject."

ST. CHRISTOPHER.

We, the acting Collector and Comptroller of his Majesty's customs at the port of Basseterre, do hereby certify that, agreeably to the act of 3 George IV, chapter 44, the same fees and duties are payable on British vessels and their cargoes as those paid on American vessels and their cargoes, and that the

American vessels are placed on the same footing, in every respect, with British vessels with regard to custom-house expenses.

Given under our hands and seals of office at the custom-house, Basseterre, this twenty-second of November, one thousand eight hundred and twenty-two.

WM. L. BIGGER, *Acting Collector.*
W. H. MALE, *Comptroller.*

Mr. Adams to Mr. Canning.

DEPARTMENT OF STATE, *Washington, January* 15, 1823.

SIR: I have had the honor of receiving your note of the 13th instant, with its enclosures. Your note and its enclosures have been communicated to the committee of the Senate who have under consideration a bill for regulating the commercial intercourse between the United States and the ports in the British colonies opened to the shipping of foreign nations by the act of Parliament of the 24th of June last.

It has already been observed in our preceding correspondence on this subject that the repeal of the discriminating duties upon the tonnage of foreign vessels, and upon merchandise imported in them, is exclusively within the competency of the legislative power.

The act of Congress of March 3, 1815, having been enacted exclusively with reference to the modification or mutual abolition of all discriminating or countervailing duties in the commerce between the United States and foreign *nations*, has no application to the limited and restricted intercourse which may, by mutual consent and regulation, be opened between the United States and particular ports in the *colonies* of a foreign nation. The act contemplates a reciprocal abandonment of the discriminating or countervailing duties of *the nation*, and not the removal of interdictions to any direct commercial intercourse with colonies. The act of Parliament of 24th June last abolishes no discriminating or countervailing duties which existed in the British colonies to the disadvantage of the United States. It partially opens certain ports to the admission, in foreign vessels, of certain articles to which they had been previously closed. The precedent condition, therefore, upon which alone the President of the United States was authorized to act by virtue of the act of Congress of March 3, 1815, does not exist, nor are the provisions of that law applicable to the case.

It may be added that even the principle of the law is not more applicable than its letter. Discriminating duties, *operating* to the disadvantage of the United States, still exist in the British colonies now opened to their navigation. It is a discrimination that the vessel of the United States, which has entered a colonial port from the United States, is compelled to return directly to them, and to pay a heavy export duty upon any cargo which she may take on the return voyage; while the British vessel, entering the same colonial port, also from the United States, has the world before her for her subsequent progress, and pays no export duty upon the cargo which she takes to any other British colonial port or to Great Britain. The American vessel, therefore, if entering the colonial port upon equal terms with the British, goes out of it charged with heavy duties, from which the British vessel is exempted. The discrimination is not the less effectual for being indirect.

I avail myself of this opportunity of stating that numerous complaints have been and continue to be received at this Department of the oppressive and ruinous effect of the construction given to the act of Parliament of 24th June last, in several of the British colonies, in the case of citizens of the United States who have entered their ports under the provisions of that act. The concurring reports of most of the persons who have adventured upon shipments to those ports confirm the anticipations entertained by this Government, from the first appearance of the act of Parliament, that this intercourse can be definitively regulated to the satisfaction of both parties only by concert between the two Governments. To the adoption of this concert the Government of the United States is, as it has been, prepared to contribute by a disposition of perfect reciprocity and most cordial good will.

I pray you, sir, to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

Mr. Canning to Mr. Adams.

WASHINGTON, *January* 25, 1823.

SIR: From your letter, dated the 18th instant, I learn that Congress alone is competent to the removal of those discriminating duties to which, by several communications, including my note of the 13th, I have lately had the honor to call your attention, inasmuch as the act of March 3, 1815, was intended to apply to the commercial intercourse of nations, and not to that of colonies. This declaration, little as it may answer to my own impressions, being accompanied with the information that a bill directly bearing on this subject is now under the consideration of a committee of the Senate, to which my representations with respect to the discriminating duties have been communicated, I address you at this moment for the sole purpose of noticing two or three points, as stated in your letter, which I think capable of being viewed in a different and more satisfactory light.

You observe, for instance, that no discriminating duties which existed in the British colonies to the disadvantage of the United States are abolished by the act of Parliament, under which the trade is now open. Correct as this statement may be in point of fact, the inference to which it leads is not the less erroneous, except it can be shown that enactments authorizing the eventual collection of such duties were really in force at the time when the colonial trade was open to foreigners. The silence of the new act is otherwise all that can be required for any practical purpose. The only essential point is the non-existence of the duties in question, and to the recognition of this reality it was natural to expect that the American Government would be prepared to hold out every facility.

To prove that discriminating duties, operating to the prejudice of the United States, do actually exist in the British colonies, you state that an American vessel, when clearing out on her return from a colonial port, is subject to a heavy export duty on her cargo, from which the British vessel is exempt. Of any such export duty I have no knowledge beyond what I derive from your letter; but, taking the fact for granted, I am persuaded that the duty, if levied at all, is equally levied on British and on alien vessels employed in the direct trade, and ought not, therefore, to be classed with duties imposed on a principle of discrimination. With regard to any indirect advantage which the British trader may possibly derive from the circumstance of his having a wider range for his export voyage, it is one which, so long as any commercial restrictions whatever are maintained, must obviously belong to the native, whoever he may be, in the harbors of his own country. The foreigner, in his turn, finds a compensation in the enjoyment of the like advantages when at home. This local disparity, unavoidable in the present or in any probable state of the civilized world, is not peculiar to the colonial trade. With some variation in the degree, it exists in all countries where commerce is an object of legislative care.

On the subject of any arrangement by negotiation between the two Governments, agreeably to the suggestion contained in your letter, it would be idle for me to occupy your time, as you will doubtless be apprised of the views entertained by his Majesty's ministers directly through the American envoy at London, by whose channel you mention, in a preceding letter, that an early communication of the same purport was to be made. I feel, at the same time, that I should hardly do justice to the sentiments of amity and good will which his Majesty's Government have ever been disposed to cherish towards this country, were I not to express my readiness to bring under their notice those cases to which you refer as arising out of a harsh construction of the late acts of Parliament, and pressing with undue rigor on the interests of American citizens, though it should not be forgotten that much of those complaints may, perhaps, be found, on inquiry, to proceed from individuals too deeply intent on their commercial gains to submit with willingness even to the most indispensable regulations.

I beg, sir, that you will accept the assurances of my perfect consideration.

STRATFORD CANNING.

Hon. JOHN QUINCY ADAMS, *Secretary of State.*

Remarks on a bill "to regulate the commercial intercourse between the United States and certain British colonial ports."

It may be observed, in the first place, that the general tone and character of this bill are strikingly restrictive, considering how much the important changes recently introduced into the colonial trade of Great Britain are calculated to meet the declared views of the United States.

SEC. 3. —— "or upon the like goods, wares, and merchandise, imported into the said colonial ports from elsewhere."

This clause in the third section appears susceptible of a construction which, if intended, would surely put the question of the discriminating duties on a footing no less unexpected than irreconcilable with the fair and natural view of the subject. In the commercial relations, as regulated between the United States and the British European territories, the non-existence of alien charges and discriminating duties on one side, is received as the proper and sufficient return for the non-existence of the like charges and duties on the other. Both parties remain at liberty to raise revenue, and to protect their home produce by levying duties on foreign imported articles.

SEC. 5. "Having come directly" —— "other than in such as shall have come directly from one of the said ports of the United States."

This condition which limits the permission to export, in the case of British vessels, to such *as have previously come directly* from any of the enumerated ports, does not appear to have any counterpart in the British act of Parliament, which only insists upon the exportations being made direct to the ports of the country to which the vessel belongs, the condition of a direct voyage, in cases of *importation*, being applied to the *articles*, if any, so imported, and not to the *vessel*.

With respect to exportations from the enumerated colonies to the United States, it may be well to observe that the act of Parliament does not confine the power of exportation to articles of colonial produce and manufacture, but freely extends it to all articles whatever, being the growth, produce, or manufacture, of any part of the British dominions. It is obvious that this branch of intercourse cannot be otherwise than beneficial to the mercantile concerns of both countries.

In addition to these more prominent points, a verbal alteration or two might, perhaps, be admitted for the sake of clearness and mutual convenience.

SEC. 2. —— "coming directly."	The word *directly* appears superfluous in this place. It can hardly be meant as a condition to the admittance of the *vessel;* and the directness of the voyage, in cases of importation from the enumerated colonies, is secured by the 4th section.
SEC. 2. —— "the importation of the like articles, to which, from elsewhere is not, or shall not be prohibited by law."	If it be meant by this clause that the only articles of colonial produce, &c., the importation of which is not to be allowed in British vessels, are such as are forbidden by other acts to be imported at all from any country, the present wording will, perhaps, be found to present some obscurity which it might be of use to remove.
SEC. 3. "Provided always," &c.	If proof of the non-existence of discriminating duties on the British side be a requisite preliminary to their renewal on the part of the United States, is not this proviso superfluous?
SEC. 5. "Elsewhere."	The signification of this word, as here employed, seems hardly clear. If it be intended, as may be inferred from the text, to mean "*to other countries*," would not this latter expression be more distinct?

Memorandum communicated by Mr. Stratford Canning to Mr. Adams, February 17, 1823.

It may be interesting to the American Government to know that the equality of duties on tonnage and imports levied on British and foreign vessels trading to the British colonies under the act of Parliament, dated June 24, 1822, of which equality information was, some time ago, officially given to the American Secretary of State, is not at all likely to be disturbed by the British Government so long as the United States, after having adopted, adhere to a similar policy; and that if the Government of the United States should have any preference for giving to that equality, on both sides, the more formal shape of a treaty, the British Government would not object to enter into negotiation for that purpose.

By the act of Parliament, permission is given to American in common with British vessels to export from the enumerated colonies all articles whatever being of the growth, produce, or manufacture of any part of the British dominions. Though by far the greater part of the exports of British goods to the United States would naturally go by the direct line of conveyance, cases might occur in which the operations of commerce would, perhaps, be facilitated by means of the extended permission just specified. The only object of inserting that permission in the act of Parliament was, to enable the merchant who might accidently find the West India market overstocked with British goods, to dispose of them by sending them on to the United States either in an American or British ship. This intercourse (whenever, in particular cases, it might happen to be carried on) could hardly prove otherwise than beneficial to the mercantile concerns of both countries; but it has not escaped the observation of the British Government that, unless it be permitted on the part of the United States, as it now is on that of Great Britain, in common to British as well as to American vessels, a door would manifestly be opened to complaints from British merchants of a want of due reciprocity from the United States.

WASHINGTON, *February* 17, 1823.

Extract of a letter, No. 64, *from Mr. Adams to Mr. Rush, dated Department of State, June* 23, 1823.

I have the honor of enclosing herewith copies of the correspondence between the British minister residing here, Mr. Stratford Canning, and this Department, since the close of the last session of Congress, relating to the act of 1st March, 1823, "to regulate the commercial intercourse between the United States and certain British colonial ports."

This act was intended as a corresponding measure on the part of the United States to the act of Parliament of 24th of June, 1822, (3 Geo. IV, ch. 44.) On the 24th August, 1822, immediately after this act of Parliament was received here, the President of the United States issued the proclamation, a copy of which was transmitted to you with my despatch, No. 59, of the 27th of the same month.

That proclamation was issued in conformity with an act passed at the preceding session of Congress, (U. S. Laws, 17th Cong., 1st Sess., p. 49,) which had provided that, on satisfactory evidence being given to the President of the United States that *the ports* in the islands or colonies in the *West Indies*, under the dominion of Great Britain, *had been opened* to the vessels of the United States, the President should be authorized to issue his proclamation, declaring that *the ports of the United States* should thereafter *be open* to the vessels of Great Britain employed in the trade and intercourse between the United States and *such islands or colonies*, subject to such *reciprocal* rules and restrictions as the President might by such proclamation *make* and publish, anything in the laws entitled "An act concerning navigation," or an act entitled "An act supplementary to an act concerning navigation," to the contrary notwithstanding.

The proclamation of the President was necessarily limited by the authority given in the law; and the law was enacted in anticipation of measures known to be then depending in Parliament, *one* of the objects of which was the opening of the British colonial ports to foreign vessels, including those of the United States. When the act of Congress passed (May 6, 1822) it was not known what colonial ports would be opened by the expected act of Parliament, nor under what rules and restrictions. It was, therefore,

expressed in general and indefinite terms, looking to *the* opening of *the* ports in the British West Indies generally, and manifesting the disposition to meet the British Government forthwith in *any* plan for opening the ports to the navigation of both countries upon terms of *reciprocity*, the laws of both countries having at that time interdicted the trade between the United States and those colonies in the vessels of either nation.

This interdiction on the part of the United States had been effected by the two laws referred to in the act of 6th of May, 1822—the act concerning navigation bearing date the 18th of April, 1818, (U. S. Laws, vol. 6, p. 296,) and the supplementary act the 5th of May, 1820.

These laws had been enacted as counteractive of those of a like character long before existing on the part of Great Britain, interdicting the trade in vessels of the United States. They had been resorted to after the failure of repeated attempts to settle, by amicable negotiation, the manner in which the trade might be regulated upon principles of reciprocity—attempts which were renewed immediately after the passage of the first of them, and upon the abortive issue of which the second received the sanction of Congress.

This intermediate negotiation between the 18th of April, 1818, and the 15th of May, 1820, must be constantly borne in mind in all discussion of the measures adopted on the part of the United States predicated upon the act of Parliament of June 24, 1822, opening the colonial ports. The whole subject of it is familiar to your memory as one of the negotiators of the convention of October 20, 1818, and as the sole subsequent negotiator concerning the article referred by the plenipotentiaries of the United States, who concluded that convention, to their Government.

By the convention of 3d July, 1815, the commercial intercouse between the United States and the British territories in *Europe* was placed, in relation to navigation and revenue, on the following footing:

1. No other or higher duties of *importation* are to be imposed in either country on any articles *the growth, produce, or manufacture* of *the other*, than are payable on *the like articles* being the growth, produce, or manufacture of any other *foreign* country.

2. No higher or other *duties* or *charges* of *exportation* are to be imposed on any articles exported to the two countries, respectively, than are payable on the exportation of the like articles *to* any other *foreign* country.

3. No *prohibition* of exportation or importation of articles the growth, produce, or manufacture of either country to the other, which shall not equally extend to all other nations.

4. No higher or other *duties* or *charges* to be imposed in the ports of either party upon the *vessels* of the other than upon its own.

5. The *same* duties to be paid on the importation of articles the growth, produce, or manufucture of either country into the ports of the other, whether imported in the vessels of the United States or of Great Britain.

6. The same *duties* to be paid and the same *bounties* allowed on the *exportation* of articles the growth, produce, or manufacture of either country to the other, whether exported in British vessels or in vessels of the United States.

7. In cases of *drawbacks* allowed upon re-exportation of any goods the growth, produce, or manufacture of either country to the other, respectively, the amount of drawback to be the same, whether the goods re-exported were *originally imported* in a British or an American vessel.

8. But when the re-exportation is to any other foreign country, the parties reserve to themselves, respectively, the right of regulating or diminishing the drawback.

9, and lastly. The intercourse between the United States and the British West Indies, and on the continent of North America, was not to be affected by any of these provisions, but each party was to remain in complete possession of its rights with respect to such an intercourse.

The system of reciprocity, with regard to navigation, established by this article between the United States and the British possessions in Europe, was substantially the acceptance of a proposal made to all the nations with which the United States have commercial intercourse, by the act of Congress of March 3, 1815, conditionally repealing our discriminating duties.—(U. S. Laws, vol. 4, p. 824.) But it was expressly limited to the British possessions *in Europe;* and, while accepting it thus far, the British Government reverted to the system of interdiction to the admission of our vessels into her American colonial ports.

The direct trade between the United States and Great Britain was so interwoven with and dependent upon that between the United States and its colonies, that this convention would have been worse than nugatory to the United States, if, while the European part of this intercouse was placed upon a footing of entire reciprocity, that between the United States and the colonies had been exclusively monopolized by British navigators. This was practically felt from the moment that the convention took effect; and in the year 1816 several efforts were made to induce the British Government to adjust this collision of interests by amicable negotiation.—(See message of the President of the United States of February 13, 1823, pp. 37, 39, 49; also, documents of the 15th Congress, 1st session, [87,] report of the committee of the House of Representatives of the United States of February 9, 1818, document marked F.)

In March, 1817, a draught of four articles was communicated by Lord Castlereagh, through your predecessor, to the Government of the United States, which was stated to embrace all that could then be assented to by Great Britain towards admitting the United States to a participation in the trade between them and the colonies.

The first of these articles extended to the United States the provisions of the Free Port acts of Parliament of June 27, 1805, and June 30, 1808, authorizing a certain trade, in certain enumerated articles, with certain enumerated ports of British West India islands, to the colonial inhabitants of foreign *European* possessions, in vessels of one deck. The island of Bermuda was included in the provisions of this act.

The second article made a special and additional provision for the trade between the United States and the island of Bermuda, allowing a longer list of articles both of import and export, and without limitation as to the size or form of the vessels to be employed in the trade.

The third article proposed to allow access to vessels of the United States to Turk's Island for salt, and to import tobacco and cotton wool, produce of the United States. The fourth proposed to regulate the intercourse between the United States and the British territories adjoining them on the continent of North America.

After a full and deliberate consideration, these articles were considered by the Government of the United States as not acceptable, and the act of Congress of April 18, 1818, concerning navigation, was passed.

The negotiation of the convention of October 20, 1818, immediately afterwards ensued, with regard to which you are referred—

To the letter from this Department to you, dated May 21, 1818, (message of February 13, 1823, p. 59.)

To the letter from this Department to Mr. Gallatin, May 22, 1818, (p. 62.)

Your letter to this Department, July 25, 1818, (pp. 68, 69, 70.)

Instructions from this Department to Messrs. Gallatin and Rush, July 28, 1818, (pp. 71, 72.)

Letter from Messrs. Gallatin and Rush to this Department, October 20, 1818, (pp. 107, 108, 109, 110, 111,)

Protocol of third conference, article C, and another proposed by American plenipotentiaries, (pp. 115, 118.)

Protocol of fifth conference, article D, proposed by British plenipotentiaries, (p. 133.)

Protocol of eighth conference, article F, proposed by British plenipotentiaries, and taken by the American plenipotentiaries, for reference to their Government, (p. 150.)

And, subsequently to the conclusion of the convention—

To letter from this Department to you, December 1, 1818, (p. 89.)

To letter from this Department to you, May 7, 1819, and two articles proposed, (pp. 91, 97.)

Your letter to this Department, June 14, 1819, (p. 97.)

Your letter to this Department, September 17, 1819, (p. 99.)

Letter from this Department to you, May 27, 1820, transmitting the act of Congress of May 15, 1820, (p. 101.)

By the act of Congress of April 15, 1818, concerning navigation, the ports of the United States were, from the 30th of September of that year, closed against British vessels coming from any British colony by *the ordinary laws of navigation and trade* closed against vessels of the United States, and British vessels sailing with cargoes from ports of the United States were laid under bonds to land their cargoes in some port or place other than in a colony closed against vessels of the United States.

It was a non-intercourse in *British* vessels, with ports closed by British laws against the vessels of the United States.

By the supplementary act of May 15, 1820, the ports of the United States were, from the 30th of September of that year, closed against British vessels coming or arriving by sea from *any* British colonial ports in the West Indies, or American British vessels from ports of the United States, were laid under bonds to land their cargoes in some place other than any British American colony; and articles of British West Indian or North American produce were allowed to be imported into the United States only direct from the province, colony, plantation, island, possession, or place of which they were *wholly* the growth, produce, or manufacture; it was a non-intercourse in *British vessels* with all the British American colonies, and a prohibition of all articles the produce of those colonies, except the produce of each colony imported directly from itself.

In the meantime, an act of Parliament of May 8, 1818, (58 Geo. 3, ch. 19,) and an order of Council of May 27, 1818, founded thereon, opened the ports of Halifax, in Nova Scotia, and of St. John's, in New Brunswick, to the vessels of all foreign nations in amity with Great Britain for importation of certain enumerated articles, and for exportation to the country to which the foreign vessel should belong. This act was limited in its duration to three years and six weeks after the commencement of the then next session of Parliament, but the order of Council specifying the ports to which it should be extended was *revocable at pleasure.*

This act of Parliament and order in Council were construed in the United States not to affect, in any manner, the provisions of the act of Congress of April 15, 1818. The ports of Halifax and St. John's remained closed against vessels of the United States *by the ordinary laws of navigation and trade*, although opened for a limited time by an order of Council revocable at pleasure. Their real condition, therefore, in October, 1818, was that of being open to the vessels of the United States, while the ports of the United States were closed against British vessels coming from them.

It was on the 6th of October, 1818, that the British plenipotentiaries, at the negotiation of the convention of the 20th of that month, proposed the article D, relating to the intercourse between the United States and the provinces of Nova Scotia and New Brunswick, which article they, on the 19th, declared was, together with the one offered in March, 1817, relating to Bermuda, a *sine qua non* of *any* article to be signed by them relating to the direct intercourse between the United States and the British colonies in the West Indies.

And the article D contained precisely the same list of articles importable, and the same limitations with regard to export in vessels of the United States as were already contained in the act of Parliament of the 8th and in the order in Council of the 27th of May, 1818, and the article further proposed an equalization of duties of impost and tonnage on the vessels and articles employed in the trade, whether British or American. So that the proposition really was, that the United States should open to the British a free and equal participation of the intercourse between the United States and the provinces of Nova Scotia and New Brunswick, then, by the counteracting regulations of the two countries, exclusively enjoyed by the United States themselves.

The article relating to the intercourse between the United States and Bermuda was yet more remarkable. By an act of Parliament of July 1, 1812, (52 Geo. 3, ch. —,) sugar and coffee, the produce of any British colony or plantation in the West Indies, imported into the island of Bermuda in British ships was allowed to be exported from the port of St. George to the United States in any foreign ship above sixty tons burden belonging to any country in amity with Great Britain, and a list of articles enumerated was allowed to be imported from the United States to the said port in any foreign ship belonging to any country in amity with Great Britain, and this list contained, besides every article enumerated in the proposal of the British plenipotentiaries, horses and cattle, sheep, hogs, poultry, and live stock of any sort, which, in the British proposal, were excluded from the Bermuda list and transferred to that of Nova Scotia and New Brunswick. To the articles of sugar and coffee, exportable by the act of Parliament, the proposal added molasses, cocoanuts, ginger, and pimento.

These two articles, therefore, were to be considered as the equivalents asked of the United States for the admission proposed of their vessels to any British ports in the West Indies which should be open to the vessels of any other foreign power or State.

The following parallel lists of articles proposed to be admitted for importation and exportation in the intercourse between the United States on the one part, and Nova Scotia, with New Brunswick, Bermuda,

and the West Indies, on the other, by the three connected and inseparable articles proposed by the British plenipotentiaries, may serve further to elucidate the character of the proposal.

Articles of importation proposed to be admitted in vessels of the United States.

TO NOVA SCOTIA AND NEW BRUNSWICK.	TO BERMUDA.	TO THE WEST INDIES.
Tobacco.	Tobacco.	Tobacco.
Pitch.	Pitch.	Pitch.
Tar.	Tar.	Tar.
Turpentine.	Turpentine.	Turpentine.
Scantling.	Hemp.	Staves.
Staves.	Flax.	Headings.
Heading boards.	Masts.	Shingles.
Plank.	Yards.	Horses.
Shingles.	Bowsprits.	Mules.
Bread.	Staves.	Poultry.
Biscuit.	Heading boards.	Live stock.
Flour.	Plank.	Provisions of all sorts, except salted provisions of any description, whether meat, fish, or butter.
Peas.	Timber.	
Beans.	Shingles.	
Potatoes.	Lumber, any sort.	
Wheat.	Bread.	
Rice.	Biscuit.	
Oats.	Flour.	
Barley.	Peas.	
Grain, any sort.	Beans.	
Hoops.	Potatoes.	
Horses.	Wheat.	
Neat cattle.	Rice.	
Sheep.	Oats.	
Hogs.	Barley.	
Poultry.	Grain, any sort.	
Live stock of any sort.		
Fruits.		
Seeds.		

EXPORTS.

FROM NOVA SCOTIA AND NEW BRUNSWICK.	FROM BERMUDA.	FROM WEST INDIES.
Gypsum.	Any goods exportable to any foreign country.	Rum.
Grindstones.	Sugar.	Molasses.
Any articles of the growth of the province or of British dominions.	Molasses.	Salt.
	Coffee.	Other articles exportable in foreign vessels to any other foreign country.
	Cocoa nuts.	
	Ginger.	
	Pimento.	
	Any British goods.	

By another act of Parliament of May 23, 1818, the articles of tobacco, rice, grain, peas, beans, and flour, were allowed to be imported in *British* vessels into *any* British colony in the West Indies, or on the continent of South America, from any foreign European colony in America. And peas and beans were allowed to be imported into the enumerated ports of the British West Indies from foreign *European*, the possession in the West Indies, and on the continent of America, in foreign single-decked vessels.

In the letter from this Department to you, of the 7th of May, 1819, a comparative view was taken between the articles which had been proposed at the third conference by the American plenipotentiaries at the negotiation of the convention, and the articles proposed at the fifth and eighth conferences by the British plenipotentiaries, and then received by the American plenipotentiaries for reference to their Government; and a draught of two articles was enclosed with the letter, forming a compromise between the two *proposals* reviewed, and which you were authorized to offer as a final proposal on the part of this Government in relation to the subject. These articles, acceding to a limited and enumerated list of ports of importation in the British colonies, and to a limited and enumerated list of articles importable in them, adhered only to two principles.

1. That the list of importable articles should be the same for the West Indies, for Bermuda, and for the North American provinces; and 2, that *all* the duties and charges imposable upon them should be equalized, and particularly that no other or higher duties should be charged upon them than upon similar articles when imported from *any other country or place* whatsoever. Your letter of the 14th of June, 1819, to this Department, announced that a copy of this draught had been submitted by you to the consideration of the British Government, and your letter of September 17, 1819, that they had declined accepting it. At the conference between you and Lord Castlereagh, when he informed you of this determination, he stated the special objections to the project upon which it had been founded, and you repeated to him the views of the Government of the United States on which the offer had been made. The supplementary navigation act of Congress was approved on the 15th of May, 1820.

This, then, was the relative state of the intercourse between the United States and 1, the provinces of Nova Scotia and New Brunswick; 2, the island of Bermuda; and 3, the British colonies in the West Indies, from the 30th of September, 1820, till the passage of the act of Parliament of June 24, 1822.

By the acts of Parliament of 3d George IV, chapters 42 and 43, the navigation act of 12 Charles II, chapter 18, was repealed, so far as related to the *importation* of goods and merchandise into Great Britain.

But the American trade acts, and the acts relating to importations from the British colonies in America and the West Indies, were left in full force.

The act of 3d George IV, chapter 44, purports to be an act to regulate the trade between his Majesty's possessions in America and the West Indies, and *other places* in America and the West Indies.

It leaves the principle of the navigation act of Charles II untouched, but by the first section repeals the whole series of what were called American trade acts—that is, acts regulating the trade between the United States of America and the British American and West India colonies since the independence of this country, beginning with the act of 28 Geo. III, ch. 39, and ending with 1 and 2 Geo. IV., ch. 7, twenty-five statutes, for which it substitutes the following system:

1. By the third section it provides that, from and after the passing of the act, *a certain list of enumerated articles* shall be importable into a certain list of enumerated ports in the British American colonies, insular or continental, in British vessels or in foreign vessels, bona fide the build of and owned by the inhabitants of the country of which the said articles are the growth, produce, or manufacture; or British built vessels, become their property, and navigated with a master and three-fourths of the mariners, at least, belonging to such country or place, provided that, in the *foreign* vessels, the articles shall only be brought directly from the country or place of which they are the growth, produce, or manufacture.

2. By the fourth section it allows the exportation from the enumerated ports in British vessels, *or in any foreign ship or vessel, as aforesaid*, of any article of the growth, produce, or manufacture of any of the British dominions, or any other article legally imported into the said ports, (arms and naval stores excepted, unless by license from his Majesty's Secretary of State,) provided that, in *foreign* ships, they shall be exportable only *direct* to the country or State in America or the West Indies to which the vessel belongs; and export bonds are to be given, in a penalty equal to half the value of the articles, that they shall be landed at the port or ports for which entered, and certificate of the landing to be produced within twelve months.

By the 7th section it is provided that upon a certain portion enumerated in schedule C, of the articles enumerated as importable in schedule B, certain duties shall be levied and collected when imported from any *foreign* island, State, or country, under the authority of the act.

The 11th section enacts that the same duties upon the *foreign* article shall also be levied if imported direct from any port of Great Britain and Ireland.

The 14th section authorizes the exportation in *British* vessels of the articles enumerated in schedule B to any other British colony or plantation in America or the West Indies, or to any port of Great Britain and Ireland subject to the provisions of navigation act of 12 Ch. II, ch. 18; and of 22 and 23 Ch. II, ch. 26, and 20 George III, ch. 10.

The 15th section authorizes the King, by order in council, to prohibit trade and intercourse with any country or island in America or the West Indies, if it shall appear to his Majesty that the privileges *granted by this act* to foreign ships and vessels are not allowed to British ships and vessels trading to and from any such country under the provisions of the act; and in case such order in council shall be issued, then, during the time of its being in force, none of the provisions of the act shall apply to any country or State the trade with which, under the provisions of the act, shall be prohibited by the order in council.

The 17th section prohibits, on penalty of the forfeiture of vessel and cargo, the importation into the enumerated ports, from any foreign country on the continent of America, or any island in the West Indies, of any articles except those enumerated in the schedule B.

And the 18th section prohibits, upon like penalty, the importation or exportation of any articles whatever from or to any foreign country on the continent of North or South America, or any foreign island in the West Indies, into or *from any port* of any British colony, plantation, or island, in America or the West Indies, not enumerated in the schedule A.

If the object of this act of Parliament was to open the ports of the British colonies in the West Indies and in America to the vessels of the United States upon terms of reciprocity, it was not well adapted to its purpose.

In the 15th section it is declared to be the intention and meaning of the act that the privileges granted by it to foreign ships and vessels shall be confined to the ships and vessels of such countries only as give *the like privileges* to British ships and vessels in their ports in America and the West Indies. And the King is authorized to issue his order in council *prohibiting trade and intercourse* under the authority of the act, if it shall appear to him that *the privileges granted by this* act to foreign ships and vessels are not allowed to British vessels trading to and from any such country or island under the provisions of this act.

Now, what are the *privileges granted by this act* to the vessels of the United States? That they may bring *directly*, and not otherwise, from some port of the United States to certain colonial ports named in the act of Parliament, *and none others*, certain articles of merchandise specifically named, and *none others*. That, upon their arrival, of all the articles which they are permitted to bring, they shall pay enormous duties upon that portion which consists of the productions of the United States, consumable in the colonies themselves; and the only portion which, in the results of the trade, would be to the United States profitable export, and to one part of the colonies necessary import. And these duties are to be paid, while the British vessels enjoying *all the privileges granted by this act* possess the additional and exclusive privilege of carrying to the same West India ports, directly or indirectly, the same articles; thus heavily charged when coming from the United States, but free from all duty when carried from the colony in North America to the colony in the West Indies.

Again, the vessel of the United States admitted to the above privileges has the further privilege, if she can procure a cargo, to return directly, and not *otherwise*, to the United States; and to give bond, upon penalty, equal to half the value of said cargo, for the landing it at the port or ports for which entered, and for producing a certificate thereof within twelve months. But there is a charge not indeed imposed *by this act*, but from which this act has not relieved them—that of paying a colonial export duty of four or five per cent. *ad valorem* upon this return cargo. To this charge British vessels may also be liable, if their owners choose to incur it; but if they prefer exporting their cargoes without paying any export duty, they are free to go to any part of the British dominions in Europe or America. They are not required to give the export bond for the landing of the articles at the port or ports for which entered, and for producing within twelve months a certificate thereof.

By the letter of the act of Parliament, if the privileges *granted by it* to the vessels of the United States should appear to the King not *to be allowed* to British vessels trading under the provisions of the

act, he may, by an order in council, at his discretion, *prohibit trade and intercourse* under the authority of the act.

The words "the *privileges granted by this act*" are explained by the context of the section to mean *like* privileges to be allowed by the laws of the United States to British vessels employed in the same trade.

If an act of Congress had passed admitting British vessels coming from colonial British ports in America and the West Indies to enter a certain specified list of ports in the United States, selected at the pleasure of Congress, *and no others;* if it had allowed them to bring in those vessels an enumerated list of articles, (from which rum and molasses, for example, should be excluded,) and no others; if it had included, for example, sugar and coffee among the admissible articles, but burdened them with duties equivalent to ten per cent. *ad valorem more* than would be paid upon the same articles imported from elsewhere; if it had compelled the British vessels so admitted, if they took a return cargo, to give bonds for landing it at the port or ports in the British colonies for which the vessel should clear out; and if, not by the act of Congress, but by some law of the State from which this privileged British vessel should depart, an export duty of four or five per cent. *ad valorem* should be levied upon this her return cargo, then British vessels in the ports of the United States would have been allowed *like* privileges with those granted by the act of Parliament to vessels of the United States in the colonial ports. And so exactly like would they have been that, under such an act of Congress and such a grant of privileges to British vessels, the conditional authority given by the 15th section of the act of Parliament to the King, of prohibiting the trade and intercourse, would not have attached, according to the letter of the act, although it might have appeared to his Majesty that "the *privileges granted by this act*" were not allowed to British vessels trading to and from the United States under its provisions.

The privileges granted by this act could, of course, be allowed only by the same authority from which it emanated—that is, by the British Parliament. *Like* privileges would have been such as I have now described—that is, privileges subject to like limitations and restrictions which, as the bare exposition of them here will show, would have been found to be no privileges at all.

The act of Parliament opened certain colonial ports, upon certain very onerous conditions, to vessels of the United States. If the United States had opened their ports to British vessels from the colonies without condition or limitation, the privileges of British vessels in our ports would have been in nowise *like* those of the vessels of the United States in the colonial ports. In point of fact, the privilege of the British vessels would have been *exclusive,* and that of the American vessels *exclusion.*

Immediately after receiving the act of Parliament which opened certain ports of the British colonies in the West Indies and in America to the vessels of the United States, the President, exercising the authority given him by anticipation in the act of Congress of May 6, 1822, issued his proclamation opening the ports of the United States generally to British vessels coming from any of the ports enumerated in the act of Parliament. And in this proclamation he gave the most liberal construction, for the benefit of British vessels, to the act of Congress on which it was founded; for, by the laws of the United States when the act of Congress passed, and until the proclamation issued, the ports of the United States were closed against British vessels from *any* of the British colonies in the West Indies or in America, while, by the British laws, the ports of St. John's and Halifax, in New Brunswick and Nova Scotia, those of Port St. George and Hamilton, in the island of Bermuda, and the ports of the Bahama islands were opened to vessels of the United States. These ports, therefore, the act of Parliament did not open to our vessels, and the proclamation, by opening the ports of the United States to vessels coming from them, was much more extensive in its operation than the act of Parliament itself.

As *reciprocal* to the rules and restrictions under which the trade was permitted by the British Parliament, the President's proclamation provided that no articles should be imported into the United States in British vessels coming from the West Indies other than articles of the growth, produce, or manufacture of the British West India colonies, and none other than articles of the growth, produce, or manufacture of the British colonies in North America or Newfoundland, in British vessels coming, respectively, from that island or from North American colonies; and, by the existing revenue laws of the United States, all British vessels and their cargoes coming from any of the colonies remained subject to the *foreign* tonnage and impost duties. In my letter to you of August 27, 1822, enclosing a copy of this proclamation, I suggested to you the opinion that some further understanding between the two Governments would be necessary for regulating this trade in a manner advantageous to the interests of both parties, and the readiness of this Government to enter upon arrangements for that purpose with the British Government.

On the 25th of October, 1822, the British minister residing here addressed a note to this Department, containing representations against the rules and restrictions provided in the proclamation as not being specific counterparts to those of the act of Parliament, and also claiming exemption from the *foreign* tonnage and impost duties for British vessels and their cargoes coming from the colonies, because the act of Parliament subjected British and foreign vessels engaged in this trade only to the same duties and charges; and if there were in the colonies any discriminating charges against foreign vessels they *did not* appear in the act of Parliament.

I have shown you above what would have been a *specific counterpart* to the rules and restrictions of the act of Parliament, and to the colonial export duty coexisting with it. Had the President possessed the power of prescribing them by his proclamation, they would have been, in effect, equivalent to a total prohibition of the intercourse in British vessels, and appeared little better than a mockery. But the President had no such power. He could neither select an exclusive list of ports of admission, nor levy an export duty, nor repeal the foreign tonnage and impost. Mr. Canning's note was answered, and he replied. There was also much discussion of the subject between us at personal interviews, in which, as well as in his notes, he kept me constantly reminded of the authority given by the act of Parliament to the King to prohibit the intercourse by an order in council *if the privileges granted by this act* should not be allowed to British vessels, and of the necessity there would be of countervailing discriminations if those of the proclamation and the foreign tonnage and impost duty should remain.

In the course of this correspondence and of these conferences, which continued through the whole of the late session of Congress, Mr. Canning, with great earnestness, pressed the claim of admission for British vessels from the colonies free from *all* discriminating duties and charges, on the *argument* that there were no discriminating duties or charges operating against vessels of the United States in the colonies. On the 13th of January, 1823, he addressed to this Department a note claiming, distinctly the withdrawal of all the discriminating duties, and particularly the application to British vessels

coming from the colonies, of the fair and full operation of such acts of Congress, including that of March 3, 1815, as appear to have an immediate application to the case.

In support of his *argument*, that there were no discriminating duties operating against us in the colonies, he then, and at other times, communicated copies of documents from a few of the enumerated ports, certifying that British and American vessels paid the same *fees*, or that, *by the act of Parliament*, they paid the same duties, or that they paid the same *custom-house expenses;* and he constantly urged that these were sufficient to establish the fact that our vessels and their cargoes paid in the colonies no other or higher fees, duties, or charges, than British vessels, and consequently the claim that British vessels from the colonies should pay no higher or other duties, fees, or charges, than our own. But he invariably declined pledging himself or his Government to any declaration that there were no discriminating duties in the enumerated ports, and we have now satisfactory information that, in some of them, there were and still are discriminations, to our disadvantage, besides those of the act of Parliament.

The act of Congress of March 1, 1823, "to regulate the commercial intercourse between the United States and certain British colonial ports," was introduced into the Senate by their Committee on Foreign Relations at an early period of the late session. In maturing it they had before them the act of Parliament of June 24, 1822, the President's proclamation, and the correspondence between Mr. Canning and this Department concerning it. While it was in discussion before the committee of the Senate, Mr. Canning, to whom a copy of the bill had been communicated, made some written remarks upon it, which were immediately submitted to the consideration of the committee. The full import of the term elsewhere, in the second, third, and fifth sections of the act, which formed the principal subject of these remarks, was deliberately examined and settled as well in the Senate as upon a consultation by the President with the members of the administration, and was explicitly made known to Mr. Canning.

The principle assumed by the act was not the *repeal*, but the *suspension*, during the continuance of the admission of our vessels into the colonial ports by the act of Parliament, of our two navigation acts.

In return for the opening of the colonial ports to our vessels by the act of Parliament, we opened our ports to British vessels from the same colonial ports. But as a power was left the King, by an order in council, to prohibit the trade and intercourse, it was necessary to be prepared for that contingency, if it should occur, by making the revival of our acts of navigation also contingent upon the same event.

As, by the act of Parliament, the intercourse in our vessels was limited to *direct* voyages both to and from the United States and the enumerated ports, the same limitation was prescribed for the intercourse in British vessels by the act of Congress. One of Mr. Canning's remarks was that the condition in the 5th section of our act, which limits the permission to export in British vessels to such *as have previously come directly* from any of the enumerated ports, did not appear to have any *counterpart* in the British act of Parliament. This is true; the counterpart was not in that act of Parliament, but in the old navigation act of 12 Ch. II. By that act no vessel of the United States could *enter* any of the enumerated ports coming from any other part of the world; and the act of June 24, 1822, admitted them only *direct* from the United States. No vessels of ours, therefore, other than such as have previously come direct from the United States to the enumerated ports, can export anything from them, because no other are admitted into the enumerated ports at all. Now, we could not exclude British vessels from coming to the United States from every other part of the world except the enumerated ports, which would be the full counterpart to the exclusion of the old navigation act of Charles II still in force against us; but we could and did exclude those coming from elsewhere from bringing with them merchandise from the enumerated ports, and those coming from the enumerated ports from bringing with them merchandise from elsewhere. The result was strictly reciprocal, though our act in granting the like privilege to that of the act of Parliament of June 24, 1822, annexed to it the *like* restriction to that of the old British navigation act of Charles the Second.

The principal objection of Mr. Canning was to the import of the term elsewhere. He was distinctly informed that the construction, of which he observes in his remarks it appears to be susceptible, was the construction which it was intended to bear and would receive.

But that it would put the question of the discriminating duties on a footing irreconcileable with the fair and natural view "of the subject" we can by no means admit.

As little do we admit that, having reference to the conclusion of the negotiation in 1819, it ought to have been unexpected. It has been seen that the United States then explicitly declined acceding to an article which would have opened the colonial ports, *because* it would have reserved to Great Britain the right of laying, in the colonial ports, higher duties upon articles of the growth, produce, or manufacture of the United States, than upon the like articles of the growth, produce, or manufacture of Great Britain or her own colonies. The act of Parliament, 3 Geo. IV, ch. 44, (of June 24, 1822,) opened the colonial ports with a threat to close them again, (or rather to prohibit all trade and intercourse with them,) if it should not be acceded to in all its parts of *privilege*, without regard to its conditions of restriction, or to the other restrictions, under which the privileges must be, if at all, accepted. It undertook to do by British *laws* that, the reserved right to do which we had unequivocally refused to accede to by compact. In the course of the conference with Mr. Canning I proved this to him by reading to him the parts of the joint letter from Messrs. Gallatin and Rush to this Department, of October 20, 1818, relating to the subject, and the extracts from your letters of June 14 and September 17, 1819, connected with it. The duties in the schedule C, of the act of Parliament, *are all* upon articles of the first necessity to the West India colonies; articles which *can* be furnished them only from the United States or from the adjoining North American British colonies; and articles constituting almost all the valuable exports allowed by the act of Parliament, and consumable in the colonies. They are all upon *breadstuffs, live stock, and lumber;* and the whole of them are equivalent to an average of at least ten per cent. upon the value of the articles. Of these articles the live stock and the lumber could be exported only from the northern parts of the United States. Could it possibly be supposed that, while, from the ports of the State of Maine, such articles imported into Jamaica, St. Kitts, or Antigua, should be burdened with a duty of ten per cent. upon their value, the same articles from the province of New Brunswick being admitted duty free, there could be any competition sustainable between the vessels of the two contries in which they should, on such unequal terms, be introduced? And if we add to this that, after disposing of her cargo, the vessel from New Brunswick might take a return cargo, also duty free, or might trade from colony to colony without restraint, while the vessel from Maine must depart in ballast or return to the United States laden with an export duty upon her cargo, what feature of reciprocity would there be, upon which the very idea of competition could escape the charge of absurdity?

The act of Congress, therefore, opens the ports of the United States to British vessels from the colonial ports enumerated in the act of Parliament, but not upon the identical terms prescribed in it.

The restrictions of the act of Congress are counterparts, not only to the restrictions of that particular act of Parliament, but to the others to which the American trade to the colonies is subject, whether by colonial laws or by the navigation act of Charles II; and as some of those British restrictions were of a character which we could not meet by *specific* counterparts, we met them by analogical restrictions, productive of the same result. This was insisted on by our plenipotentiaries at the discussion during the negotiation of the convention of 1818, and Great Britain could not justly expect the discriminating surcharges, the reserved right of levying which we unequivocally refused to sanction with our consent as a *bargain*, we should be ready to accept as a dispensation of British law. For an enumerated list of ports, part only of which are opened by the act of Parliament, we open *all* our ports in return. For an enumerated and very scanty list of importable articles, we agreed to receive in return all the valuable exportable articles of all the opened British colonies; for a duty of ten per cent. impost, and of four or five per cent. on exports, upon the *value of the articles* of the trade, we retain a foreign tonnage duty of ninety-four cents per ton on British vessels employed in the trade, and ten per cent. additional (not upon the value of the articles, but upon the impost duty otherwise charged upon it) upon the articles imported in them.

It is doubtful whether these countervailing restrictions, on our part, will prove sufficient to enable our vessels to pursue the trade in equal competition with the British; still more doubtful whether, under the double system of restrictions, the trade itself can be pursued in a manner which will relieve the British West India colonies from the distress which was rapidly hurrying them to ruin under the preceding restrictions of the navigation act of Charles the II. Surely the British Government must be aware that profit is the *sine qua non* of trade, and that, if they load with enormous duties the articles indispensable to the existence of their colonies, those duties must be paid by the colonies themselves, or they will smother the trade itself.

If the object of the act of Parliament was merely to balance the advantages of our proximity to the West Indians, their duties of import are at least five-fold too heavy. And as to the export duty, how could it possibly be paid upon articles to be brought into our market in competition with the like articles partly of our own produce, and most largely from Cuba, St. Domingo, and other West India islands, where no export duty exists? The result must be, and has already proved to be, that our vessels, admitted to the British colonial ports, can take no return cargoes, and must come away in ballast. So that, if they could sell their outward cargoes at a profit upon which the trade could *live*, it must be paid in *specie* by the colonists, leaving their staple commodities to rot upon their plantations or to the old monopoly of the market at *home*.

The request of explanation as to the extent of the meaning of the term *elsewhere* in the act of Congress, in Mr. Canning's correspondence with this Department since the close of the session, has not arisen from any doubt which he could entertain in his own mind of the construction which would be given to it here. This was fully discussed during the passage of the act, and well understood by him; but the eagerness of the British merchants in Nova Scotia and New Brunswick, and in some of our cities, to have the trade entirely to themselves, prompted them to expect that a different construction would be given to the act—a construction which would have left the word *elsewhere* without any effect or meaning at all. Mr. Chipman, acting as Governor of New Brunswick, issued a proclamation declaring that in that province no other or higher duties of tonnage or impost, and no other charges of any kind are levied or exacted on vessels of the United States than upon British vessels, or upon the like goods, wares, and merchandise, imported therein from *elsewhere;* but in this *elsewhere* the British territories in Europe and the West Indies were not included. They, according to him, were not *elsewhere*, with reference to the *ports of the United States*, or, in other words, were ports of the United States. The Lieutenant Governor of Nova Scotia was more cautious. He transmitted to Mr. Canning statements from the officers of the customs, showing that, by the act of Parliament, no other duties of impost or of tonnage were levied upon vessels of the United States at Halifax than upon *British* vessels; but even this, according to a document accompanying these statements, did not include vessels of the province itself. They, by a colonial law, are entitled to a deduction of two pence per ton from the tonnage duty payable by *British* vessels, according to which doctrine they are not British vessels themselves.

I have explicitly assured Mr. Canning that the proclamation of the President, authorized by the third section of the act of Congress of March 1, 1823, cannot be issued without a declaration pledging the faith of the British Government that, upon the vessels of the United States admitted into *all and every one* of the enumerated ports, and upon any goods, wares, or merchandise, imported therein in the said vessels, no other or higher duties of tonnage or impost, and no other charges of any kind are levied or exacted, than upon all British vessels, (including all vessels of the colonies themselves,) or upon the like goods, wares, or merchandise, imported into the said colonial ports *from anywhere*, including Great Britain and the other British colonies themselves; and that, until such proof shall be given, British vessels and their cargoes coming from the colonies of the United States must continue to pay our foreign tonnage, and ten per cemt. additional impost duties. Notice of this has been given by Mr. Canning to the British Consuls in a letter which has been published, and which you will find in one of the newspapers herewith sent, (National Intelligencer of May 29, 1823.) By the respective regulation of the two countries the present condition of the trade is as follows:

The intercourse between the ports of the United States and the enumerated colonial ports is open to the vessels of both parties.

By the British regulations American vessels are admitted into the enumerated ports only *direct* from the United States. They are allowed to import only certain enumerated articles.	British vessels are admitted into the enumerated ports, and others, without restriction.
Upon all the important articles of this list a duty equivalent to ten per cent. ad valorem is imposed.	
If they take return cargoes, they must give export bonds for landing them in the port or ports of the United States, for which *only* they can clear out. And in most, if not all, of the West India colonies	They may enter direct from the United States, or from any other port of America, or from the British possessions in Europe. They are allowed to import not only the enumerated articles, but all others not entirely prohibited; and among the articles, the exclusive carriage of which is reserved to them, are articles of the first ne-

they pay an export duty of from four to five per cent. ad valorem.

By the American regulations British vessels from the enumerated ports are admitted, if laden, into the the United States only with cargoes of colonial produce.

They are allowed to take return cargoes only *direct* to the enumerated ports.

They pay the foreign tonnage duty of ninety-four cents per ton, and the foreign ten per cent. additional impost on their cargoes.

cessity to the colonies and staple exports from the United States, on the important articles which, in common with the vessels of the United States, they may import direct from the United States; if they *do so* import them, the ten per cent. duty ad valorem must be paid. But they may import the like articles from Great Britain or from the North American to the West India colonies *duty free;* they are liable to no export bond; may trade between colony and colony; may export cargoes for any part of the British dominions in Europe or America and pay no export duty, nor unless they choose to return to the United States.

American vessels may bring from the enumerated ports any articles the exportation of which from those ports is permitted by the British laws.

They are in no case compelled to return to the enumerated ports.

They are exempt from the foreign tonnage and additional impost duties.

"It is impossible to take this comparative view of the respective exemptions and restrictions operating on the vessels of the two countries employed in the same trade without perceiving that the balance of advantage is highly in favor of the British and against the American navigation, and that the United States could not consent to equalize the tonnage and impost duties without surrendering the whole trade to the British shipping, and defeating the object for which both our navigation acts of 1818 and 1820 were provided."

"Throughout the whole course of these modifications of the old British navigation act of Charles II, offered us by the acts of 24th June and 5th August, 1822, the admission of our vessels to the British *West India* colonies has been presented to us not only upon conditions excessively burdensome, but under a direct *menace* that if we should not accept it upon the identical terms offered in those acts, *all* commercial intercourse between us and *all* the British colonies in this hemisphere would be prohibited by an order in council. And we have received frequent intimations that this power, reserved to the King by the act of the 24th of June, would be exercised if we should not immediately exempt British vessels employed in the trade from the foreign tonnage and additional impost duties, and place them, in these respects, on the same footing with our own. We have been, therefore, under the necessity of deciding upon our course of policy, relating to this interest, upon a calculation of probability that the power would be exercised, and that the order of council would issue; and from a full and deliberate view of this subject we have come to the conclusion that however injurious that measure, if resorted to, would prove to us, it would still be less mischievous than the total abandonment of our defensive system of counteraction established by our navigation acts of 1818 and 1820. We are also perfectly convinced that this would be the effect of our acceptance, unconditional, of the intercourse as prescribed by the act of Parliament of June 24, 1822, and particularly of releasing the British shipping employed in the trade from the foreign tonnage and impost duties. The act of Congress has provided that if the British order prohibiting the trade and intercourse in our vessels with any of the enumerated ports, under the authority of the act of Parliament, should be issued, from the day of the date of the order in council, or from the time of its commencing to be in operation, our two navigation acts should revive and be in full force. This measure, on our part, is merely defensive; but we think we have some reason to complain, if not of harshness, at least of a proceeding somewhat peremptory in the *mode* of opening to us the West India colonial ports. They are opened to us, as I have shown, upon terms which we had effectively rejected in negotiation, and which we could not possibly accept without surrendering the whole navigation interest for which we have so long contended. They are open to us, subject to a total interdiction of the commerce at the discretion of the King, by an order in council, without an hour's notice to those of our citizens whose interest may be affected by it. There is also some obscurity in the phraseology of the 15th section of the act of Parliament of the 24th June, 1822, leaving us in doubt what the condition of our intercourse would be with any colony concerning which the prohibitory order in council might issue. It says that on the contingency prescribed it shall be lawful for the King, by order in council, *to prohibit trade and intercourse, under the authority of this act*, with any country, &c.; and that if such order in council shall issue, 'then, during the time that such order in council shall be in force, *none* of the provisions of *this act*, either as *respects* the law herein *repealed* or to any other provisions of this act, shall apply or be taken to apply to any country or State, the trade with which, under the provisions of this act, shall be prohibited by any such order of his Majesty in council.' But the provisions of this act, *as respects* the laws *repealed* in it, are no other than the *repeal* of them itself; and if, by virtue of the prohibitory order in council, *none* of the provisions of this act, *as respects* the laws *repealed* in it, shall apply or be taken to apply, the conclusion would seem to be that those laws would not be repealed; that is, that they would again revive and be in force with regard to the country, the trade with which, 'under the authority of this act,' should be prohibited by the order in council. But some of these laws repealed are laws authorizing trade and intercourse in vessels of the United States with the colonies of Nova Scotia, New Brunswick, Bermuda, and the Bahama islands; and if, by the prohibitory order in council, the provisions as respects those laws in the act of 3d George IV, chapter 44, should cease to apply, it would follow that the trade and intercourse under *them* would again be authorized, and its condition would be precisely the same as if that act of Parliament had not been made. All this would be very clear and unequivocal but for the remaining part of the paragraph in the same 15th section of the act which says that 'if any goods whatever shall be imported from, or shipped for the purpose of being exported to, any such country or island in America or the West Indies in any foreign ship or vessel, after trade and intercourse therewith shall have been prohibited by any such order of his Majesty in council, issued under the authority of this act,' all such goods, with the ship or vessel, &c., shall be forfeited. Thus the provisions of the section appear to be contradictory to themselves, and leave us in doubt whether it was meant that the prohibitory order in council would revive

and reinforce the free port acts repealed by the act of Parliament, or would operate as a total interdiction of trade and intercourse in our vessels with the interdicted colony.

"You are authorized to renew to the British Government the proposal of continuing this intercourse, in other respects, on the footing upon which it is placed by the acts of Parliament and the act of Congress, but with a removal of the discriminating duties on both sides, and particularly that the duties in the schedule C of the act of Parliament of 3d George IV, chapter 44, and in the schedule B of the act of 3d George IV, chapter 119, on the part of Great Britain, and the foreign tonnage duty and additional impost upon British vessels, from the enumerated ports, on the part of the United States, should be mutually repealed. If this proposal should be accepted, it may be carried into effect by an act of Parliament, upon the passage of which the President's proclamation would immediately be issued; or it may be agreed upon by a convention, which you are hereby authorized to sign, and to transmit for ratification. A new full power is enclosed, to be used if required The act of Parliament, or the convention, should be explicit in the removal of all discriminating duties and charges, whether imposed by Parliament or by colonial laws, and it should apply to all the enumerated ports. Should the offer be declined, you will receive any proposition which may be made in its stead, for reference to this Government."

Mr. Stratford Canning to Mr. Adams.

WASHINGTON, *March* 27, 1823.

The undersigned, his Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, referring to the third section of an act of Congress approved the 1st of March, 1823, and entitled "An act to regulate the commercial intercourse between the United States and certain British colonial ports," requests the American Secretary of State will do him the honor to afford him information of the exact *nature* and *scope* of the "proof" which is thereby required to enable the President to issue his proclamation for the repeal of the discriminating duties still levied on British vessels entering from such ports of his Majesty's colonies as are enumerated in the first section of the act.

The undersigned conceives that, in his previous communications on this subject, he has already furnished abundant and satisfactory evidence of the intention of his Majesty's Government, long since carried into effect, to place American vessels on the same footing with British, in respect to the duties on import and tonnage, under the expectation of a strict reciprocity on the part of the United States; but, learning from the printed circular addressed, on the 17th instant, to the Collectors, by the Comptroller of the Treasury, in explanation of the act approved on the 1st, and but recently brought to his knowledge, that no authority has yet been given to dispense with the collection of alien duties on British vessels arriving from his Majesty's colonies, the undersigned is desirous of knowing whether any, and what, further communication may be expected by the President, under the act now in force, as necessary to the execution of the third section, to the end that he may either at once remove any obstacle which it depends on him to remove, or have it in his power to apprise his Government of the real state of the case in this particular.

The undersigned requests the Secretary of State to accept the assurance of his high consideration.

STRATFORD CANNING.

Hon. JOHN QUINCY ADAMS, *Secretary of State.*

Mr. Adams to Mr. Stratford Canning.

DEPARTMENT OF STATE, *Washington, April* 8, 1823.

SIR: In answer to your note of the 27th ultimo, I have the honor of stating that any authentic declaration from your Government, communicated either through the minister of the United States in England or through his Britannic Majesty's minister residing here, "that upon the vessels of the United States admitted into the enumerated British colonial ports, and upon any goods, wares, or merchandise imported therein in the said vessels, no other or higher duties of tonnage or impost, and no other charges of any kind, are levied or exacted than upon British vessels, or upon the like goods, wares, and merchandise imported into the said colonial ports from *elsewhere*," will be received by the President of the United States as the satisfactory proof required by the act to authorize him to issue his proclamation extending the reciprocal privileges offered in the same third section to British vessels and their cargoes coming from the enumerated ports to the United States.

In the communications hitherto received from you on this subject, although "*the intention* of his Majesty's Government to place American vessels on the same footing with British, in respect to the *duties* on impost and tonnage," has been sufficiently manifested, they have fallen short of the proof required by the section of the act of Congress now referred to, inasmuch as they had not averred either that no other or higher duties are levied in the enumerated ports upon the goods, wares, or merchandise imported therein in American vessels than upon the like articles imported from *elsewhere*, or that no other *charges* of any kind are levied upon the vessels of the United States and their cargoes than upon British vessels and their cargoes, or, finally, that the intention of your Government, even in its most limited purport, has been *long since carried into effect* in all the enumerated ports.

The act of Congress requires that the reciprocity of *burdens* and *exemptions* should extend not only to the vessels, but to the articles imported in them. This has not hitherto been affirmed by you to be the intention of your Government. It is not doubted that their intention has been to equalize the charges, but it appears that in some of the enumerated ports discriminating duties have continued to be levied to a very recent date, and express information has, but a few days since, been received at this Department that a tonnage duty of two shillings and sixpence sterling, imposed by act of Parliament of 28th George

III, continued to be levied upon all vessels of the United States at Turk's Island until the 23d of December last, several months after your communications claiming, even before the meeting of Congress, a total removal of discriminating duties upon British vessels from the enumerated ports, on the ground that American vessels were admitted upon the same terms with British vessels into them.

The act of Parliament of 3d George IV, chapter 44, appears to have given rise, in several of the enumerated ports, to questions with regard to its construction, and not to have received in all the same solution. As an experiment to open an intercourse before interdicted by the laws both of Great Britain and the United States, its *intention* was received by this Government with a cordial welcome and a sincere disposition to meet it in the spirit of conciliation and of real reciprocity. But, for the regulation of the intercourse, as the consent of both parties was indispensable, so it was just and necessary that the interests of both parties, as understood by themselves, should be consulted. It seemed obvious that this could not be accomplished by mere legislation of either party.

An arrangement, by mutual understanding and concert, was proposed by this Government immediately after the act of Parliament of June 24 was made known here. Whatever is yet known of the operation of that act, and of the system of which it forms a part, has contributed to fortify this impression. An act of Parliament of August 5, 1822, (3d George IV, chapter 119,) in particular, already bears upon the intercourse between an important portion of this Union and the contiguous British provinces with a pressure which has excited the attention of Congress, and which a resolution of the House of Representatives, at their last session, recommends to the Executive of the Union as a subject for immediate negotiation with Great Britain. I am directed by the President of the United States to make the proposal, and to request that you would make your Government acquainted with it. Should it prove acceptable, I shall be happy to confer with you upon it with the view to the conclusion of a convention; or if your Government should prefer to treat of it in England, the powers and instructions necessary for the purpose may be transmitted to the minister of the United States at London.

I pray you, sir, to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

Right Hon. STRATFORD CANNING, *Envoy Extraordinary and Minister Plenipotentiary, &c.*

Mr. Stratford Canning to Mr. Adams.

WASHINGTON, *April* 10, 1823.

SIR: The declaration which you describe in your letter of the 8th instant, as requisite to authorize the President of the United States to issue his proclamation for the removal of all alien charges at present exacted on British vessels and their cargoes arriving from his Majesty's colonies, I am ready to give, insofar as regards the corresponding condition of the act of Congress, an extract of the third section of which you have done me the honor to communicate.

British and American vessels entering the colonial ports, under the act of Parliament passed on the 24th June, are subject to equal charges on every article imported under that act; whether in American or in British vessels, the same, if any, and no other charges are levied. With respect to the succeeding clause of the same section, cited in your letter, relative to duties levied "upon the like goods, wares, and merchandise imported into the said colonial ports from *elsewhere*," I must request that you will have the goodness to inform me of the precise meaning attached to the expression which I have underlined, as, in strictness of construction, these words seem capable of bearing a sense completely at variance with a principal provision of the above mentioned act of Parliament, and one which it is, therefore, wholly out of my power to include in the proposed declaration. I might, perhaps, presume that the term *elsewhere* was only meant to signify other places, not belonging to Great Britain, in America and the West Indies; but the bare possibility of a more comprehensive signification being attached to it, makes me desirous of ascertaining from you, in the first instance, whether I am right in giving it, exclusively, that interpretation, or, if not, in what more ample sense it is to be understood.

In answer to my previous representations on this subject, whether addressed to you before or during the late session of Congress, you informed me that the President was not at liberty to withdraw the discriminating duties on imports and tonnage, to which alone I adverted, in consequence of his not having received from Congress the authority necessary for that purpose. In proof, however, that the intention of his Majesty's Government, long since communicated to you, has also been long since carried into effect, I have only to mention that a circular instruction, a copy of which is at this moment before me, was issued as early as the 3d of July, from the custom-house in London, to the Collectors and Comptrollers of the Customs in his Majesty's colonial ports, directing them "not to charge any higher fees whatever, in respect of the trade allowed by the said act to be carried on in foreign vessels, than are now payable thereon in British vessels."

By what authority the tonnage duty of two shillings and sixpence, mentioned in your last letter, can possibly have been collected at Turk's Island so late as the 23d of December, I am wholly at a loss to conceive, as, besides the operation of the custom-house circular, the act of Parliamant, under which you state that duty to have been levied, was expressly repealed during the last session.

The remaining part of your letter must necessarily be left to the consideration of his Majesty's Government. It only occurs to me at this moment to submit whether some more definite statement of the points on which you have expressed the President's desire to negotiate might not be attended with the advantage of leading to an earlier and more satisfactory decision respecting that proposal.

I avail myself of this opportunity to repeat to you, sir, the assurance of my perfect consideration.

STRATFORD CANNING.

Hon. JOHN QUINCY ADAMS, *Secretary of State.*

Mr. Adams to Mr. S. Canning.

DEPARTMENT OF STATE, *Washington, May* 14, 1823.

SIR: I have the honor of informing you that, by the third section of the act of Congress of the 1st of March last, "to regulate the commercial intercourse between the United States and certain British colonial ports," the term *elsewhere* is understood to be of meaning equivalent to *anywhere else*, and of course to include all places other than those from which the importations into those ports may be made in vessels of the United States.

The views of this Government, with regard to a regulation of this intercourse in future by a convention, or by further concert between the two Governments, will, at an early day, be transmitted by instructions to the minister of the United States at London.

In the meantime it is to be observed that the circular instructions referred to in your letter of the 10th of last month, as having issued on the 3d of July last, from the custom-house in London, to the Collectors and Comptrollers of the Customs in his Majesty's colonial ports, directing them "not to charge any higher *fees* whatever, in respect of the trade allowed by the said act to be carried on in foreign vessels, than are now payable thereon in British vessels," did not, as by the import of the terms it would seem that they could not, remove any existing discriminating duties or charges, other than the mere *fees* of the officers to whom they were addressed.

That other charges and even *duties*, discriminating to the disadvantage of the vessels of the United States, have continued to be levied in several of the enumerated ports until a late period has been already shown; and, by the papers which you had the goodness to submit to my inspection only three days since, it appears that a discriminating tonnage duty is still levied upon the vessels of the United States in the ports of Nova Scotia equal to two-thirds of the whole tonnage duty which is paid in our ports by those British vessels which are admitted upon the same footing with our own.

I pray you, sir, to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

Right Hon. STRATFORD CANNING, *Envoy Extraordinary and Minister Plenipotentiary from Great Britain.*

Mr. S. Canning to Mr. Adams.

WASHINGTON, *May* 17, 1823.

SIR: In acknowledging your letter of the 14th instant, which I had the honor to receive the day before yesterday, I must be allowed to express my regret at finding that the declaration, expected by the American Government as a condition of the removal, on their part, of alien charges from British vessels entering the ports of the United States from certain of his Majesty's possessions in North America and the West Indies, is meant to extend beyond the cessation of corresponding charges, as they affect the vessels of the United States in the open ports of the British colonies; the term *elsewhere*, in the third section of the act of Congress to which you refer, being intended, as I understand from your letter, to include even the British territories.

Such being the intention of the act, it is vain, for the present, to enter upon any discussion of the question which it involves; and it is altogether unnecessary to dwell upon the other points to which you have adverted, as this alone precludes, and necessarily precludes, my giving in a declaration such as would prove satisfactory to the President.

Suffice it, on this occasion, to observe that the discriminating tonnage duty, which you describe as being still levied on the vessels of the United States in the harbors of Nova Scotia, appears, from the papers which you cite, to be levied on the vessels of Great Britain also; and, further, that the limited acceptation in which you seem to understand the circular instruction issued from the custom-house in London, under date of the 3d of July last, is completely at variance with the statement which I had the honor to communicate to you as long ago as the 18th of December, on the authority of a letter dated 21st of October, from the Collector of the Customs at Kingston, in Jamaica.

I request, sir, that you will again accept the assurance of my high consideration.

STRATFORD CANNING.

Hon. JOHN QUINCY ADAMS, *Secretary of State.*

Mr. Adams to Mr. Rush.

DEPARTMENT OF STATE, *Washington, June* 26, 1823.

SIR: Upon the subject of the admission of Consuls of the United States into the ports of the British colonies which have been opened by the British acts of Parliament of June 24, 1822, to a commercial intercourse with the United States in the vessels of the latter, it appears by the note of Mr. George Canning to you, 29th November last, a copy of which was transmitted with your despatch, No. 281, that the British Government have consented to receive Consuls at one port of the island of Jamaica, at one of the Leeward islands, to be designated by the Government of the United States, and at one port in the North American colonies, with an assurance that the British Government will reconsider the proposition which had been made by you, that Consuls should be admissible at *all* the ports opened to the intercourse, if any practical inconvenience should be shown, on the part of the United States, to the limitation of the number of their Consuls to three for all the ports opened by the act of Parliament.

During the last session of Congress Consuls were appointed, by and with the advice and consent of the Senate, for the islands of Jamaica and St. Christopher's, and for the colony of Demerara. The com-

missions for the Consuls at St. Christopher's and at Demerara are the only ones that have yet been issued. It was perfectly proper that your note, claiming the admission of Consuls into the enumerated ports, should extend the claim equally to them all, but, in advancing this claim, it was not the intention, nor is it the desire of this Government to make appointments for them all. Our consular system, as you are aware, allows no salaries to those officers, and their only emoluments arise from fees levied upon actual trade in the port where they reside. No appointment will, therefore, be made at any port where the services of the officer will not be needed. The person appointed as Consul at Jamaica has declined accepting the office, and another appointment will shortly be made for that island. A certificate of consular commercial agency has been given to John M. Kankey for the island of Barbadoes. At the next session of Congress the President proposes to nominate the same or another person to the Senate as Consul for that island, which is one of those where there will probably be the most occasion for the office.

You will give notice of these circumstances to the British Government, and request that instructions may be sent to the Governor of Barbadoes to allow the exercise of the ordinary consular functions to Mr. Kankey until the regular appointment of a Consul, and that when a person so appointed shall present himself with a commission the Governor be authorized to recognize him in that capacity.

The suggestion in Mr. Canning's note that the admission of Consuls of the United States into the colonial ports is not considered by the British Government as a matter of mere reciprocity, because American Consuls are received in all ports of Great Britain, and the United States have no colonies of their own where a practical reciprocity could be exercised, as you have observed, admits of an easy answer.

The essential object of the consular office is the protection of the commerce, merchants, and mariners of one nation in the ports of another. Wherever the commercial intercourse exists the services of the consular office may be required; and if British merchants and mariners coming from the colonies in the prosecution of the trade open to both nations can avail themselves of the services of the British Consuls in the ports to which they come, we think it would be an entire denial of reciprocity to say that our merchants and seamen pursuing the same trade, and going to the ports of the same colonies, should be refused the benefit of like protection from Consuls of their own country there. If a British trader from Jamaica can claim and receive protection from a British Consul at New York, it is needless to say there would be no reciprocity to the American trader to Jamaica who should there be told that he might claim the protection of the American Consul at Liverpool.

It is presumed there will be no occasion for *discussing* this point with the British Government, and I have made the above remarks only to guard against the inference that our claim to the admission of Consuls into the opened colonial ports rests upon other grounds than *mere reciprocity*. But in the negotiation of a convention it may be proper to propose, at least, an article prescribing the *manner* in which the exequatur shall be furnished to Consuls generally. That they shall be delivered to them *gratis* we have a right of strict reciprocity to claim, because they are so delivered to all British Consuls in the United States.

With this addition you are authorized to propose the sixteenth article of the treaty of the 19th November, 1794, as a model for one to be inserted in the convention. But as it reserves to the parties the right of excepting from the residence of Consuls such *particular places* as each party shall judge proper to be so excepted, it may be necessary, if that clause should be retained, to reserve all the reciprocal right of excluding from the protection of the respective Consuls all merchants, mariners, and vessels of their country coming from ports from which Consuls of the other nation are excluded.

We are not, indeed, tenacious of the insertion of *any* article relating to Consuls into the convention; but, whether by convention or otherwise, you will not fail to insist upon the claim of admission for our Consuls into all the opened ports whence British vessels, merchants, and mariners coming to our ports may claim the protection of British Consuls here, and where, from the state of the trade, we may deem it useful to our citizens that a Consul of the United States should reside, and also that the exequaturs of all our Consuls in the British dominions should henceforth be delivered without any charge or expense to them whatever.

The British Government may be assured that we shall use the power of appointing Consuls to *any* of the opened ports for no improper purpose. But the right to consular protection is one of the ordinary advantages of trade in foreign ports which ought not to be denied to our countrymen in ports where they are admitted on the principles of reciprocal trade. The want of a Consul of the United States at the island of Barbadoes, for instance, has been exemplified in a circumstance which has recently come to our knowledge. That island was one of those from which Mr. S. Canning received, and communicated to me, a declaratory certificate that vessels of the United States were liable to no other or higher duties and fees than British vessels coming from the United States. We are now informed that a citizen of the United States, who went to Barbadoes with a cargo of flour, was compelled, in December last, to pay a duty of two per centum on the proceeds of the sales of his cargo, under the denomination of a transient tax, which no British subject would have been required to pay. We understand that the American himself would have escaped this tax if his cargo had been consigned to an established commercial house in the island. But it is one of the many modes of levying discriminating duties which cannot comport with the principle of real reciprocity. If a tax of two per centum is exacted from the foreign trader for the privilege of transacting his own business, which the native trader enjoys gratuitously, they are not upon terms of equal competition.

It is presumed that had there been at that time a Consul of the United States in the island this tax would have been remitted upon his representations; at least, he would have given notice to this Government of its existence. This circumstance, as well as the other fact recently disclosed and noticed in my letter of the 23d instant, that in Nova Scotia there is a deduction, in favor of *the vessels* of *the* province, from the tonnage duty paid by *British* vessels, proves at once the necessity that we should have Consuls in the opened colonial ports, and that of the most vigilant caution in abandoning, on our part, all discriminating duties favorable to our own navigation in this trade. Whether this subject is to be regulated hereafter by convention, or by corresponding acts of Parliament and of Congress, we are to understand explicitly that, according to our view of removing all discriminations, the system must embrace the colonial as well as the parliamentary legislation; and if, in any one colony, the vessels or people of the colony have advantages or preferences secured to them over other *British* vessels and subjects, it cannot be satisfactory to us to be placed on the same footing with the *British*, not of the province. If the provincial enjoys at home a discriminating advantage over the *Briton*, we cannot admit him here *as a Briton* unless our vessels are also admitted into the colony with the provincial privileges. All this is essential

to real reciprocity, and to the removal of our foreign tonnage and impost duty upon British vessels and cargoes coming from the opened colonial ports for trade with the United States.

I am, with great respect, sir, your very humble and obedient servant,

JOHN QUINCY ADAMS.

R. RUSH, *Envoy Extraordinary and Minister Plenipotentiary, &c.*

P. S.—The person appointed consul for St. Christopher's and Antigua is Robert M. Harrison, and that for Demerara, Edmund Roberts.

Extract of a letter from Mr. Rush to Mr. Adams, No. 10, *dated London, August* 12, 1824.

My letter of the second of this month will have informed you that the negotiations in which I had so long been engaged with this Government had come to a close, but without any treaty or other arrangement having been concluded on any of the subjects which had been given in charge to me. This is a result which I should lament the more did I not endeavor to reconcile myself to it by the reflection that I have earnestly, though fruitlessly, striven to render it more auspicious, and by the consideration, far more important, that, as several of the subjects discussed have been both of novelty and magnitude between the two nations, my Government will have the opportunity of being put in more full possession of the sentiments of this Government prior to the conclusion, or to the proposal anew, of any definite or final stipulations. The task of reporting to you, for the information of the President, the whole progress of the negotiation now devolves upon me. I enter upon it in the anxious hope that whilst shunning a prolixity that might fatigue, I may nevertheless omit nothing necessary to a full understanding of all that has passed. I console myself with the recollection that the protocols and other papers that will be transmitted to you will mainly delineate every material occurrence. From these may be learned all the formal proposals that have been made on the one side or on the other; but the grounds of them, the discussions by which they were sustained or opposed, together with the various explanations which the written memorials of the negotiation, wearing for the most part the character of abstracts only, do not indicate, these it becomes my duty to make you also acquainted with in every essential particular. It must be my purpose to fulfil this duty in the course of the present despatch.

It was my first intention to have made my report to you in the shape of separate communications, allotting a distinct one to each subject, that I might be able to follow, in this respect, the example of your instructions to me. But after the discussions were opened it was often found impracticable to keep the subjects distinct. More than one subject, or branches of more than one, would sometimes engage our conferences on the same day, superinducing the necessity of mixing them up in one and the same protocol. For this reason, and because, also, the British plenipotentiaries, in some instances, established a connexion between subjects where, as I thought, none regularly had place, and so treated them in our records in the manner I shall have occasion to describe, it has appeared to me most conducive to good order to present the whole under one view. If this unity in my report should not appear at first sight to be suggested by a view of the diversity as well as number of its subjects, it has seemed to me, upon the whole, to adapt itself best to the course which the negotiation actually took, both in the oral discussions and in the entries upon the protocols, and that it will become most intelligible, whether in its incidents or its general spirit, when exhibited as a whole. In the hope that this mode of making up my report may meet your approbation, I proceed, without more of introduction, to its proper business.

1. After the slave trade question had been disposed of, the subject upon which we next entered was that of the commercial intercourse between the United States and the British colonial ports in the West Indies and North America. Copious as this subject was found to be when examined in all its details, its mere discussion, I mean the strictly commercial parts, was perhaps attended with less difficulty than that of some others. It had been familiar to the past and even recent discussions of the two Governments; so much so, that, upon almost every point connected with it, opinions had been formerly expressed by both. When, at an early stage, the British plenipotentiaries said that, after the opening of this trade to the vessels of the United States by the act of Parliament of the 24th of June, 1822, it had not been expected by Great Britain that our foreign tonnage duty and additional impost would have been continued to be levied upon their vessels, I naturally replied that, to whatever other observations the policy of the United States might be open in this respect, it could scarcely be said to have been expected, as, upon at least two occasions since I had been their organ at this court, they had expressly declined acceding by compact to the very terms in regard to this trade that were afterwards moulded into the act of Parliament. Your instructions being precise and full upon this head, I caused them to be well understood. I recapitulated the history of the negotiations that led to the convention of the 20th of October, 1818, in all those parts of it which had relation to the question of commercial intercourse. I presented the review of all the legislative acts or other measures affecting this intercourse, as well prior as subsequent to that convention. On the side of Great Britain, the act of Parliament of July, 1812, the draught of the four acticles submitted by Lord Castlereagh in 1817, the act of Parliament of May, 1818, and the order of council which followed it on the 27th of the same month. On the side of the United States, the act of Congress of the 3d of March, 1815, (the legislative basis of their system of reciprocity,) the two acts, original and supplementary, of April 18, 1818, and May 15, 1820, concerning navigation; the act of May 6, 1822, with the President's proclamation of the 24th of August, founded upon that fact; to all these I referred in connexion, also, with the second negotiation of June and September, 1819, when the proposals again made by the United States for regulating this intercourse by treaty were again rejected by Great Britain. The deduction I maintained from the whole was, that the United States, with uniform consistency and steadiness, pursued a course in regard to this trade which aimed at putting it upon a footing of entire reciprocity; that they asked nothing more, but, in justice to their citizens, could be satisfied with nothing less.

To work out this reciprocity seemed, however, not to be an easy task, I remarked, on the side of Great Britain, whatever might be her desire. Her commercial system was of long standing, and, from its great extent, often, in no slight degree, complicated and intricate. It was marked not only by a diversity in its operations upon her home and colonial empire, but by subdivided diversities in its application to

her colonies. In some of her West India islands, for example, there were export duties; in others, none. Some had port charges, and various other local charges, operating upon vessels or their cargoes, not recognized in others; but, what was more important than all, her ancient navigation acts still remained substantially in force, mingling their fetters with all her modern legislation upon the same subject. Her commercial and navigating system, whatever other recommendations it might possess in her eyes, had been rendered by time and her past policy deficient in the uniformity and simplicity calculated to place it, in these respects at least, upon a par with the commercial and navigating system of the United States. This broad distinction between the two countries was always necessary to be kept in mind, I said, in their commercial dealings, and, whatever explanation or excuse it might furnish to Great Britain for continuing the pursuit of a course which still moved, in many points, in subordination to her ancient policy, it afforded to the United States neither motive nor justification for giving up their claim to the principle of an absolute and perfect equality in all their regulations of trade with Great Britain.

This brought me to the true nature of the act of Parliament of the 24th June, 1822. I explained to the British plenipotentiaries that this statute had not, whatever might have been its intention, opened the ports of the British colonies in the West Indies and America to the vessels of the United States upon the same terms as were enjoyed by British vessels. The privileges granted by it to vessels of the United States were, that they might carry directly, but in no other way, from some port of the United States to certain specified colonial ports certain specified articles of merchandise, whilst very high duties were to be paid on all such of those articles as could alone be the subjects of a profitable trade. British vessels, on the other hand, possessed the additional and exclusive privilege of carrying the same articles to the same colonial ports, directly or indirectly, and free from all duty whatever, when carried from a British colony in North America to a British colony in the West Indies. Moreover, I observed, the vessels of the United States, admitted only as above to the colonial ports, were obliged, supposing they contained a cargo, to return directly to the United States and to give bond, under a heavy penalty, for landing it at the port for which it was entered, with the additional burden, not imposed by the act of Parliament, but existing in fact, of paying a colonial export duty of four or five per cent. upon the value of this return cargo. This burden did not fall equally upon British vessels, as they might avoid it by going, which they were free to do, to any port of the British dominions, either in Europe or America—a range not allowed to the vessels of the United States. Nor were the British vessels required to give any export bond for landing the articles at the port for which entered, and producing within twelve months a certificate of this fact, a condition which was also attached to American vessels. It was evident, I insisted, from the foregoing recapitulation, that vessels of the United States had not the same privilege under this act of Parliament with British vessels, and that the former were also subject to restrictions imposed by the act, or otherwise existing, from which the latter were exempt.

I reminded the British plenipotentiaries, however, that no sooner had the knowledge of this act of Parliament reached the United States, than the President, exercising, without the least delay, the authority with which, by anticipation, he had been invested, issued his proclamation of the 24th of August, 1822, opening the ports of the United States *generally* to British vessels coming from any of the ports *enumerated* in the British act—an exercise of authority in a high degree liberal, considering the relative state of the statutes of the two countries then in force for the regulation of this trade. In other respects, the proclamation of the President had done nothing more, I said, than lay British vessels coming from the colonies to the United States under the same restrictions, in regard to their cargoes, to which vessels of the United States were subject when going to the colonies. This, in necessary justice to the United States, it was obliged to do, and by the permanent laws of the Union British vessels continued liable to the charge of foreign tonnage and impost duties. I explained to the British plenipotentiaries that if neither the proclamation nor the permanent laws of the Union imposed burdens upon British vessels and their cargoes, which were the specific counterparts of those imposed by the act of Parliament of the 24th of June, 1822, upon American vessels, they were, nevertheless, the necessary counterparts of the burdens which did, in point of fact, exist as against American vessels. To their owners it mattered not whence these burdens originated, so long as they continued to press unequally in the competition of American with British vessels. It was to complete the intention of meeting these burdens, upon a basis of reciprocity at all points, that the act of Congress of March 1, 1823, was finally and on full deliberation passed. Its express object I described to be to countervail all restrictions, of whatever kind they might be, in actual operation against vessels of the United States, whether enacted by the act of June 24, 1822, in force under the old navigation act of Charles the Second, or recognized and permitted by colonial ordinances or local regulations in any of the British ports that had been opened. As this act of Congress could not effectuate its just object by applying to British vessels restrictions which were of the precise and corresponding nature with those operating against the vessels of the United States, it adopted, I said, such as were analogous to them, without, however, in any instance, going beyond the measure of a necessary retaliation, but rather keeping within than exceeding this limit. The act of Parliament had, it was true, proceeded upon the hypothesis of extending like privileges to American as to British vessels; but here it had stopped without imposing upon the latter the same restrictions which had previously existed against the former. The act of Congress went further, and, in according the like privileges with the British act, imposed, also, restrictions equivalent to those that were really and injuriously in force against the vessels of the United States.

It was in this manner that I fully opened to the British plenipotentiaries the principles and views of my Government in relation to this interest. If I am not more minute in recounting all that I said, it is merely because I abstain from swelling this communication by a repetition of the principles, the facts, and the arguments contained in your despatch to me of the 23d of June, 1823. With the various matter of this despatch I had made myself familiar by frequent perusals of it, and it was alike my duty and my endeavor to exhibit it all to the British plenipotentiaries in the most perspicuous and impressive ways in my power. I went on to remark that it seemed plain, notwithstanding our countervailing restrictions, that we were still left at a disadvantage in the competition; for that, for an enumerated list of ports open to our vessels, only part of which, too, had been opened by the act of Parliament of the 24th June, 1822, we had opened all of our ports in return to British vessels. For an enumerated list of articles which we were alone allowed to export to the colonies, we received in return all articles which the colonies found it most to their interest to send to us; and, for a duty of ten per cent. on our articles imported into the West Indies, and of four or five per cent. on those that we brought away, our laws did nothing more than retain a foreign tonnage duty of less than a dollar per ton on British vessels, and of ten per cent. on the duty otherwise chargeable on the articles brought to the United States in them. It was even doubtful, I

said, whether, under these circumstances, our vessels would be able to continue the trade, and it was perhaps quite as much so whether the double system of restrictions upon which it stood would not deprive it of all value to both countries. I used, under this branch of the subject, all the topics of illustration with which your despatch had supplied me.

The British order in council of the 17th of July, 1823, laying a duty of four shillings and three pence sterling per ton on our vessels going to the colonial ports, to countervail, as Mr. Secretary Canning informed me in October last, our foreign tonnage duty, having been subsequent in date to your instructions to me, no remarks upon it were consequently embraced in them. But I considered the duty imposed by this order open to the same animadversions as all the other burdens falling upon our vessels. If we had grounds for complaint before this measure, they were but increased by it. If we were deprived of the opportunity of fair competition in the absence of this new duty, its imposition could not but augment the inequality. If we were carrying on the trade under every prospect of disadvantage without it, a more positive and certain loss to us must be the result if it were continued. Hence, I did not scruple to say to the British plenipotentiaries that it must be considered as giving additional force to all our other objections to their regulations. I had not, I admitted, and from the cause stated, received your instructions upon the subject of it; but, as our foreign tonnage duty and the additional impost had been kept up against British vessels in necessary self-defence against all the anterior restrictions upon our vessels and duties upon their cargoes, I took it for granted that this new British duty, if not abrogated, would, on the same principles and from the same necessity, be met by some measures of counteraction on our side. In offering such comments as these upon it, I trust that they will be thought conformable to the true nature and objects of your instructions, though not in words pointed out by them.

In the end I offered, for the entire and satisfactory regulation of this trade, a draught of the two articles (marked A) annexed to the protocol of the third conference. The first of these articles, after reciting the restrictions upon the trade that existed on each side, and the desire and intention that prevailed of removing them, goes on to provide that, upon the vessels of the United States admitted by law into the colonial ports, and upon the merchandise imported in them, no other duties or charges of any kind should be levied than upon British vessels, *including all vessels of the colonies themselves*, or upon the like merchandise imported into the colonial ports from any other port or place, *including Great Britain and the colonial ports themselves*. And, reciprocally, that upon the vessels of Great Britain, admitted by law into the ports of the United States, and upon the merchandise imported in them, no other duties or charges of any kind should be levied than upon vessels of the United States, *including vessels of each and every one of the States*, or upon the like merchandise imported into the United States from any other port or place whatever. The words last underscored were inserted only for the greater satisfaction of the British plenipotentiaries, it being explained by me, and so understood by them, that it could carry no new meaning; there being no such thing under our system with foreign nations as a vessel of any one of the States distinct from a vessel of the United States, it followed that the passage would have had the same meaning without these words. The second article provided, in fulfilment of the intentions of the first, that the trade should continue upon the footing on which it had been placed by the laws of the two countries, with the exception of the removal by Great Britain of the duties specified in schedule C of the act of Parliament of the 24th of June, 1822, and those specified in the schedule B of the act of the 5th of August of the same year, and of the removal by the United States of the foreign tonnage duty and additional impost complained of by Great Britain. The article concluded with a mutual pledge for the removal of all discriminating duties on either side, of whatever kind they might be, from the desire which operated with the parties of placing the trade in all respects upon a footing of perfect equality. Such was the nature of my proposals, for the more exact terms of which I beg to refer to the paper which contains them.

The British plenipotentiaries made immediate and the most decided objections to the part of these proposals which went to the abolition of the duties in the two schedules indicated. They declared that under no circumstances could they accede to such a principle, and they proceeded to assail it under every form. The fundamental error of their reasoning, as always heretofore upon the same point, appeared to me to lie in considering their colonial possessions as part of the entire British dominions at one time, yet treating them as separate countries at another. For her own purposes Britain could look upon these colonies as on one and the same country with herself. For the purposes of trade with foreign States, she felt herself at liberty to consider them as detached from herself and forming a new and distinct country—as moving, in short, within a commercial orbit wholly of their own. It was to this that her rule, resolved into its true principles, came at last. However, such a rule might be met and its application admitted as between foreign States mutually possessing colonies, and therefore mutually able in their commercial intercourse with each other to act upon it, its application was manifestly unequal and incongruous towards the United States. Possessing no colonies themselves, the United States neither legislated nor acted upon a principle of subdividing their empire for any purpose of commercial advantage, or, above all, monopoly, with other nations, but held out indiscriminately to all one integral and undivided system. In strict justice, it would, hence, not be unreasonable in them to expect that all nations with which they entered into commercial stipulations should look upon their colonies, if they had any, only in the light of an extension of the territories and jurisdiction of the parent State, since this was, in effect, the aspect which the United States presented throughout the whole extent of their territories and jurisdiction to all foreign nations. The productions of Massachusetts, for example, which entered into the articles of international traffic, were, as compared with those of Louisiana, scarcely less different in their nature than were those of Britain from those of Jamaica; yet one commercial code spread itself over the whole of the United States, of which foreign nations, and Britain amongst them, had the benefit, whilst different commercial codes, and entangling commercial practices under them, were seen to exist on the part of Britain. This resulted from the mere fact, important it might be to Britain but indifferent to the United States, of these codes and these practices being applicable to the Government of different portions of the British empire, some of which fell under the denomination of her home dominion and some of her colonial dominion.

It was to no effective purpose, however, that I enlarged upon and endeavored to enforce by placing in other lights the foregoing distinctions. The British plenipotentiaries continued to combat my positions, and to insist upon their right to lay whatever duties they deemed expedient upon our productions going to their islands, in protection of the like articles exported to them from any part of their own dominion. They said that they would never part with this right, for which we offered them no equivalent concession. They likened our request for its surrender by an analogy, the force of which I could never see, to a request on the side of Great Britain, should she prefer such a request, to be admitted into a participation of our coasting trade. They alleged, also, that in laying these duties they had aimed only at making them a

necessary protection to their own subjects in their North American colonies, and that they were scarcely up to this point was shown by the fact, which they also alleged, of their subjects in those colonies not having yet been able since the trade was opened to obtain a proportionate share of it.

I had, more than once, occasion to remark that it was not *the right* of either party to model its own laws as it thought proper that we were discussing; it was the *terms* upon which it would be best to do so that we ought rather to be desirous of settling. Here were certain colonies belonging to Great Britain on the continent of North America. It happened that some of them were in the immediate neighborhood of the United States. Their course of industry was the same, their productions the same. If the live stock and lumber from one of these colonies, from that of New Brunswick, for example, were allowed to be imported into Antigua or St. Christopher's duty free, whilst similar articles from the State of Maine, bordering upon New Brunswick, labored under a duty of ten per cent. on their importation into the same islands, was not, I asked, all just competition at an end? Still more was this the case, I remarked, if, after disposing of their cargoes, the vessel from New Brunswick could take in a return cargo, absolved from an export duty, and was, moreover, left at liberty to take advantage of circumstances by trading from colony to colony, whilst the vessel from Maine was obliged to depart in ballast, or, if she took in a cargo, do so subject to the export duty. How, too, under the weight of this latter duty, were the articles upon which it was charged to bear up in the markets of the United States against the competition of similar articles found in their markets, partly of their own produce and partly derived from islands in the West Indies, other than those belonging to Great Britain? It was thus that I endeavored to establish the reasonableness of our complaints and to recommend our proposals to adoption. I admitted the general right which every nation had to foster the industry of its own subjects preferably to that of strangers, but controverted its justice or expediency as applicable to the trade, a trade that was so anomalous in many points, and to be judged of and regulated, not so much on any general theory as under an impartial view of all the peculiarities that belong to it. As to the expression "from elsewhere," introduced into the act of Congress of the 1st March, 1823, I insisted upon the propriety of giving it a construction that would include the British colonies themselves as well as foreign countries, the only construction that ever could satisfy the United States, because the only one that could ever be equitable. Without it a reciprocity in words might exist, but there would be none in fact. There was obviously no foreign nation, except the United States, that supplied the British West Indies with the articles in which a traffic had been opened. To say, therefore, that they should be imported into the British islands subject to no higher duties than were levied on articles of the same kind coming from any other foreign country would be altogether unmeaning. The field of competition was exclusively in the North American colonies of Britain. These, by their position and all their local peculiarities, were fairly to be considered as another country in the estimate of this trade, though they were, it was true, in political subjection to Great Britain. Their being dependencies altered not those physical and geographical characteristics in them which made them the rivals in this intercourse, and the only rivals of the United States.

The British plenipotentiaries yielded to none of this reasoning. They admitted that there were many difficulties in the way of a satisfactory adjustment of the shipping question and of this intercourse generally between Great Britain and the United States. These difficulties were partly colonial, partly the result of their old navigation laws, and partly springing from the nature of the British North American trade, which bore so close an affinity to some portion of the trade of the United States. But they continued to declare their determination not to admit the productions of the United States into their islands upon the same footing with the like productions from other colonies of their own, and they reiterated their allegations that, even under the present duties on our productions, the trade was in our favor. They argued, hence, that the amount of the duties, instead of being too high, seemed insufficient thus far, taken on a general scale, to balance the advantage of our proximity to the West Indies, and of the greater extent and productiveness of our soil. On this head they gave me details. They said that by their latest accounts full two-thirds of the flour and lumber sent to their islands from North America were ascertained to have been of the produce of the United States, and that perhaps seven-eighths of this quantity were conveyed in vessels of the United States. On the return trade, also, they declared that our vessels had a share not much below the same proportion. To these statements I could only reply that my impressions were different; that it was true I was in possession of no returns subsequent to June, 1823, but that up to that period my information justified me in believing that the trade had not yielded a fair proportion of gain to our merchants. The British plenipotentiaries dwelt emphatically upon the circumstances of our vessels taking away specie from their islands, in place of a return cargo in the produce of the islands, as indicative of the trade being against the islands, since it left upon their hands their rum and molasses, articles which they were chiefly anxious should find a market in the United States. If it were the export duty that produced this necessity in our vessels to take payment in money for their cargoes rather than in the produce of the islands, the plenipotentiaries said that they could not repeal it, because it applied equally to British vessels. It was a duty of four and a half per cent. existing on the exportation of produce, not in all of the islands, but in some of them, viz: in Antigua, St. Christopher's, Montserat, Barbadoes, Nevis, and the Virgin islands. In the latter it was granted for the benefit of the crown in 1774. In most or all of the others it had existed for the same purpose as far back as 1668. British vessels paid it, they said, when going from these islands, whether their destination was the mother country or any foreign country; but I did not understand them to say that it was paid if they went only from colony to colony.

To the objection of only a limited number of ports being open to our vessels, they said that they admitted them wherever custom-houses were established; and that the privilege reserved to British vessels of going from colony to colony was only the privilege of letting them enjoy their own coasting trade. They seemed to forget that, by whatever name this privilege went, it was still one which operated against the competition of vessels of the United States. On the non-admission into their islands of articles that we desired to send, as, for example, salt fish, beef, pork, these, they said, were also excluded from the direct trade between Great Britain and the United States, including all other foreign countries. Here, too, they seemed to throw out of mind that this very exclusion, in whatever principle it originated, still operated against the commerce of the United States; for that a system of positive exclusion formed no part of the regular or permanent system of the United States, and was therefore one of which, as long as they dealt out a different measure of commercial benefit to other nations, they had good grounds to complain.

I am saved the necessity of recapitulating any further the remarks of the British plenipotentiaries upon our proposals, from their having furnished me with a summary of them in writing. This was not

in the regular course of our proceedings, and the paper, not being considered as an official one, was not annexed to any protocol or referred to in any. It was merely given to me as an informal memorandum, in which light I was willing and glad to receive it, as it protects me from all risk of not doing justice in my report to their representations. It will be found among the enclosures, marked W.

After all that I have said, it may be almost superfluous to state that this Government will decline abrogating the tonnage duty of four shillings and three pence sterling imposed upon our vessels by the order in council of July, 1823. Mr. Huskisson expressly brought this subject before the House of Commons, in the course of the last session of Parliament, with a view to give full validity to that order, doubts having arisen how far it was justifiable by the provisions of the act of Parliament of the preceding session, on which it was founded. By this act a general power had been given to the King, in council, to impose countervailing duties on the cargoes of foreign vessels, but not upon their tonnage. It was under this act that the order of July, 1823, affecting the tonnage of our vessels, passed; and Mr. Huskisson obtained at the last session a new act for indemnifying all persons concerned in executing this order, which, though out of the words, was conceived to be within the objects of the first act. A copy of the last act is enclosed. The two acts taken together now give to the King and council a permanent power to meet other nations on the ground of reciprocity in duties, both as to vessels and cargoes. To this ground Prussia has acceded by a treaty concluded with this Government in April last, a printed copy of which I enclose that its terms may be seen. Denmark has done the same by a treaty concluded in June. The latter is not published as yet, but I have reason to know that its terms are the same as those of the treaty with Prussia. It does not include the colonies of Denmark, nor, of course, those of Britain, standing, in this respect, upon the footing of our commercial convention with Britain of 1815. Prussia having no colonies, her treaty, as far as there will be room for its operation at all, necessarily stands upon the same footing. Among the colonies of Denmark are comprehended Greenland, Iceland, and the Feroe Islands, which are enumerated as such in the treaty. It is understood that Sweden has shown a disposition to come into this reciprocity, and that there are pending negotiations between this Government and that of the Netherlands to the same effect.

After the British plenipotentiaries had finished all their remarks upon our proposals, I thought it best, seeing that they had not proved acceptable, to invite others from them, in turn, to be taken for reference to my Government. These they afforded me, and they are annexed, marked L, to the protocol of the sixteenth conference. The first article, after reciting the desire of both parties to abolish, reciprocally, all discriminating duties in this trade, proceeds to effect this purpose after the British understanding of it. It pledges Great Britain to lay no higher duties on our produce than upon produce of the same kind imported not from *elsewhere*, or from any other country, but from any other *foreign* country; using here the very term to which, in both the former negotiations, we had objected at large. The same term has place in the part of the article intended to operate against Great Britain, as she only claims, in sending her colonial produce to the United States, that it shall be received, subject to the same duties as are paid on articles of the same kind when imported into the United States from any other *foreign* country. To this correlative provision the British plenipotentiaries referred as illustrative of the true idea of reciprocity. I again insisted upon its manifesting the very reverse. It was palpable that the term had a real substantive meaning in the one case, but might as well be omitted in the other. Like produce with that sent to the British islands from the United States, the islands obtained, as we had seen, from no other foreign country, but only from the British possessions in North America; whereas the United States *did* receive from Cuba, from St. Domingo, and from other foreign islands and countries the same kind of produce as that yielded in the British islands. Surely, then, Great Britain would be benefitted by the operation of the term, whilst to the United States it must be nugatory. There was a visible sphere within which it would act in the one case, whilst in the other there was no shadow of foundation upon which it could rest. But I was always unsuccessful in obtaining from the British plenipotentiaries the admissions due to us on this cardinal principle. Their second article provides for the actual abolition, subject of course to the foregoing reservation, of all discriminating duties or charges of every kind, whether on the vessels or cargoes of the two Powers. The third contains a stipulation that, in case the trade should prove, on trial, unduly advantageous to one of the parties, the other will examine in a proper spirit the complaint, and, on its being substantiated, adopt measures in unison with the true principles on which the parties intend to fix it. The fourth provides that whatever advantages Great Britain may in future extend to any friendly State in Europe or America, with respect to this trade, shall be common to the United States; and that the United States shall extend to Great Britain whatever advantages they may, at any time, grant to the most favored State in any trade carried on between the possessions of such State in the West Indies or America, and the United States. The fifth and last article provides, *in consideration of the foregoing arrangements*, that Consuls shall be admitted from the United States into the open colonial ports, and received on the same conditions as are stipulated in the fourth article of the convention of July, 1815. Upon this last article I shall have occasion to remark in another part of my communications. The others I leave, including the fourth, upon the remarks already made. The fourth, it is evident, still keeps to the British principle of considering their colonies as equivalent, of themselves, to the whole of the United States in the arrangements of this trade. During the pendency of the negotiation I received a letter, which seemed to me to be of importance, from Mr. Kankey, our consular commercial agent at the island of Barbadoes. He informed me that, under directions which had been recently given to the Collector and Comptroller of the Customs of that island by the Lords Commissioners of the Treasury, vessels of the United States were permitted to land there a portion of their cargoes, and to carry the remainder elsewhere, if entered for exportation, paying the import duty only on so much as was landed. This regulation, he added, would be of service to our trade, provided the necessity of paying the tonnage money of four shillings and three pence sterling per ton, at more than one of the colonial ports, during the same voyage, could be avoided; and he appealed to me to have this effected. I immediately brought the subject before the British plenipotentiaries, urging the right of our vessels to an exemption from all such double payments on the ground of British vessels never being subject to double payments of tonnage duty in the United States during the same voyage, though they did proceed from port to port. I was asked if I had any instructions from my Government upon this point. I replied that I had not, but that I was confident in my belief that, under our laws, the fact could not be otherwise than as I had stated it. Mr. Huskisson then said that he would obtain the sanction of this Government for placing our vessels in the West Indies upon the same footing, in this respect, upon which British vessels were placed in the United States; and would undertake, in his official capacity of President of the Board of Trade, to see that the necessary orders were forthwith issued for the accomplishment of this object. Mr. Kankey made

another representation to me, which I also brought before the British plenipotentiaries, as pertinent to the business in which we were engaged. He stated that an improper duty was charged at Barbadoes on the article of biscuit when imported in barrels from the United States, a repeal of which he had not been able to effect by remonstrating with the Collector. This article, when intended for a foreign market, is packed in barrels, such as are used to hold flour, and seldom contain, it appears, more than eighty pounds weight. But, without any reference to the weight, the Collector was in the habit of demanding, on every such barrel of biscuit (the cracker) landed at Barbadoes, a duty of two shillings and sixpence sterling, when by the true construction of the act of Parliament of the 24th of June, 1822, under which the duty arose, it was believed that only *one shilling and sixpence per hundred weight* ought ever to be charged. Of this heavy overcharge on a single article, which the exporters of the Middle States were constantly sending to the British islands, I complained in the terms that Mr. Kankey's representation to me warranted. Mr. Huskisson gave me an immediate assurance that my complaint should be attended to. He subsequently informed me that, in consequence of it, the officers of the customs, generally, in the islands had been directed, in all cases where such biscuit was imported from the United States in barrels weighing less than one hundred and ninety-six pounds, to charge the duty by the weight, and at the rate of not more than one shilling and sixpence sterling per hundred weight. I am happy to think that, in at least these two instances, some portion of immediate relief is likely to be extended to our trade in that quarter.

From Mr. Monroe Harrison, the Consul of the United States at Antigua, I also received a communication whilst our proceedings were going on, of which I apprised the plenipotentiaries of this Government. He informed that our citizens, trading to that island, being often compelled to sell their cargoes on a credit, payable in produce when the crops came in, found it convenient, if not sometimes necessary, to make another voyage to the West Indies in order to recover the proceeds of their cargoes so disposed of. The markets in the French and other islands being often better than in the British islands, our citizens in the predicament stated would find it, Mr. Harrison remarked, to their advantage to be able to resort to the former islands in the first instance; but this object they were precluded from coupling with that of afterwards calling at the British islands for the collection of their debts in the produce of them, since, should they only touch at the British islands, having on board any article other than of the produce of the United States, their vessels became liable to seizure. I did not receive from the British plenipotentiaries the same attention to this representation that was shown in the other cases; nor, under my present lights, did I feel altogether warranted in pressing it upon the same grounds. They informed me, in the course of our conversation upon it, that there was no objection, under the British regulations, to a vessel of the United States bound from one of our ports to any island in the West Indies other than British afterwards proceeding from such other island to a British island with the whole or part of her cargo, provided it had not been landed at any intermediate port, and that there had been no change in the property during the voyage. I presume that those of our citizens who are interested in knowing it are acquainted with this construction of the British laws, which, however, does not present itself to my mind in the light of any important boon.

ADMISSION OF CONSULS OF THE UNITED STATES INTO THE BRITISH COLONIAL PORTS.—My report upon this subject will be shortened by the communications which I have already had the honor to address to you at former periods in relation to it. I allude more particularly to my despatches, numbered 343 and 352, of November and December, 1823, and to my official note to Mr. Secretary Canning, of the 17th of November, 1823. In that note, written after I had received your despatch of the 26th of June, 1823, I found it necessary to execute, in a great degree, the instructions which your despatch contained. This Government during the negotiation, as well as when the correspondence above alluded to took place, always considered the subject of appointing Consuls to reside in their colonies as connected with that of the commercial intercourse generally; and here I agreed that the connexion was a natural one. It was evident that, but for the opening of the colonial ports to our trade, we should not have asked for the privilege of appointing Consuls to reside at them; and if, by any circumstances, they were again to be closed, it was equally evident that our claim to consular representation would be at an end.

The consular appointments made by the President for Jamaica, St. Christopher's, and Antigua, Demerara and Barbadoes, had been sufficiently explained and justified to this Government in the course of my communications above mentioned, in conjunction also with my number 349, which covered another official note from me to Mr. Canning upon the same subject. Nevertheless, I did not omit to bring before the British plenipotentiaries all the circumstances of this correspondence. They were particularly pertinent to our discussions on the question of commercial intercourse, which had hinged so entirely on the point of reciprocity, and throughout the whole course of which it had been the aim of each party to exonerate itself from any charge of deficiency in this important point, if not to fix that charge upon the other. I remarked upon the fact of our trade to the opened colonial ports having now continued for two years without a single Consul on the part of the United States having, to this day, been recognized in any one of them, though at least three of those who had gone there and presented themselves for recognition had been appointed under the previous and express consent of his Majesty's Government; whilst, on the other hand, during the whole of this period, the British trade from those ports had been receiving full consular protection from the consuls of Great Britain in the ports of the United States. In this, at least, it must be admitted, there was no reciprocity. Nor was the absence of it cause of mere nominal complaint on the part of the United States. And here I brought into view, from your despatch of the 26th of June, 1823, the practical inconveniences, especially in the island of Barbadoes, to which our trade had been subjected in the open ports on occasions which probably would not have occurred had Consuls from the United States been residing there. The British plenipotentiaries met this complaint in the manner their Government had formerly done. They said that when their consent had been given for appointing Consuls at three of the colonials ports, it had been given under an expectation by Great Britain that the United States would carry on the trade on terms that were reciprocal; but that afterwards, finding the terms to be such as Great Britain did not consider reciprocal, she forbore to perfect the appointments until the issue could be known, apprehending that the effect of new retaliatory measures on either side would soon be to put an end to the trade altogether. I rejoined that, whatever motive deemed by herself sufficient, though not so regarded by the United States, Britain might allege for her course of conduct in this particular, it did not destroy the broad fact, or lessen the evils arising from it, of Britain having enjoyed the advantage, during the two years of this trade, of full consular representation in the ports of the United States, whilst the United States had enjoyed none in the British ports.

On the principal question of the claim of the United States to appoint Consuls for the colonial

ports, I took the ground which you had laid before me, and heretofore maintained in my note to Mr. Secretary Canning, of November 17, 1823, as well as in the one which I first of all addressed to him on this subject, on the 17th of October, 1822, namely, that our claim extended, not to any specified number of the colonial ports, but to all, without exception, that had been opened by the act of Parliament of the 24th of June, 1822. This was the ground which I pressed upon the attention of the British plenipotentiaries. It was the only ground, I said, which, in the true sense of reciprocity, and therefore in the true sense of justice, could be supposed to be satisfactory to the United States. As they gave all, so it was reasonable that they should ask all. The United States excepted none of their ports to which the British colonial vessels resorted from the residence of British Consuls, and had a fair right to expect that none of the colonial ports to which American vessels resorted would be excepted from the residence of American Consuls. Consular protection was an incident of trade which the United States did not feel at liberty to forego in behalf of their citizens, so long as they allowed it to be enjoyed in their ports, without limit or exception, by the subjects of Britain. It satisfied neither the real nor even the verbal meaning of the term reciprocity, in this discussion, to say that the residence of British Consuls in the ports of the United States was matched by the residence of American Consuls in the ports of Great Britain, in Europe. It was palpable that if a British ship, whether arriving from Liverpool or Barbadoes, received consular protection at New York, and an American ship received it at Liverpool, but not at Barbadoes, there was no reciprocity in fact, whatever artificial reasons might justify Britain to herself, in distinguishing, in this respect too, her colonial from her home dominion. The only true match to the privilege on the one side would be the extension of it to all the ports that were open, whether home or colonial, on the other.

The United States, I continued, in claiming to appoint Consuls for all the colonial ports, meant not to make an unreasonable use of the privilege, and so I was instructed to declare. But the privilege of selecting the ports must rest, I said, exclusively with the United States. Their consular system did not recognize any fixed emoluments as the standard of remuneration for their Consuls, but left it to depend upon the fees produced by trade. Hence, in the ports to which trade flowed Consuls were necessary, and to those where there was none it was not to be supposed they would be sent, or so much as consent to go. But, as the channels of trade were liable to shift, there was a manifest convenience and propriety on this and all other accounts in leaving the selection of the ports to the sound discretion of the appointing power. Such were my remarks upon this subject, in addition to those that I formerly made, orally and in writing, to Mr. Canning. I did not, in conclusion, offer any formal article in relation to it—first, because I thought it unnecessary after the aspect which the negotiation had assumed on the primary question of the commercial intercourse itself; and, secondly, because I had been informed in your instructions that the President was not tenacious of any article relating to Consuls being inserted in a commercial convention if one had been formed. But I gave the British plenipotentiaries fully to understand the true nature of our claim, and that it would not in anywise fall short of the privilege of appointing for all the opened ports.

They consented, substantially, to this principle, as will be seen by the protocol of the 24th conference. Their expression in it, that they saw no objection to the admission of our Consuls into their colonies, "subject to the usual exceptions and reservations," means that both parties were to be considered as reserving to themselves the privilege of excepting from the residence of Consuls such particular places as they might think proper. This they explained to be their meaning. The same reservation had place in the sixteenth article of the treaty of the 19th of November, 1794, which was pointed out to me by you as the model of an article on the present occasion had one been framed. It also exists in the fourth article of the commercial convention of the 3d of July, 1815, which article is indicated by the British plenipotentiaries as the model in the fifth article of their own counter-projet, annexed to the protocol of the sixteenth conference. The two articles on this subject, in the treaty of 1794 and in that of 1815, are so much alike that they might be adopted, indiscriminately, as models, the latter being a copy, with only slight variations, from the former. In my note to Mr. Canning of the 17th of November, 1823, I had reminded him that, in case Great Britain excluded American Consuls from the ports of the colonies, the United States would have to reserve the right of excluding from consular benefit in their ports all British vessels and seamen arriving from the colonies. So, also, I reminded the British plenipotentiaries that the United States would have to protect themselves, by a similar reservation, to an extent coequal with that to which Britain might use her option of excepting from the residence of our Consuls particular places in her colonies, there being no other appropriate mode by which we could countervail on our side this right of exception on hers, so far as regarded her colonies.

It will be seen from the twenty-fourth protocol that Britain continues to decline, for the present, receiving our Consuls in any of her colonial ports. She acts, in this respect, under an impression that there is danger of the intercourse between these ports and the United States being soon wholly interrupted. She waits the disappearance of this danger before she recognizes our Consuls, as its reality would, according to her way of reasoning, render their recognition of little value. It was in vain that I urged the justice of recognizing ours at once, so that we might be upon a par with Great Britain *until* ulterior events were known. If her tonnage duty of four shillings and three pence sterling per ton on our vessels entering her colonial ports, and her additional impost of ten per cent., be met by countervailing duties on our side, as I was forced, for the reasons given in another part of this despatch, to intimate my belief that they would be, her plenipotentiaries have informed me that it will lead to fresh measures of the same character on her side; thus bringing on a state of things that can only terminate in rendering the trade no longer worth the pursuit of either country. If, on the other hand, the trade remains as at present regulated, without any alteration by either party, although Britain, as I have had occasion to remark before, alleges that she is dissatisfied with it, she will let it have a further trial, and, in this event, will receive our Consuls on the terms mentioned in the twenty-fourth protocol. This she will do, as I understand her intentions, notwithstanding the tenor of the fifth article of her counter-projet above mentioned, which would seem to make her consent to the reception of our Consuls dependent upon our acceptance of her four preceding articles. I believe, moreover, that she would raise no obstacle on the score of expense, but grant to our Consuls exequaturs free of all charge, as we grant exequaturs to hers. This point I mentioned to the British plenipotentiaries, and to its obvious justice they took no exception. There remains nothing further for me to impart to you on this subject. The protocols that relate to it are the twenty-third and twenty-fourth.

Protocol of the third conference of the American and British Plenipotentiaries, held at the Board of Trade, February 5, 1824.

Present: Messrs. Rush, Huskisson, and Stratford Canning.

The protocol of the preceding conference was read over and signed.

In pursuance of previous agreement, Mr. Rush brought forward the propositions of his Government respecting the trade between the British colonies in North America and the West Indies and the United States, including the navigation of the St. Lawrence by vessels of the United States. On concluding the statement with which Mr. Rush introduced these proposals, in explanation of the views and antecedent proceedings of his Government, he gave in the three articles which are hereunto annexed, (marked A.)

The British plenipotentiaries, in receiving the articles thus presented to them for consideration, confined themselves to stating their first impressions as to the scope and extent of the American proposals and the extreme difficulty resulting therefrom, observing on such parts of the American plenipotentiary's statement as appeared to them to call for immediate objection or to admit of satisfactory explanation.

Adjourned to Monday, the 16th instant, at 2 o'clock.

RICHARD RUSH.
W. HUSKISSON.
STRATFORD CANNING.

Protocol of the sixteenth conference of the American and British Plenipotentiaries, held at the Board of Trade on the 8th June, 1824.

Present: Messrs. Rush, Huskisson, and Stratford Canning.

The protocol of the preceding conference was read over and signed.

The British plenipotentiaries, after further discussion in relation to commercial intercourse between the United States and certain of the British colonies, gave in the annexed counter-projet on that subject, in reference to what had passed at the preceding conference, observing, at the same time, that the first two articles of the proposal communicated by the American plenipotentiary in their third conference with him had, in their opinion, no necessary connexion with the third, relating to the navigation of the river St. Lawrence, and that they conceived it would be more convenient to treat of them separately.

Adjourned to Tuesday, the 15th instant.

RICHARD RUSH.
W. HUSKISSON.
STRATFORD CANNING.

L.

British counter-projet on Commercial Intercourse, (16th protocol.)

His Britannic Majesty and the United States of America, being desirous to regulate, by mutual agreement and on principles of just reciprocity, the trade now open under the respective laws between the United States and the British colonies in North America and the West Indies, have appointed plenipotentiaries to negotiate and conclude a convention for that purpose: that is to say, on the part of his Britannic Majesty, ——; and on the part of the United States of America, ——; which plenipotentiaries, after duly communicating to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

I. The subjects of his Britannic Majesty and the citizens of the United States shall continue to have liberty to trade between the ports of those States and the open ports of his Majesty's possessions in North America and the West Indies under the existing laws and regulations of the high contracting parties. And whereas it is considered mutually advantageous to the subjects and citizens of both parties that all discriminating duties and charges reciprocally imposed and levied on the vessels of each nation and their cargoes in the ports of the other, as aforesaid, should be withdrawn and altogether abolished, it is hereby agreed that, upon the vessels of the United States admitted by law into all and every one of his Britannic Majesty's colonial ports, as aforesaid, and upon any goods, wares, or merchandise lawfully imported therein in the said vessels, no other or higher duties of tonnage or import, and no other charges of any kind shall be levied or exacted than upon British vessels, including all vessels of the colonies themselves, or upon the like goods, wares, or merchandise imported into the said colonial ports from any other foreign port or place whatever; and, likewise, that, upon the vessels of Great Britain and of her colonies admitted by law into all and every one of the ports of the United States, and upon any goods, wares, or merchandise lawfully imported therein in the said vessels, no other or higher duties of tonnage or import, and no other charges of any kind shall be levied or exacted than upon vessels of the United States, including all vessels of each and every one of the said States, or upon the like goods, wares, or merchandise imported into the United States from any other foreign port or place whatever.

II. For the more perfect fulfilment of the intentions of the high contracting parties, they pledge themselves hereby to remove, with as little delay as possible, his Britannic Majesty on his side, and the United States on their side, all additional duties of tonnage in the light of foreign tonnage duty, and all additional duties of import in the light of duties on goods imported in foreign vessels, at present existing either against the vessels of the United States and their cargoes admitted by law into any of the British colonial ports, as aforesaid, or against British vessels and their cargoes admitted by law into the ports of the United States, as well as all other discriminating duties and charges of whatever kind they may be, intended by this and the foregoing article to be removed and altogether abolished.

III. It being the desire and intention of the high contracting parties to place the trade in question

on a footing of just reciprocity, they further agree that, in case any of the existing enactments on either side, regulating the navigation in this trade, shall, contrary to expectation, be found on further experience to operate partially, and in such a manner as to give to the subjects or citizens of the one party engaged therein a clear and decided advantage, to the manifest prejudice of the subjects or citizens of the other, in opposition to the intention above declared, each of the two Governments shall in such case, and according as the case may be, receive and examine the representations made to it thereon by the other, and, the complaints being fairly substantiated, shall lose no time in adopting such additional laws and regulations as may correct the grievance complained of, in conformity with the principle herein laid down.

IV. The high contracting parties being further desirous to promote and extend this trade in proportion as circumstances may from time to time allow, his Britannic Majesty, on his part, engages that whatever facility or advantage may hereafter be granted to any friendly State, either in Europe or in America, with respect to any commerce, direct or circuitous, to be carried on between such State and his Majesty's colonies in the West Indies or America, shall be in like manner granted to the citizens of the United States; and the United States, on their part, engage that under this contingency the subjects of his Majesty shall enjoy whatever facilities or advantages may at any time be granted by them to the subjects or citizens of the most favored State in any trade carried on between the possessions of that State in the West Indies or America and the United States.

V. In consideration of the foregoing arrangements, his Britannic Majesty consents that the Government of the United States shall be at liberty to appoint Consuls in his Majesty's open colonial ports in North America and the West Indies, and that Consuls so appointed on their behalf shall be received under the same conditions as those which are stipulated in the fourth article of the convention of commerce concluded in London on the 3d July, 1815.

VI. The ratification of this convention, &c.

Extracts from the protocol of the twenty-fifth conference of the American and British Plenipotentiaries, held at the Board of Trade on the 22d of July, 1824.

Present: Messrs. Rush, Huskisson, and Stratford Canning.

"The protocol of the preceding conference was read over and signed."

"It was agreed, in consideration of the numerous and complicated questions on which the conferences had turned, that the plenipotentiaries should meet again, and communicate with each other, prior to sending in to their respective Governments their final reports of the present state of the negotiations, suspended by the necessity of referring to Washington on some of the subjects that had been presented for discussion. Adjourned.

"RICHARD RUSH.
"W. HUSKISSON.
"STRATFORD CANNING."

Protocol of the twenty-sixth conference of the American and British Plenipotentiaries, held at the Board of Trade on the 28th of July, 1824.

Present: Messrs. Rush, Huskisson, and Stratford Canning.

The protocol of the preceding conference was read over and signed.

The plenipotentiaries, after communicating with each other, in pursuance of the agreement taken at the preceding conference, and persuaded that they had sufficiently developed the sentiments of their respective Governments on the various subjects of their conferences, separated under the circumstances which necessarily prevented, for the present, any further progress in the negotiations.

RICHARD RUSH.
W. HUSKISSON.
STRATFORD CANNING

W.

Paper on the Commercial Intercourse Question, from the British Plenipotentiaries.

The British plenipotentiaries present the following remarks on the articles of colonial intercourse proposed by the American plenipotentiary at his third conference with them. The first two articles have no necessary connexion with the third, which relates to the navigation of the river St. Lawrence; and the British plenipotentiaries are of opinion that it is more convenient to treat of them separately.

The proposal contained in the two articles on colonial intercourse is, in substance, as follows: The trade between the United States and his Majesty's colonies in North America and the West Indies to continue, as at present, regulated by the respective acts of Parliament and Congress, except that all discriminating charges on alien vessels and their cargoes concerned in that trade should be withdrawn on both sides; and further, that all articles of United States produce should be admitted into the colonies exactly on the same terms as the like productions of the colonies themselves or of the mother country.

To all but the last clause of this proposal the British Government are willing to consent. To that condition they decidedly object.

The objectionable condition amounts to no less than a stipulation that Great Britain shall renounce in favor of the United States, and without a return on their side, the power of protecting the staples of her own subjects by levying import duties on the like productions of a foreign country. In *principle* such a proposition is evidently inadmissible. It could not be entertained with credit by any power on

which it was calculated to operate exclusively. It is directly at variance with the practice of all commercial, of all civilized States. It has no precedent in the commercial relations subsisting between the British dominions in Europe and the United States.

The *specific* grounds alleged in support of it by the American plenipotentiary are, in the opinion of the British Government, wholly insufficient for that purpose.

They are understood to be in effect: First. That American vessels are subject to an export duty in the British West Indies to which British vessels are not equally liable. Secondly. That, while all the ports of the United States are open to British vessels, only certain enumerated ports of the British colonies are open to vessels of the United States. Thirdly. That American vessels are confined to a direct trade between the place of export and the place of import, while British vessels labor under no such restriction. Fourthly. That the British vessels though confined to the same enumerated articles as the American in the direct trade, are not so confined in trading from colony to colony or with the ports of the mother country. Fifthly. That, while all articles of British colonial produce are admitted into the United States, many important articles of American produce are excluded from the British West Indies. And sixthly. That on those articles of American produce which are admitted into the British colonies import duties are levied, or, at least, that higher import duties are levied than on the like articles produced in his Majesty's dominions.

These several allegations are met in detail by the following specific statement:

First. The export duty complained of is a duty of four and a half per cent. levied in some of the Leeward islands on the produce of those islands, whether exported in British or in American vessels, and equally, whether exported to Great Britain or to foreign countries.

Secondly. The colonial ports opened by act of Parliament to foreign vessels from America are all those in which custom-houses are established.

Thirdly. The American Congress has passed an act confining British vessels to a direct trade, under bond, in the very same manner as American vessels are restricted by the British act of Parliament, and even to a greater degree.

Fourthly. The liberty of trading between colony and colony, as well as within the mother country, enjoyed exclusively by British vessels in this trade, is no other than a part of the coasting trade which every Government secures to its own subjects. The Americans enjoy a like advantage on their side, and the British are not allowed, on the same principle, to carry on trade between the several ports and States of the American Union.

Fifthly. The exclusion of certain articles of American produce, such as salt fish, from the West India market, is no other than what already exists in the trade between Great Britain and the United States, comprising other foreign countries. It is by no means peculiar to the colonial intercourse. The rum and molasses of the British West Indies are, *in point of fact*, but barely admitted to the market of the United States.

Sixthly. The protecting duties levied in the British West Indies on the flour, lumber, &c., of the United States are absolutely necessary to afford the inhabitants of his Majesty's North American provinces a chance of sending their superfluous produce to market on equal terms with the citizens of the United States. These latter enjoy great natural advantages over their northern competitors by reason of the open climate and comparative vicinity of their country to the West India islands. The sugar of the British West Indies, their principal export, has, besides, to pay in the United States an import duty proportionally higher than the duty levied on American flour in the ports of the British colonies.

On the specific grounds, then, alleged by the American plenipotentiary the above mentioned stipulation cannot be accepted by Great Britain without injustice to her own subjects, any more than it can be accepted by her on general principles without prejudice to her character as an independent commercial Power. Much as the British Government are disposed to cherish and improve the relations of commerce and good neighborhood with the United States, such sacrifices cannot, in fairness, be expected, even for the sake of those objects.

Still less are they to be expected when the statements of the British Government, in answer to those of the American, are fully borne out by the state, as hitherto ascertained, of the trade carried on under the respective laws of the two countries.

There is reason to suppose that about two-thirds of the flour and lumber received from North America by the British West Indies are produced by the United States; and it is not too much to say that even seven-eights of that quantity are conveyed to the market in American vessels, while, even upon the return trade, it appears that American vessels enjoy a share not greatly superior to that proportion.

Under these circumstances, the British plenipotentiaries can only accept the articles on commercial intercourse, tendered to them by the American plenipotentiary, with the omission of the stipulation already specified.

With every disposition to remove unnecessary obstructions from the trade, and to keep the protecting duties within fair and moderate bounds, no difference whatever being made in point of duties and charges between American and British vessels, whether belonging to the colonies or to Great Britain, it is impossible for the British Government to admit a condition which would expose their North American provinces to a total exclusion from the West India market, and that, as they conceive, without any equivalent concession being proposed on the part of the United States.

The British plenipotentiaries are ready, at the same time, to enter into stipulations, not only for removing all alien charges whatever from the vessels and their cargoes, as such, of both parties, in the United States on one side, and in the enumerated British colonies on the other, but also for extending to the United States, eventually, and in consideration of a fair return from them, any further advantages in that trade, which, in the progress of events, Great Britain may find it safe or desirable to concede to any other foreign nation or State in the trade between her colonies and its possessions. In making this contingent agreement, it would be the intention of the British Government to apply, in proportion as circumstances might allow, to the trade between his Majesty's open colonies and the United States, the same principle already adopted in the convention of 1815, namely, of placing each party, with respect to imports and exports, on the footing of the most favored nation; and in the same spirit there would be no objection to giving a suitable extension to the fourth article of the commercial convention respecting Consuls.

Mr. Addington to Mr. Adams.

WASHINGTON, *September* 7, 1823.

SIR: The act passed in the late session of Congress for regulating the commercial intercourse between the United States and certain of his Majesty's colonies in the West Indies and North America, as well as the correspondence which took place on the same subject between yourself and Mr. Stratford Canning, having been laid before his Majesty's Government, and received from them the most attentive consideration, I am commanded by his Majesty's Secretary of State to put you in possession of the result of their deliberations on that subject.

The act of Parliament of the 23d of May, 1822, is the first legislative admission of a direct permanent commerce between his Majesty's colonies and plantations in the West Indies and the United States in the vessels of the United States.

This departure on the part of Great Britain from her ancient colonial system was considered by his Majesty's Government to be mutually advantageous to both parties.

In furtherance of the liberal views which suggested this act, and in conformity with the principle by which the direct trade between Great Britain and the United States is regulated under the convention of 1815, the British Government, immediately after the passing of that statute, gave orders that no other or higher duty should be levied upon merchandise imported into the British colonies in vessels of the United States than upon the like merchandise imported in British vessels; and, also, that the vessels of the United States should be subject to *no higher tonnage duties or custom-house fees, or other local or port charges*, in those colonies than were paid by British vessels in the same ports.

These orders have long since been carried into general effect; and if, in any particular instance, it should be made to appear that they have not been punctually observed in any of his Majesty's colonies, the British Government would readily take measures for removing that exception, and for redressing any injury to which it might have given rise.

Contrary to the just expectations of his Majesty, no corresponding orders have yet been issued by the Government of the United States for the remission of the alien duties upon goods imported into the United States, under the pre-cited act, in British shipping, or upon the vessels in which such goods are imported.

For some time the Government of the United States declined giving such orders, on the ground that no satisfactory proof had been produced of discriminating duties being no longer levied on American trade in his Majesty's colonies; yet, surely, the direct affirmation of the British Government, that orders to that effect had been given, might and ought to have been received as sufficient proof of the fact.

As a ground for still suspending the remission of the alien duties, the American Government now allege that, by an act passed in the last session of Congress, the Pesident of the United States is restrained from taking off those duties until he shall have received satisfactory proof that "upon any goods, wares, or merchandise, the growth or produce of the United States, imported into the British colonies under the act aforesaid, no higher duties are levied than upon the like goods imported into the said colonies *from elsewhere*."

The term "*from elsewhere*" was at first liable to a dubious construction; but in your letter to Mr. Stratford Canning, dated the 14th of May last, it was finally declared "to be of meaning equivalent to *everywhere else*, and, of course, to include all places other than those from which the importations into the specified ports might be made in vessels of the United States"—his Majesty's dominions themselves, therefore, necessarily inclusive.

According to this interpretation, the United States claim the privilege of introducing into his Majesty's colonial possessions their own produce on precisely the same footing as that of the United Kingdom itself, or of his Majesty's dominions in whatsoever part of the world.

Such a claim, sir, I am commanded to inform you, his Majesty's Government consider to be wholly inadmissible.

For the expectation of so unlimited a concession, no part of the act of Parliament above cited affords the smallest ground. In that act mention is made alone and expressly of *foreign* countries. The third and sixth sections both specify imports into, and exports from, *foreign* territories as alone in question.

Considering this circumstance, his Majesty's ministers might, perhaps, have had a right to expect that a more early intimation would have been given by the American Government that the removal of the discriminating duties in the United States was to be made contingent upon a concession now brought forward for the first time, and of a character totally different from that which Great Britain had voluntarily offered and executed, namely, the equalization of duties in the British colonies.

It was but reasonable to infer that as soon as the deficiency of certificates, so long alleged by the Government of the United States as the only obstacle to that equalization on their part, should have been supplied, the whole matter would have been considered as definitively settled.

Such, however, has not been the case. The declaration required was given, and then, for the first time, the claim in question was distinctly advanced.

Since it appears, therefore, that his Majesty's ministers are now to understand that, unless they accede to a condition considered by them as totally inadmissible, the discriminating duties imposed on British trade will continue to be levied by the United States, it has become necessary for the protection of the trade and navigation of Great Britain, and for placing his Majesty's subjects upon a footing of equality with those of the United States, in the intercourse established under the British act of Parliament of 1822, that discriminating duties should be imposed in his Majesty's colonies upon the goods and ships of the United States trading under the said act, equal to those which are levied upon the goods and ships of his Majesty's subjects trading from the colonies to the ports of the United States.

The fairness, and, indeed, the necessity, of this measure, the United States themselves will, it is conceived, hardly be disposed to question. I am directed, however, to declare that, just and necessary as it is, his Majesty's Government will be ready to withdraw it immediately upon the manifestation of a disposition on the part of the United States corresponding with that in which the act of Parliament of May, 1822, was framed and carried into effect by Great Britain.

It is the earnest wish of his Majesty's Government to afford every facility to a direct commercial intercourse between the United States and the British colonies in North America and the West Indies, consistently with the principles of that act—principles in which they had hoped to find a cordial concurrence on the part of the American Government.

Within the limits of those principles his Majesty's ministry are ready to enter upon negotiation for promoting and extending that intercourse; but they cannot acquiesce in a system so partial, and bearing so unequally on the trade and interests of Great Britain and her colonies as that proposed by the United States, the principle of which has never been admitted by that or any other country in its direct commercial intercourse with foreign nations.

I have the honor, sir, to enclose for your information the copy of an act of Parliament, which, in conformity with these views, has been passed for the purpose of enabling his Majesty to resort to the measure above described. On perusing it you will not fail to observe that by it his Majesty is equally empowered to impose and to remove discriminating duties on the vessels and goods of foreign Powers, according as those Powers shall be disposed, or not, to act with a fair reciprocity towards Great Britain; and I am expressly enjoined to assure you that the power of removal will at all times be exerted by his Majesty with far greater satisfaction than that of the previous but unavoidable imposition of such duties.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

H. U. ADDINGTON.

Mr. Adams to Mr. Addington.

DEPARTMENT OF STATE, *Washington, November* 11, 1823.

SIR: I have had the honor of receiving your letter of the 7th September, together with a printed copy of an act of Parliament enclosed with it.

In the month of June last instructions were forwarded to the minister of the United States at London to confer with the Government of his Majesty upon the subject of the commercial intercourse between the United States and the British colonies in America, to show that the terms upon which the act of Parliament of June 24, 1821, (3 Geo. IV, chap. 44,) had opened certain British ports in America to the importation of certain articles from the United States in vessels of the United States were, according to the construction which it had received, and by which it was executed in the colonies, so far from embracing a system of reciprocity, as the foundation of that commercial intercourse, that the Government of the United States could not consent to the admission of British vessels from those colonial ports on payment of the same and no higher or other duties in the ports of the United States than were paid by the vessels of the United States employed in the same commerce; to point out the discriminations to the disadvantage of the United States which operated upon their vessels under the system introduced by the act of Parliament, and to propose an amicable arrangement by negotiation of the whole subject in a spirit of mutual accommodation, and more to the satisfaction of both parties. By the communications recently received at this Department from Mr. Rush it appears that he had received these instructions, and had already conferred with his Majesty's Secretary of State for the Department of Foreign Affairs concerning them. A hope that the result of these conferences will supersede the necessity of any further correspondence upon the subject here induces me to suspend a reply to the observations in your note which might otherwise be required. In the meantime I pray you to accept the renewed tender of my distinguished consideration.

JOHN QUINCY ADAMS.

Extract of a letter, No. 1, *from Mr. King, Envoy Extraordinary and Minister Plenipotentiary of the United States to Great Britain, to Mr. Clay, Secretary of State, dated Cheltenham, August* 9, 1825.

"After remaining a week at Liverpool, it was recommended to me to take Cheltenham in my route, in order that I might use the waters for the benefit of my health. I found advantage by drinking the waters, and as Parliament had adjourned, I concluded to send my son to London with the despatches confided to me for Count Lieven and our minister at Paris, and, with the assistance of Mr. Smith, to make the necessary arrangements respecting a house, and other matters, preparatory to my going myself. I also requested Mr. Smith, who will continue Chargé d'Affaires till my presentation to the King, to ask an interview with Mr. Canning, for the purpose of explaining to him the delay which has detained me a few days at this place. Mr. Canning, being himself unwell, referred Mr. Smith to the under Secretary of State, Mr. Planta, to whom, accompanied by my son, he stated the occasion of this delay. The next day Mr. Planta informed Mr. Smith that owing to ill health Mr. Canning would not remain in town so long nor return to it so early as he had before expected; and by Mr. Canning's direction, Mr. Planta requested Mr. Smith to make this communication to me, expressing Mr. Canning's regret at the occasion of my detention, and adding that as Mr. Canning, on account of his own health, would for some time be absent from town, he would himself write to me apprising me thereof, and in his way to the north would meet me at Cheltenham or its neighborhood. Accordingly, upon the 29th of July, I received Mr. Canning's letter of the former day, and by the return of the post sent him my answer."

Same, No. 3, *to same, dated London,* 20 *Baker street, August* 24, 1825.

[Extract.]

"Mr. Canning, as you will observe, is still in the north of England. London, I believe, is without the presence of more than a single Cabinet minister, his colleagues being upon the continent, or dispersed through the interior of the country."

Same, No. 4, to same, dated London, September 4, 1825.

[Extract.]

"The Government continues in a state of abeyance. Mr. Canning is still in the north of England, and probably will not return till the middle of the month."

Same, No. 5, to same, dated London, September 13, 1825.

[Extract.]

"Mr. Canning and colleagues are all out of town, but are expected on the 17th or 20th."

Same, No. 7, to same, dated London, September 26, 1825.

[Extract.]

"Mr. Canning has invited me to meet him at half past 2 o'clock, which will constitute our first meeting in London."

Mr. Clay to Mr. Gallatin.

[Extracts from general instructions, No. 1.]

JUNE 19, 1826.

"Your predecessor, Mr. Rufus King, purposes leaving London in the month of June, and on that account, as well as on account of the important negotiations with which you are to be solely charged, the President wishes you to lose no time unnecessarily in proceeding to Great Britain. On your arrival there you will deliver a copy of your credential letter to the Minister of Foreign Affairs, and, on your presentation to the King, you will communicate the original to his Majesty. On that occasion you will express to him the earnest desire of the President to maintain the amicable relations which happily subsist between the two countries; that, on the part of this Government, nothing will be omitted to preserve them in full vigor, and, if possible, to add fresh strength to them; and it will give great satisfaction to experience corresponding dispositions on the other side.

"You will find among the papers now put in your possession the personal instructions by which you will regulate your conduct. Mr. John A. King, Secretary of the Legation, to whom is allowed the option of retaining that appointment, and who will have been left by Mr. Rufus King in charge of our affairs, if he shall have taken his departure before your arrival, will deliver over to you the records and papers of the mission.

"In communicating the general instructions by which you are to be governed, the first subject to which I am to direct your attention is that of negotiation opened by Mr. Rush on the 23d day of January, 1824, and which was suspended on the 22d of July of the same year, with an understanding between the parties that it was to be renewed at some convenient early period. Owing to circumstances beyond our control it has not been resumed as soon as the President had wished. Upon Mr. King's arrival last summer in England he found the members of the British Cabinet dispersed over the Kingdom and on the continent. His Britannic Majesty was indisposed, as was Mr. Canning also. Mr. King has labored under ill health during the greater part of the time of his abode in England. It was not until the autumn that the British Cabinet assembled at London; and the first object which engaged Mr. King's attention was the state of the mixed commission at Washington under the tripartite convention of St. Petersburg. He was for some time occupied by a correspondence and conferences with Mr. Canning on that subject, until it was transferred to this city. Moreover, the British Parliament had recently passed laws affecting, in a most important extent, the trade of the British colonies in our neighborhood, the interpretation and practical operation of which it was desirable to test by some experience. These explanations of the causes of the delay which has arisen in the resumption of Mr. Rush's negotiation may be made, if you shall find them necessary, to the British Government. That of the United States has not been indifferent to the deep interests, and to the harmony between the two countries, which are involved in the negotiation. And it is satisfactory to reflect that no prejudice to either party is believed to have accrued from the lapse of time, which, on the contrary, will have afforded to both a more ample opportunity of deliberately reviewing the past, and of entering again upon the negotiations under better lights, and with a spirit of mutual conciliation and concession, the best pledge for bringing them to a fortunate conclusion.

"We have received information that Mr. Huskisson and Mr. Addington, formerly the British Chargé d'Affaires at Washington, have been named to conduct the negotiation on the part of the British Government, which has intimated an expectation that, on our side, there would also be two Commissioners. In not conforming to that expectation no disrespect is intended to the British Government. It belongs to every nation to determine for itself what shall be the number, and to designate the particular individuals to whom it chooses to commit the conduct of its foreign negotiations. Nor has the practice been uniform

to employ the same number on each side. Great Britain does not, indeed, insist upon the appointment of two as a matter of usage or of right. In appointing you alone, this Government is influenced by the confidence which it reposes in you, and by considerations of economy and expediency."

"4. The trade between the United States and the British American colonies.

"You will recollect that the British Government declined treating on this subject in the negotiation which resulted in the convention of 1815. That convention left each party at liberty, by his separate acts, to regulate the trade according to the view which he might entertain of his own interests and policy. Accordingly, the Government of each has since adopted various measures, which have so restricted and embarrassed the intercourse between the United States and the British colonies that it is almost impossible to comprehend them, and the officers of the British Government have not concurred in the construction of the last act of the British Parliament in relation to the subject. This act has been differently interpreted, both in the same British port and in different British ports. A principal object of those measures has been, on the British side, to secure and perpetuate a monopoly of the navigation concerned in the trade, and, on ours, to obtain a fair and equal participation of it on terms of just reciprocity. The experience of both has been such that it ought to inculcate on their respective councils moderation and liberality.

"Mr. Rush submitted, in the progress of his negotiation, at the third conference, (see page 133 of the pamphlet,) two articles for the regulation of this trade, which were not accepted by the British plenipotentiaries. These articles embraced three leading principles: First. That there should be a mutual abolition of all discriminating or alien duties, so as to place British and American vessels employed in the trade, and their cargoes, on a footing of perfect equality. Second. That the productions of the United States admitted into a British colony should be subjected to no higher duties than similar productions of another British colony. And third. That the trade should remain restricted, as it then was, by the acts of Congress and Parliament, according to which it was limited to a *direct* intercourse. The British plenipotentiaries were willing to accede, in behalf of their Government, to the first and third, but not to the second of those principles, and they brought forward, at the sixteenth conference, a counter-projet, consisting of six articles, (see page 142.) On the 27th day of June and the 5th of July, 1825, the British Government passed two acts, the first of which is entitled 'An act for further regulating the trade of his Majesty's possessions in America and the West Indies, and for the warehousing of goods therein,' and the second 'An act to regulate the trade of the British possessions abroad.' According to these acts, the discrimination between Great Britain and her American colonies, as being subject, in regard to foreign nations, to different commercial codes, is in some degree abolished, and they are incorporated, to a considerable extent, together, and their trade thrown open to foreign nations. The legislation of Great Britain for her colonies has been very complicated, and we may not have a just conception of the provisions of those two acts. But if they are correctly understood here, they allow, first, that whatever may be lawfully imported into those colonies in British vessels may be also imported in foreign vessels into a specified number of ports called free ports at the same rate of duty for the vessel and cargo; secondly, that the foreign vessel is restricted to a direct intercourse between the country to which it belongs and the British colony, adhering, in this respect, to the old principle of her navigation laws. In some of their provisions, particularly in the imposition of duties on articles of American produce which was before free, (Indian meal and Indian corn, for example,) these acts operate more prejudicially to us than the previous state of the British law. But, notwithstanding, on a full consideration of the whole subject, the President, anxious to give a strong proof to Great Britain of the desire of the Government of the United States to arrange this long-contested matter of the colonial intercourse in a manner mutually satisfactory, authorizes you to agree—

First. That there shall be a reciprocal and entire abolition of all alien or discriminating duties upon the vessel or cargo, by whatever authority imposed, so as to place the vessels of the United States and those of Great Britain, whether colonial or British, concerned in the trade, upon a footing of perfect equality and reciprocity.

Second. That the United States consent to waive the demand which they have heretofore made of the admission of their productions into British colonies at the same and no higher rate of duty as similar productions are chargeable with when imported from one into another British colony, with the exception of our produce descending the St. Lawrence and the Sorrel. It will not be necessary, however, to insert the general waiver in the convention, but only to provide for the exception if that should be agreed to as herein before mentioned; and

Third. That the Government of the United States will not insist upon a participation in the direct trade between the United Kingdom of Great Britain and Ireland and the British American colonies; but they do expect and require that their vessels shall be allowed to trade between those colonies and any foreign country with which the British vessels are allowed to trade. In agreeing to leave Great Britain in the exclusive possession of the direct trade with her colonies, the President is sensible that our navigation may be exposed to some disadvantage in its competition with the British. The latter may make double voyages, charged with mixed cargoes, from the parent country or from the United States and the colony. But the disadvantage would be so great as to render it impracticable that we could maintain anything like a fair competition, if British vessels, at the pleasure of their owners, were, and ours were not, permitted to share in the trade between the British colonies, foreign countries, and the United States. Perhaps Great Britain may ask, if we trade between British colonies and foreign countries, that British vessels should be allowed to export the produce of the United States to those countries, or to import foreign produce from them into these States. There would be some plausibility in such a demand, if it were confined to colonial vessels, and if there could be devised any adequate security against fraudulent denominations of British *European* vessels, bestowed to qualify them to enjoy the privilege of trading between the United States and foreign countries through British colonies. It is evident that without such a limitation, efficaciously enforced, (which is believed to be altogether impracticable,) there would be no equivalent for a privilege to all British vessels, European and colonial, of sharing in our trade with all foreign countries in the limited privilege to American vessels of sharing the trade between those countries and British colonies. Your discussions on this subject may take such a direction as to present a favorable occasion for testing the extent to which the British Government is disposed to carry the modern liberal commercial doctrines which it professes and has proclaimed to the world. With that view, and for settling at once all difficulties on the question whether the vessels of the United States shall be permitted to engage in the trade between the British American colonies and foreign countries, you are hereby authorized to propose as a general regulation, applicable to the British dominions in Europe as well as in this hemisphere, or wherever situated, that whatever can be lawfully imported into one country

in its own vessels may be also imported into it in the vessels of the other country, the vessel and the cargo paying, in both instances, the same and no higher or other duties. This will leave the capital and industry of the two nations concerned in navigation to a free competition upon equal terms, and that is understood to be the policy which the British Government has recently announced. On this broad and extensive principle a treaty with the Republic of the Centre of America was concluded on the 6th of December last, and was subsequently ratified by the President, with the advice and consent of the Senate, it is believed, given unanimously. We have not yet heard of its ratification by the other party, and of course its promulgation at present would be premature, but a copy of it is now placed in your possession. A treaty with Denmark, embracing the same principle, under some modifications and limitations, was signed at Washington on the 26th day of April of the present year, to the ratification of which the Senate has also consented and advised with equal unanimity. Sufficient time has not yet elapsed to receive the Danish ratification, but a copy of this treaty is also confided to you. If Great Britain will assent to neither principle; if she insist upon engrossing the whole trade, not only between her colonies and her European dominions, but also between those colonies and foreign countries, to the exclusion from both of the navigation of the United States, it will then be necessary to insert a clause in the convention expressly reserving to each party the right, by existing or other laws, to restrict the trade between the United States and the British colonies to the direct intercourse between them.

"You will observe that the instructions now given respecting the colonial trade amount to an authority on the part of this Government to you to agree in substance to the modification of Mr. Rush's proposal, which was required by the British plenipotentiaries. You will endeavor to make a lively impression on the British Government of the conciliatory spirit of that of the United States, which has dictated the present liberal offer, and of their expectation to meet, in the progress of your negotiations, with a corresponding friendly disposition. The object of this part of your instructions may be accomplished either by inserting the articles respecting the colonial trade in the general convention for regulating the commerce between the two countries, which would be their most fit position, or in a separate convention. Whether the two articles proposed by Mr. Rush, or the first two proposed by the British plenipotentiaries, or others differently constructed, should be inserted in the convention which you are empowered to conclude, will depend upon the footing on which you may ultimately agree, under your instructions, to place the colonial trade. If you should not be likely to bring your negotiations on the entire subject of the commerce between the two countries and their respective territories to a conclusion in time to present the convention, in which it is expected they will issue, to Congress during its next session, it will be desirable, and you are accordingly directed, to endeavor to make a separate arrangement of the colonial question, so as to enable the President at least to present that before the adjournment. As to the duration of any general or particular commercial convention to which you may agree, it may be limited to a period of about ten years; to which it is advisable to add an article similar to the eleventh article of our Danish treaty, stipulating that the convention shall continue in force beyond the particular period agreed upon until one party notifies the other, in writing, of his desire to put an end to it."

Mr. Gallatin to Mr. Canning.

62 Upper Seymour Street, *August* 26, 1826.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, had not seen the order in council, of the 27th of July last, on the day (the 17th instant) when he had the honor of an interview with Mr. Canning, his Majesty's principal Secretary of State for Foreign Affairs.

Had he then been aware of the precise import of the order in question, and of the provisions of the several acts of Paliament to which it refers, the undersigned would have thought it his duty to make the observations to which he now begs leave to call Mr. Canning's attention.

It appears that his Majesty's Government was vested with two distinct authorities applicable to the intercourse between his Majesty's colonies and the United States.

By the 4th section of the act of Parliament of the 5th July, 1825, it was enacted that the privileges granted by the law of navigation to foreign ships to trade with the British possessions abroad should be limited, with respect to countries not having colonial possessions, to the vessels of such as should place the commerce and navigation of Great Britain, and of her possessions abroad, upon the footing of the most favored nation, unless his Majesty, by his order in council, should in any case deem it expedient to grant the whole, or any part of such privileges, to the ships of any foreign country, although the said conditions should not in all respects be fulfilled by such country.

And by two other acts of Parliament, passed in the fourth and fifth years of the reign of his present Majesty, authority was given to levy additional or countervailing tonnage duties on vessels, and additional or countervailing duties of customs on goods imported or exported in vessels belonging to any foreign country in which higher duties were levied on British vessels, or on goods imported or exported in British vessels, than on vessels of such country, or on similar goods when imported or exported in vessels of such country.

Both authorities have been resorted to in the order in council of 27th July last.

On the ground that the condition referred to in the act of Parliament of July 5, 1825, having not in all respects been fulfilled by the Government of the United States, the privileges so granted to foreign ships cannot lawfully be enjoyed by ships of the said States unless specially granted by his Majesty in council, the said privileges are again thus granted by the order in council, but with the express proviso that the said privileges, or, in other words, the intercourse in American vessels between the United States and the British colonies, shall absolutely cease on the 1st of December next, so far as respects South America, the West Indies, the Bahama islands, Bermuda, and Newfoundland, and, on some other subsequent days, so far as respects the British possession on the western coast of Africa, the Cape of Good Hope, Mauritius, Ceylon, New Holland, and Van Dieman's Land.

And inasmuch as British vessels entering the ports of the United States from the British colonies are charged with additional tonnage duty of ninety-four cents per ton, and with an addition of ten per cent. on the import duty payable on the same goods when imported in American vessels, a countervailing

duty, deemed equivalent in amount, is, by the order of council, laid, during the time that the intercourse is permitted to continue, on American vessels, and on goods imported in American vessels entering the ports of his Majesty's possessions in North and South America and in the West Indies.

There is not, if the undersigned is rightly informed, a single act of the Government of the United States which can, in the view taken of the subject by that of his Majesty, be considered as not fulfilling the condition contemplated by the act of Parliament of July 5, 1825, as not placing the commerce and navigation of Great Britain, and of her possessions abroad, upon the footing of the most favored nation, excepting only the continuance of the discriminating tonnage duty of ninety-four cents per ton on British vessels, and of the addition of ten per cent. on the ordinary duty charged on goods imported in British vessels entering the ports of the United States from the British colonies. Both the measures embraced by the order in council, the countervailing duties and the discontinuance of the intercourse, are founded on one and the same fact, the continuance of the United States discriminating duties. And the countervailing duty, deemed equivalent thereto, which has by the order in council been laid on American vessels, and goods imported in American vessels entering the ports of the British colonies, was alone sufficient to place the British and American vessels employed in the intercourse between those colonies and the United States on the footing of the most perfect equality.

It does not belong to the undersigned to question the policy of the measures which Great Britain may think proper to adopt respecting the trade with her colonies.

He only infers, from the acts of Parliament passed on that subject during the last four years, that the intercourse between the United States and the British colonies in the West Indies, South America, and other places, to the extent authorized by those acts, is considered, by his Majesty's Government, as beneficial to those colonies and to the British empire at large.

With this conviction, and the only inequality supposed to exist having been removed by the countervailing duties, the undersigned has been unable to discover the motive for interdicting altogether, after a short time, so far as respects the British possessions in the West Indies, South America, and several other places, an intercourse beneficial to both parties, and which might, in conformity with the act of Parliament, have, if deemed expedient, been indefinitely continued with those colonies, in the same manner as has been done as respects the British possessions of North America.

Wholly unable, therefore, to assign a cause for the contemplated suspension of the intercourse in question, the undersigned apprehends that, for the very reason that the object in view cannot be understood, it may be misconstrued.

Having no instruction on a contingency which was not foreseen, he can at this time only express his regret that a measure which cannot be viewed favorably by his Government should have been adopted at the moment when he was authorized to renew the negotiations on that subject, and with a well founded hope, from the liberal tenor of his instructions, that an arrangement, founded on principles of mutual convenience to both parties, might be concluded.

It is well known that the delay in that respect was due to causes not under the control of the United States, principally to the state of health of Mr. King, which has ultimately deprived them of his services.

The reasons of the marked preference given by the Government of the United States to an arrangement by treaty, instead of regulations adopted by both countries, are sufficiently obvious. It is highly important for all the parties concerned, essential for the security of commercial or agricultural operations, that the intercourse should be placed on a more permanent and explicit footing than it can be by reciprocal laws, liable to be modified or revoked at any time at the will of either party, and not always easily understood by those on whom they operate. And the obstacles which have prevented the United States from accepting the intercourse contemplated by the act of Parliament, which could only be done in toto, and by complying with terms on which they had not been consulted, may, it is believed, be easily removed by modifications essential to them, and which will not, it is thought, be found inconsistent with the interest of Great Britain.

The undersigned has taken a view only of the general tenor of the order in council, and does not think it necessary to advert to some of its details. He believes the omission of a special mention of the trade with the British provinces in the East Indies, in that clause which makes a special exception as respects that with the British possessions in Europe, to be purely accidental. And he takes it for granted that it is not intended to extend the countervailing duties to the intercourse by land or inland navigation between the United States and the British possessions in North America if it shall be found, as the undersigned believes it to be the fact, that the discriminating duties of the United States do not apply to that intercourse.

The undersigned avails himself of this opportunity to pray Mr. Canning to accept the assurance of his perfect consideration.

ALBERT GALLATIN.

Right Hon. GEORGE CANNING, *&c.*

Mr. Canning to Mr. Gallatin.

The undersigned, his Majesty's principal Secretary of State for Foreign Affairs, has the honor to acknowledge the official note of the 26th ultimo addressed to him by Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, on the subject of an order in council issued by his Majesty on the 27th of July.

The undersigned feels himself greatly indebted to Mr. Gallatin for the full and frank exposition which that note contains of his own opinions and of those of his Government upon the whole matter to which the order in council relates, and for the opportunity thereby afforded to the undersigned for entering into an explanation equally unreserved of the opinions and intentions of his Majesty's Government on that matter.

It will be highly advantageous to dispose at once of a subject which stands apart from all the other important subjects which Mr. Gallatin is authorized to discuss with the British Government—a subject which is to be argued on principles, and to be decided on considerations peculiar to itself.

Mr. Gallatin will allow the undersigned to take the liberty of remarking that this peculiarity of character seems to have been overlooked by Mr. Gallatin in his note of the 26th of August. Throughout that note there appears to be one pervading error. Mr. Gallatin treats the question as if it had turned

altogether on this single point: "what are the equal and reciprocal conditions under which a trade between the United States and the British West India colonies should be carried on?" assuming, as a sort of axiom, that such trade is as open to the United States as any other trade in the world, and never inquiring whether some compensation might not be due from the United States to Great Britain for the concession of a privilege which it is her undoubted right to give or withhold.

The undersigned is prepared to show that, even if the liberty to trade with the British West India colonies were gratuitously conceded by England to the United States, still the footing on which the trade so permitted is now carried on by the United States is unequal and unfair.

But as the objection which the British Government feels to the proposition for such partial equalization of conditions, as Mr. Gallatin's instructions appear to be intended to establish, lies deeper than Mr. Gallatin's proposition goes, the undersigned thinks it right to explain, in the first instance, the nature and grounds of that fundamental objection.

It is, as the undersigned has already said, the unquestionable right, and it has, till within these few years, been the invariable practice of countries having colonies to reserve to themselves the trade with those colonies, and to relax that reservation only under special circumstances and on particular occasions. When a relaxation of that nature has been dictated and limited by the necessities of the mother country or of the colonies, the foreign countries taking advantage of it may fairly aver that they owed nothing to the State which had granted such relaxation. They may even have felt themselves at liberty to decline to accept of a partial admission into the ports of the colonies, thus evidently opened from considerations of local or temporary convenience, unless they were allowed a general liberty of trade with those colonies, independently of such considerations.

The interdiction of the American Government in 1820 of any commerce with the British West India colonies until American shipping should be permitted a free entry into the British colonial ports is to be justified upon this ground.

The obvious way of meeting that interdiction by Great Britain would have been to open to other commercial and maritime Powers the trade refused by the United States.

Circumstances, not necessary to be detailed here, rendered that expedient at that time unadvisable.

In 1822 the privilege of trading with the British West Indies was conceded to the shipping of the United States, with certain restrictions and limitations under which they were content to enjoy it; but that privilege Great Britain still withheld from all the Powers of Europe.

The concession to the United States was in effect, if not in words, exclusive; for the new countries of America (not then recognized by his Majesty) had no commerce or navigation which could interfere with those of the United States.

It cannot, however, be supposed, it is not affirmed by Mr. Gallatin, that, by granting the privilege thus, in effect, exclusively to the United States in the first instance, Great Britain precluded herself from extending it to other nations whenever the course of events should create a favorable occasion for doing so. Events which intervened between 1822 and 1825 created such an occasion.

As little can it be supposed that, because Great Britain submitted, at a moment of necessity, to terms which, though not unjust, were inconvenient to her, she bound herself to continue to submit to them when that necessity should have passed away.

Scarcity may justify the demand for a high price, and monopoly may give the power of exacting it; but there is surely no understood compact between the buyer and the seller that the former shall not endeavor to make himself independent of the latter by opening the market to general competition.

These obvious and simple considerations led to the act of Parliament of 1825.

Our right either to open the ports of our colonies or to keep them closed as might suit our own convenience; our right to grant the indulgence of a trade with those colonies to foreign Powers, wholly or partially, unconditionally or conditionally, as we might think proper, and, if conditionally, on what conditions we pleased, was clear. We were not bound by any engagement to continue a monopoly of such indulgence to one foreign Power against another. We had for three years felt the inconvenience of such monopoly. We naturally sought, therefore, in our new measure, to avoid the recurrence of the like inconvenience, by making our indulgence general to all nations, and, in order to keep the regulation of that indulgence in our own hands, we granted it by spontaneous legislation and not by positive treaty.

The question is now, therefore, no longer what it was in 1820 or 1822, a question between Great Britain and the United States of America; it is a question between Great Britain and all the nations of the Old and the New World, to all of whom Great Britain has tendered access to her colonies on conditions which many of them have practically accepted, and more perhaps are ready to accept.

Having thus placed (as he hopes) in a clear light the general principles of colonial trade and the principles and considerations upon which Great Britain has acted in respect to her own West India colonies, the undersigned now proceeds to consider the details of Mr. Gallatin's note of the 26th of August.

It has been already said that in the year 1822 we opened, by act of Parliament, a trade with our West India colonies to American ships, under certain limitations and conditions.

The United States were at full liberty to accept or to decline those terms.

In accepting them the United States imposed, at the same time, onerous charges and restrictions upon all British vessels which might trade between the British West India colonies and the United States. One of these charges is an *alien* duty both upon the ship and upon her cargo.

After ineffectual endeavors on our part to obtain the removal of this duty, we were compelled to lay a countervailing duty to the same amount upon American ships in the colonial ports.

Mr. Gallatin states "that, by the imposition of this countervailing duty, British and American vessels employed in the intercourse between the British colonies and the United States *are placed on a footing of the most perfect equality.*" And further, "that there is not, if he is rightly informed, a single act of the Government of the United States which can, in the view taken of the subject by that of his Majesty, be considered as not fulfilling the condition contemplated by the act of Parliament of the 5th July, 1825, as not placing the commerce and navigation of Great Britain, and of her possessions abroad, *upon the footing of the most favored nation*, excepting only the continuance of the discriminating tonnage duty of ninety-four cents per ton on British vessels, and of the addition of ten per cent. on the ordinary duty charged on goods imported in British vessels entering the ports of the United States from the British colonies."

The arguments drawn by Mr. Gallatin from these statements are three: First. That the duty on the side of the United States and the countervailing duty on the side of Great Britain being equal, British ships trading between the colonies and the United States are as much favored as American ships in the same trade. Secondly. That, inasmuch as, with the exception of the discriminating duties in America,

Great Britain is, *in all other respects*, treated as "the most favored nation," there is no just cause for the exercise, on the part of Great Britain, of the power of interdiction provided by the act of 1825. And thirdly. That, having in our hands *two* remedies for *one* and the same grievance, we ought at all events to have contented ourselves with applying either, but not both, by the same order in council.

To begin with the last of these three points, viz: the assumption that, "having in our hands *two* remedies for *one* grievance, we ought to have been contented with applying either, but not both, by the same order in council."

The only measure which is *new* in the order in council is the interdiction of the trade between the British West India colonies and the United States after a specified period. The duties on American shipping mentioned in that order are not *new*. They were imposed by an order in council in 1823, and have been constantly levied since that time. They are again mentioned in the present order in council only for the direction of the British custom-house officers in the West Indies, who, if those duties had not been mentioned as still existing, might have imagined them to be superseded.

The history of these duties is simply this: On the 1st of March, 1823, a law was passed by the United States which directs an *alien* duty to be levied upon British ships and cargoes coming from the British West India colonies "until proof shall be given, to the satisfaction of the President of the United States, that no other or higher duties of tonnage or impost, and no other charges of any kind are exacted in the British colonial ports upon the vessels of the United States, and upon *any goods, wares, or merchandise therein imported from the United States*, than upon British vessels entering the same ports, and upon the like *goods, wares, and merchandise imported in such vessels* FROM ELSEWHERE."

The British Government at first misapprehended the import of the term "*from elsewhere*," conceiving it to apply to foreign countries alone, and not to British possessions in North America; nor was it till after the interchange of several official notes between the British envoy at Washington and the American Secretary of State that the British Government was made to comprehend (or rather was brought to believe) the full extent of the concession required by the act of Congress, namely, that the produce of the United States when imported from the United States into the British West India colonies should be placed on an equal footing with the like produce of the *mother country herself and her dependencies.*

When such was at length ascertained to be the true construction of the American act of Congress of 1823, those countervailing duties were imposed on the trade of the United States by the British Government, which are now merely continued till the 1st of December next in the West Indies, and indefinitely in the ports of British North America.

It is to be observed that by the act of Parliament of 1822, (3 Geo. IV, cap. 44,) the British Government was enabled to *interdict all intercourse* between the United States and the British West India colonies under any such circumstances as those which had already arisen in the United States.

The milder measure of a retaliatory duty was preferred for two reasons: First, we were convinced that a claim so extraordinary as that put forward by the interpretation given to the act of Congress of 1823 would not be persevered in after explanation; and secondly, we had assurance that a full opportunity of that explanation would arise in the course of the negotiation which was then about to be opened between the two Governments on this, among other points, in which their respective interests were concerned.

That negotiation took place in London in the spring of 1824. On the part of the British Government an offer was made to arrange this matter upon terms highly favorable to the United States; but the American plenipotentiary intrenched himself within the letter of the American law, and declared any proposal inadmissible which was not accompanied with the concession required by the final interpretation of that law.

Things remaining in this state, and the British proposition having been unnoticed for nine months before the American Government, the act of Parliament of July, 1825, was passed.

The American Legislature had cognizance of that act from the commencement of its last session. It had also cognizance of the specific proposals offered by the British Government in 1824. Further, there was brought under its consideration, by one of its members, a resolution for repealing the discriminating duties.

The session, however, ended without the enactment of any law for repealing or relaxing the restrictions of the act of Congress of 1823, and with the rejection, after debate, of the resolution for the repeal of the discriminating duties.

To come next to Mr. Gallatin's allegation, that the discriminating duties are our *only* cause of complaint; that *in other respects* Great Britain is placed by the United States on the footing of *the most favored nation* in her intercourse between her West India colonies and the United States.

Mr. Gallatin, in making this averment, appears to overlook another enactment contained in the same act of Congress which imposed the discriminating duties—an enactment hardly less injurious to the commerce and navigation of Great Britain. That enactment, in substance, provides that no British ship entering an American port from the United Kingdom, or from any other British possession, except directly from the West India colonies, shall be allowed to clear from any port of the United States for any of those colonies.

If it is intended to be maintained that because the British act of 1822 permits only a direct trade between our colonies and the United States in American ships, the prohibition of a trade through the United States, between the mother country and her colonies, is therefore fair reciprocity; that position resolves itself in effect into the first of the three arguments into which Mr. Gallatin's statement has been divided, and may be comprehended in the same answer. It furnishes a striking illustration of the general misconception which has already been noticed as pervading Mr. Gallatin's note in respect to the character of colonial trade.

To allow a foreign ship to enter colonial ports at all, and upon any terms, is a *boon;* to withhold from a ship of a country having colonies trading from the mother country to a foreign State, under a regular treaty between the two countries, the right of clearing for another port belonging to that mother country in another part of the world, is *an injury*

That right has been denied to Great Britain by the United States, not perhaps in contradiction to the letter, but undoubtedly in deviation from the spirit of the treaty of 1815. It is a right which existed and was enjoyed before the treaty of 1815 was framed—at a period, that is, when no claim to any trade with our colonies had been even whispered by the United States—and it could not therefore be, by any just reasoning, connected with that trade or made dependent upon it. It is a right which friendly nations, trafficking with one another, are so much in the habit of allowing to each other that it is exercised as matter of course, unless specifically withholden. The colonial trade, on the contrary,

by the practice of all nations having colonies, is a trade interdicted, as a matter of course, unless specifically granted.

It must not be forgotten that this enactment, founded professedly on the limitations of the British act of Parliament of 1822, is continued fourteen months after the passing of the British act of 1825, by which the limitations of 1822 were done away. Since which 5th of January, 1826, an American ship trading to a British West India colony may clear out from thence to any part of the world, the United Kingdom and its dependencies alone excepted. But the British ship in the American port still remains subject to all the restrictions of the American law of 1823, prohibiting a trade through the United States between the mother country and her West India colonies.

Mr. Gallatin, in his note of the 26th of August, states that "it is well known that the delay in renewing the negotiation upon the subject of the colonial intercourse on principles of mutual accommodation is due to causes not under the control of the United States—*principally to the state of the health of Mr. King.*"

Upon this point the undersigned has only to observe that no intimation that Mr. King had received instructions which would have enabled him to resume the negotiation was ever before communicated to the British Government. On the contrary, the only communication at all relating to this matter which has ever reached him in any authentic shape was in a despatch from Mr. Vaughan, dated the 22d of March last, wherein the minister states that "Mr. Clay had informed him that *he should not be able to furnish Mr. King with his instructions before the end of the month of May,* to enable him to recommence the negotiation."

But, whatever may be the date or tenor of the instructions under which Mr. Gallatin acts, he will have collected from this note that, after all that has passed upon the subject of colonial intercourse, and especially after the advised omission by the Government and Legislature of the United States to meet (as other nations have done) the simple and direct provisions of the act of 1825, the British Government cannot consent to enter into any renewed negotiation upon the intercourse between the United States and the British colonies, so long as the pretension recorded in the act of 1823, and there applied to British colonies alone, remains part of the law of the United States.

But the British Government further owes to the spirit of frankness which it wishes to cultivate in all its relations with the United States to declare that, after having been compelled to apply to any country the interdict prescribed by the act of 1825, the British Government cannot hold itself bound to remove the interdict, as a matter of course, whenever it may happen to suit the convenience of the foreign Government to reconsider the measures by which the application of that interdict was occasioned.

It is not made matter of complaint by the British Government that the United States have declined conditions which other nations have thought worthy of their acceptance.

It is, on the other hand, not the fault of the British Government if the United States have suffered the time to pass by at which it might have been an object of greater importance to this country to induce the United States to come into their proposals.

The United States exercised upon this point a free judgment; and they can, on their part, have no reason to complain that Great Britain, after allowing ample time for maturing that judgment, is contented to abide the result of their decision.

The undersigned requests Mr. Gallatin to accept the assurance of his high consideration.

GEORGE CANNING.

FOREIGN OFFICE, *September* 11, 1826.

P. S.—The undersigned, on reading over the preceding observations, finds that he has omitted to notice one or two subordinate points touched upon in Mr. Gallatin's note of the 26th of August.

The first relates to the trade between the United States and the British possessions in the East Indies; the second, to the intercourse by inland navigation between the United States and the British possessions in North America.

With regard to the former, it is only necessary to state that the trade with the East Indies remains upon the footing on which it was established by the conventions of 1815 and 1818, with which conventions it is expressly stated in the order in council that the provisions of that order are not intended in any way to interfere.

In respect to the second point, relative to the intercourse by inland navigation between the United States and the British North American provinces, the undersigned begs to inform Mr. Gallatin that that intercourse, so far as relates to the Canadas, is regulated by the act of Parliament of 1825, by which the same duties are expressly imposed on the vessels and boats of the United States importing any goods into either of those provinces as are, or may be for the time being, payable in the United States of America on British vessels or boats entering the harbors of the State from whence such goods shall have been imported.

The discriminating duties, besides, only apply to trade by *sea;* and if, in any instance, they have been levied upon American goods brought into his Majesty's possessions by inland navigation, or on the boats and vessels employed in that navigation, there will be no difficulty in directing the amount so levied to be repaid, unless it should appear that the like duties had been levied in the American ports upon the inland navigation and trade of the British provinces.

G. C.

Mr. Gallatin to the Secretary of State, dated London, September 22, 1826.

[Despatch No. 13.—Extract.]

"I have the honor to enclose the copy of my answer to Mr. Canning's note of the 11th instant, relating to the order in council of 27th of July last."

Mr. Gallatin to Mr. Canning.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, has the honor to acknowledge the receipt of the note of the 11th instant, addressed to him by Mr. Canning, his Majesty's principal Secretary of State for Foreign Affairs, in answer to that of the undersigned of the 26th ultimo, on the subject of the order in council of the 27th of July.

The undersigned apprehends that the object of his note of the 26th ultimo may not have been altogether understood. It was not his intention to make on that occasion a full exposition, much less to argue in support of either his own opinions or those of his Government, upon the whole matter to which the order in council relates.

His opinion of the character of the colonial trade did not enter into the view he was taking of the subject. He is not aware to have expressed that of his Government upon any other point than that of the preference it gave to an arrangement by treaty to regulations respectively enacted by each country.

The arguments ascribed to him seem to be rather inferences to which he might not have objected, did he not feel bound to disclaim any intention on his part to have suggested what the British Government *ought* to have done; an expression applicable only to the case of an alleged violation of a positive or implied obligation.

The object of the note of the undersigned was simply what it purported to be: to express his regret that, under existing circumstances, the order in council should have been issued, and to avow his inability to discover its motive. This has now been frankly and distinctly explained by Mr. Canning. And the principal error which pervades the note of the undersigned is, that he had supposed that the intercourse between the United States and the colonies of Great Britain was still considered as beneficial to her; that he was wholly unaware that the interdict on that intercourse in American vessels was founded in considerations of a general nature, and connected with an intention not to renew, at least for the present, the negotiations on this subject.

It is true that the undersigned had overlooked the fact that, since the 5th of January, 1826, the indirect intercourse was allowed in American and forbidden in British vessels; and, to that extent, his assertion of a perfect equality existing between the vessels of both nations was erroneous, though, in reality, the want of equality in that respect may have been compensated by other restrictions and charges imposed on American vessels.

The undersigned has it not in his power to assign the reasons why the provisions of the act of Congress of 1823, relating to that indirect intercourse, have been continued in force after the corresponding restrictions of Great Britain had been removed, so far as related to foreign countries. It is not improbable that the attention of the Government of the United States having been principally turned to the general question whether it was not most eligible that the trade should be regulated by treaty or by the respective laws of the two countries, the fact that this particular restriction had been thus revoked by the act of Parliament of 1825 may have escaped its notice.

The communication made in the latter part of Mr. Canning's note of the intentions of the British Government would not seem, considered done, to impose any other duty on the undersigned than to transmit it to his own. But it is accompanied by various observations, one of which at least has almost the appearance of a charge against the Government of the United States, and it may not be improper for the undersigned to avail himself of the opportunity thus afforded once more to state the view of the whole subject which is entertained by the United States.

Great Britain asserts as clear and undoubted the right to give to the United States, or to withhold from them, the privilege of trading with her West India colonies, to reserve to herself that trade, and generally to open the ports of those colonies to foreign Powers, or to keep them closed, as may suit her own convenience, wholly or partially, unconditionally or conditionally, and if conditionally, on what conditions she pleases.

As an abstract and general proposition the right is not denied; but considered purely as a matter of right, this, which is an attribute of sovereignty, applies to all other territories as well as to colonies.

Every nation has the abstract right generally, and not in reference to her colonies alone, to close or to open her ports to foreign vessels or merchandise, and to grant the indulgence wholly or partially, conditionally or unconditionally. This right has been, and continues to be, exercised occasionally by every nation in the shape of navigation, prohibitory, and restrictive laws, operating unequally on different nations.

The real distinction between the trade of foreigners with colonies and that with other territories seems to consist not in a greater or less complete right, but in a difference in the usage and practice. It has long since been found that if commerce with foreign nations was advantageous, it was necessary, in order to enjoy it, to suffer them to participate in it.

That an exclusive monopoly of the colonial trade was not the best mode of preserving colonies, or of promoting their prosperity, is a recent discovery. But since the late final separation of the greater part of the continent of America from the mother countries, and now that more enlightened views prevail as respects the remaining colonies, the former peculiar character of the colonial trade is almost lost. The abstract right being the same, and the ancient system of colonial policy having been nearly abandoned, it is difficult to perceive any striking difference between the trade with colonies and that with the mother country.

These are general observations drawn from the undersigned by the repeated references to an abstract right, which is not questioned, and by the effort to consider still the commerce with colonies as essentially differing from every other. But the intercourse between the United States and the British West Indies has, in fact, always been considered by both parties as of a peculiar character, which distinguished it from every other species of colonial trade; and the declarations of the United States to participate in that commerce are of a much earlier date than Mr. Canning seems to have been aware of.

As early as the year 1783 the Government of Great Britain, deviating from that principle of the colonial system, according to which her colonies were prohibited from trading directly with any other country, allowed her West India colonies to trade directly with the United States of America in British vessels. This permission had been continued almost without any interruption till the year 1822, when a more extensive change in the colonial policy superseded that partial measure. And during the European war Great Britain found it convenient [not] occasionally, but repeatedly, to open her West India ports to American vessels, at the same time that she was asserting the principle, uniformly denied by the

United States, that a neutral was not authorized by the laws of nations to carry on in time of war a trade with a colony in which he was not permitted to participate in time of peace.

Had Great Britain, adhering to her colonial system, interdicted the intercourse altogether, and always, in war as in peace, in British as well as in American vessels, no claim on that subject would or could have been advanced by the United States. But that trade having been allowed by Great Britain, it may be said from the beginning and at all times, became thereby so far assimilated to that with her European dominions that the United States did think that they had the same claim to a participation in both. The serious difficulties in which they were involved more than once, by the pretensions of Great Britain to adhere to what has been called the rule of the seven years war, rendered it also questionable whether it might not be better policy to reject, in time of war, a trade which was not allowed in time of peace, or to claim in time of peace that which was allowed in time of war.

The United States always did believe that the compensation for what Great Britain considers as a concession, as a boon, was found in the advantages resulting to her from the trade itself. And it must not be forgotten that she, as well as all other nations, participates gratuitously in the trade of countries which, as colonies, were till lately closed to foreigners, which, had they fallen into her hands, would have still been considered as such, and which, by their incorporation with the United States, have been thrown open to the world. Indeed, had Louisiana belonged to any other country, and been its only colony, the admission therein of British vessels and commerce, as contemplated by the act of Parliament of 1825, would alone have been sufficient to extend to such country the privileges offered on certain conditions by that act.

Taking all the facts and circumstances which have been stated into consideration, the United States have been of opinion that they might, without violating the regard due to the usages and opinions of others, claim to treat on that subject as on that of any other commercial intercourse, and on the basis of equal and reciprocal conditions.

The claim has accordingly been brought forward, and considered by both parties as a fit subject for negotiation, from the time when any of a commercial nature first commenced between the two countries.

An article on that subject made part of the treaty of 1794, but was found so inadequate, and was accompanied by such restrictions and conditions, as to induce the United States to reject it at the risk of losing the whole treaty.

The sixth article of the unratified treaty of 1806 stated that "the high contracting parties, *not having been able to arrange at present, by treaty*, any commercial intercourse between the territories of the United States and his Majesty's islands and ports in the West Indies, agree that, *until that subject shall be regulated in a satisfactory manner*, each of the parties shall remain in the complete possession of its rights in respect to such an intercourse." A similar reservation of rights made part of the convention of 1815, renewed and prolonged in 1818.

In the negotiation of 1818, and in every subsequent one relating to the colonial intercourse, the determination of the United States to conclude no arrangement unless founded on a fair reciprocity has been distinctly avowed. The undersigned had always understood that, however differing as to the extent of the intercourse and other important points, that basis had not been objected to on the part of Great Britain.

Every article, indeed, proposed then or since by her has the appearance of that character; and the preamble of the counter-projet offered on the 4th of June, 1824, by the British plenipotentiaries states that "his Britannic Majesty and the United States of America, being desirous to regulate, by mutual agreement and on *principles of just reciprocity*, the trade now open, under their respective laws, between the United States and the British colonies in North America and the West Indies, have," &c.

The third proposed article again declares it to be "the desire and intention of the high contracting parties to place the trade in question on *a footing of just reciprocity*."

It is believed that the difficulties which have prevented an arrangement satisfactory to both parties have been wholly unconnected with questions of abstract right; that they may, especially at first, have arisen in part from a reluctance on the part of Great Britain to depart too widely from her colonial policy; that, so far from being due to any objection to the principle of reciprocity, they had lately originated principally in a mutual apprehension that the proposals of the other party were a departure from that principle. The failure of an attempt to make an amicable arrangement left each party to pursue its own course; and the natural consequence has been that the measures adopted by either may not have been always satisfactory to the other; that occasionally they may have been carried beyond what the occasion required. A discussion of all that has been done in that respect on both sides would at present be unprofitable. The undersigned will confine his observations to those enactments which appear to have been most obnoxious to Great Britain, and are to be found in the act of Congress of 1823.

The first is the provision of that act whereby discriminating duties on British vessels and merchandise coming from the British colonies were not to cease until it was ascertained that no higher duties were levied in the said colonies on American vessels and merchandise than upon British vessels and like merchandise imported from elsewhere, that is to say, from other British territories, as well as from other countries. That provision might appear unusual and objectionable, but might have been expected.

The principle was implied in the article proposed by the American plenipotentiaries in 1818, at which time the object was explicitly stated and discussed, and it was distinctly expressed in another article proposed by the United States as supplementary to the convention of 1818, and delivered on the 13th June, 1819, to Lord Castlereagh by Mr. Rush.

Prior to the time when protecting duties were laid upon American produce imported into the British West Indies the United States had made proposals intended either to prevent that contingency or to reserve the right of countervailing the protecting by discriminating duties. After the protecting duties had been actually laid by the act of Parliament of 1822, they did, on the same ground, continue those alien duties, which, on account of the other provisions of that act, would otherwise have been revoked.

That claim, on their part, was at all times considered as inadmissible by the British Government. It was always said that every country had a right to protect its own produce: that Great Britain would protect that of her colonies; that the demand of America was no more founded in reason or usage than if the British Government should ask that the sugar of her colonies should be placed by the United States, as respected duties, on the same footing as that of Louisiana.

To this it was answered that the general principle advanced by Great Britain was unquestionable; but that, so long as she regulated the colonial trade on principles different from those which she applied to the commerce with her European territories, so long as she did not treat them as integral parts, but as

dependencies of her empire, the United States must necessarily consider them, in a commercial point of view, as distinct countries.

Mr. Canning has deemed it necessary to say that it cannot be supposed that Great Britain had precluded herself from extending to other nations the privilege of trading with the British West Indies, in the first instance granted in effect exclusively to the United States; a supposition which certainly never was made. And he has added that the question was now no longer, as in 1820 or 1822, between the United States and Great Britain, but between her and all the nations of the Old and New World, to all of whom she had tendered access to her colonies. Whether this last measure should produce any change in the policy of Great Britain towards the United States is, of course, a question for her to decide. As respects them, so far from thinking themselves affected by the opening of the British colonies to other foreign nations—so far from considering this as interfering with their commerce, or, in any way, as a subject of apprehension, they have hailed that measure as an important step towards that entire freedom of trade which it is their interest and their avowed wish should become universal. And considering that the British colonies had been thus, in a commercial point of view, nearly assimilated to the mother country, and might no longer be viewed as distinct countries, it became one of the principal motives for authorizing the undersigned to desist from the ground heretofore assumed, on the subject of the protecting duties laid by Great Britain on the produce of the United States imported into her colonies, and thereby to remove the principal obstacle which had till then prevented an amicable arrangement on the subject of the colonial trade. It is hardly necessary to add that the instructions which gave that authority were drawn at a time when there was not the least expectation on the part of the Government of the United States that it was intended by that of his Majesty's to interdict the intercourse, and to decline the renewal of negotiations on that point.

The other enactment of the act of Congress of 1823, on which Mr. Canning has especially animadverted, is that which forbids any British vessel, unless having come directly from the British West India colonies, to clear from a port of the United States to any of those colonies. It is said that *this right has been denied* to Great Britain by the United States, not perhaps in contradiction to the letter, but *undoubtedly in deviation from the spirit of the treaty of* 1815. Such serious charge the undersigned is bound to repel.

The argument adduced in support of that assertion rests on the gratuitous supposition that the privilege which, before the convention of 1815, British vessels coming from other ports than the British West India colonies enjoyed, to clear from a port of the United States to those colonies, was a *right* instead of a permission, which indeed was not granted to them especially, but which they had in common with all other vessels, from whatever port they might have come. The United States had the undoubted right to grant or to withhold that permission, and in that, as in every other case where the right was not restricted by treaty, to regulate the intercourse in foreign vessels between their own and foreign territories, of every description, as suited their convenience. And this general right, which existed before the convention of 1815, was by that compact preserved expressly and without exception as respected the intercourse between the United States and the British West Indies.

The indirect intercourse alluded to is so intimately connected with the trade in general, that a reservation, whereby the United States, whilst allowed to forbid the direct intercourse, would have been bound to permit it to be carried on indirectly in British vessels, would have been useless and nugatory. Since British, having in this respect a decided advantage over American vessels, on account of the circuitous voyages which they may make from England to the United States, and thence to the West India colonies, it was precisely the branch of the trade against which it was most important for the United States to preserve the right.

That right was actually enforced under the American navigation act of 1818, without being objected to, or being made a bar to negotiations. When the general restrictions of this act were repealed by the act of 1823, this particular provision was in substance retained; and the undersigned understands that his Majesty's minister at Washington objected to it, not as being a deviation from the convention, but because he erroneously believed that it had not its counterpart in the acts of Parliament then in force. In 1824 that provision appears to have been adverted to by the British plenipotentiaries only for the purpose of remarking that it confined British vessels to a direct trade in the same manner as American vessels were restricted by the act of Parliament, and even to a greater degree.

It may be here observed that neither this nor any other provision of the act of Congress of 1823 would at this time have interposed any obstacle to the favorable issue of a negotiation upon the intercourse between the United States and the British colonies. But as respects the preliminary condition, without which the British Government cannot consent to enter into any renewed negotiation on that subject, the undersigned is at a loss how to construe it. It cannot seriously be expected by his Majesty's Government that the United States, even if it had not been mentioned as a preliminary condition, should repeal their restrictions on British vessels, when not only the intercourse is altogether prohibited in American shipping, but when they are with frankness informed that a removal of that interdict will not, as a matter of course, follow such repeal on their part. What renders that allusion to a repeal of the enactments of the act of 1823 still less intelligible, it perhaps only affords an additional proof that both Governments may occasionally overlook some of the provisions contained in the laws of the other, is, that it is provided by the sixth section of that act that it shall cease to operate if at any time the intercourse in American vessels should be prohibited by a British order in council or act of Parliament, and that in such case the acts of Congress of 1818 and 1820 shall revive and be in full force. That contingency has actually taken place. As a natural consequence of the order in council, the act of 1823 ceases to be the law of the United States after the 1st of December next. And the act which Mr. Canning allows to have been justified will again revive.

The intercourse, direct and indirect, will then be prohibited by the laws of both countries. Where there is no commerce there can be no discriminating or other duties. The two countries will again be placed, as respects that intercourse, in the same situation in which they were before the act of Parliament of 1822 and that of Congress of 1823.

If there is any difference, it will consist in this: the right of Great Britain both to decline to negotiate and to continue her interdict of the intercourse, even if the United States should accede to the conditions of the act of Parliament of 1825, is incontestable. The undersigned begs leave, however, to suggest that an act excluding the United States from a trade open to the rest of the world is, as a *permanent measure*, of a different character from a general exclusion of all foreign nations.

The undersigned requests Mr. Canning to accept the assurance of his high consideration.

ALBERT GALLATIN.

UPPER SEYMOUR STREET, *September* 22, 1826.

Mr. Vaughan to Mr. Clay.

WASHINGTON, *September* 28, 1826.

SIR: I have the honor to communicate to you the substance of a despatch which I have this day received from his Majesty's Secretary of State for Foreign Affairs, in which I am directed to announce to you the determination of his Majesty's Government to allow the provisions of the act of 1825, which regulates the commerce with British colonies, to have their course.

In resorting to this determination, the conduct of his Majesty's Government is open to the imputation of tardiness, rather than to that of precipitation.

A hope had been entertained that the late session of Congress would not have been suffered to pass by without the adoption of some measure, on the recommendation of the President, for the abolition of the discriminating duties which, for three years past, have been levied in the ports of the United States on British vessels trading between the United States and the British colonies in North America and the West Indies.

A proposition made by his Majesty's Government to the United States, through the British plenipotentiaries, in the late negotiations carried on in London—a proposition, having for its object the reciprocal abolition of all discriminating duties levied on colonial intercourse, has been, since the summer of 1824, under the consideration of the American Government.

An act of Parliament passed in July, 1825, which, while it offered the liberty of trading with the British colonies to all nations, limited that liberty "to the ships of those countries which, having colonial possessions, should grant the like privileges of trading with those possessions to British ships, or which, not having colonial possessions, should place the commerce and navigation of this country and of its possessions abroad upon the footing of the most favored nation."

The United States have no colonial possessions, but they might have placed the trade of his Majesty's colonies in America in British vessels upon the footing of the most favored nation in the ports of the United States, and they have not done so.

It would have been infinitely more agreeable to his Majesty's Government that the liberal disposition manifested by England towards the United States should have produced a corresponding disposition on the part of the American Government.

But, finding themselves disappointed in their long-cherished hope that such would be the course of the Government of the United States, it remains for them only to let the provisions of the act of 1825 take their course.

I seize this opportunity to renew to you the assurances of my high consideration.

CHARLES R. VAUGHAN.

Mr. Clay to Mr. Vaughan.

DEPARTMENT OF STATE, *Washington, October* 11, 1826.

SIR: I have received and submitted to the President of the United States the note which you did me the honor, on the 28th ultimo, to address to me, communicating the substance of a despatch which you had received from the British Secretary of State for Foreign Affairs, in which you were directed to announce the determination of his Britannic Majesty's Government to allow the provisions of the act of Parliament of 1825 regulating the commerce with British colonies to have their course.

The Government of the United States have ever been anxious that the trade between them and the British colonies should be placed upon a liberal and equitable basis. There has not been a moment since the adoption of the present Constitution when they were not willing to apply to it the principle of fair reciprocity and equal competition. There has not been a time during the same period when they have understood the British Government to be prepared to adopt that principle. When the convention in 1815 was concluded, the American Government was desirous of extending its principles to the British possessions in the West Indies and on the continent of North America; but, at the instance of the British Government, those possessions were expressly excepted from the operation of the convention. Upon the agreement in 1818 between the two Powers to prolong the operation of that convention, the British Government had not made up their mind to extend its principles to those possessions. It would be as painful as unnecessary to enter into a detail of all the countervailing acts of legislation which, subsequent to that period, were resorted to by the parties in which the struggle on the side of Great Britain was to maintain her monopoly, and on that of the United States to secure an equal participation in the trade and intercourse between them and the British colonies. In 1824 a negotiation was again opened between them on this and other subjects, through Mr. Rush and Messrs. Huskisson and Canning, at London, and a gleam of hope broke out of the reconciliation of the two parties on that long-contested matter; but, as there were one or two points in relation to it on which they could not agree, the negotiation was suspended, with an understanding that it should be again renewed at some early day after the two Governments had fully deliberated on the questions which prevented an agreement. Mr. King was sent to Great Britain by the United States, as their plenipotentiary, in the spring of 1825, and, but for the state of his health, which compelled his return and rendered necessary the appointment of a successor, would have entered upon the negotiation. In the meantime, in July, 1825, the British Parliament passed the act referred to in your note; but no copy of that act has ever, at London or at Washington, been officially communicated to the Government of the United States by the British Government; nor has there been communicated to this Government any expectation of his Britannic Majesty's Government that the regulation of the intercourse with the British colonies should be effected by mutual acts of legislation. The Government of the United States, on the contrary, has reposed in full confidence that it was the view and wish of both parties that, on the resumption of the suspended negotiation, that subject should be again taken up and provided for; and, accordingly, Mr. Gallatin has carried with him instructions which we had every reason to hope and believe would enable him to concur with the British Government in an adjustment of it on terms which would be entirely satisfactory to both parties.

Judge, then, sir, of the surprise and regret which the President must have felt on receiving the information conveyed in your note. If the British act of Parliament were intended in the nature of a proposition to the Congress of the United States, it should have been officially communicated for their consideration, accompanied by those explanations which the complexity of the British system and the terms of the act rendered necessary—explanations the more necessary to a foreign Government since the act has been differently interpreted by British authorities at different places, and, it is believed, at the same place at different times. If the British Government had recollected that the subject of this intercourse was comprehended in the negotiation which both parties expected shortly to resume, it is difficult to understand on what foundation it should have placed the hope that Congress, on the recommendation of the President, would have abolished the discriminating duties. Supposing the American Government prepared to consent to their abolition, two modes of accomplishing the object presented themselves—one by treaty, and the other by acts of separate legislation. The two Governments had selected the former as the more eligible, by opening a negotiation of which there was only a temporary suspension. The terms of the British act of Parliament are general, applying to all foreign nations, and doubts, at one time, were entertained here whether it was intended to apply at all to the United States or not. If, during the three past years, the alien duties have been levied on British vessels entering the ports of the United States, during the greater part of the same period duties professed to be equal and countervailing, but really exceeding them, have been levied on vessels of the United States in the British colonial ports. If they have been discontinued, it has been done voluntarily by the British Government. The Government of the United States has not and would not have complained, during the continuance of their alien duties, of the imposition of equal duties in the British ports.

It is true that the proposal by the British plenipotentiaries to Mr. Rush was made about two years ago, and that it has been under consideration of this Government since it was received. Mr. Gallatin is now in full possession of the decision of the President, and the causes which have prevented an earlier communication of it are well known to the British Government. But if these causes had not existed, the lapse of time would not be extraordinary, especially when compared with that which had passed between the proposal of the American Government in 1815 and 1824. The act of Parliament was only passed in July of the last year. The operation commenced in January. It made a very great alteration in the British colonial system. Its provisions were numerous and complicated, and it referred to other acts also containing numerous provisions, all of which it was necessary to understand. Under these circumstances, it could not be deemed unreasonable if the American Government had required some time to ascertain the nature and effect of these changes.

If the President finds in the measure itself which you have announced just occasion for surprise, the moment which was selected for its promulgation in England is calculated to augment it. The moment was that of Mr. Gallatin's arrival in England, charged with full powers and instructions to arrange this affair upon the most liberal terms, and such as was confidently believed would be satisfactory to Great Britain. And you have, doubtless, long since communicated to the British Government the substance of conversations with me, in which you were informed that he would take with him instructions, framed in a conciliatory spirit, on all the points embraced in the negotiation which was commenced in 1824.

If the President does not require a revocation of that part of the order in council which prohibits the admission of vessels of the United States, after certain specified days, into certain British colonial ports, as a preliminary to all negotiation on the subject, it is because, faithful to the desire which he anxiously entertains of preserving the harmony and amity between the two countries, he will not follow the unfriendly example which has been exhibited by the British Government. He still cherishes the hope that the discussions between Mr. Gallatin and the British Government will terminate in an adjustment of the colonial intercourse which may advance the interests of both countries.

I request that you will accept assurances of my distinguished consideration.

HENRY CLAY.

Rt. Hon. C. R. VAUGHAN, *Envoy Extraordinary and Minister Plenipotentiary from Great Britain.*

Mr. Clay to Mr. Vaughan.

DEPARTMENT OF STATE, *October* 19, 1826.

SIR: In a conversation which I had the honor of holding with you at the Department of State a few days ago I inquired of you whether, under the act of Parliament of July, 1825, American vessels were allowed to export to foreign countries other than the dominions of Great Britain the produce of the British West India islands in like manner with British vessels, and at that time you could not inform me. Perhaps the late arrivals may enable you to supply the information. I have, under that hope, to request that you will inform me whether, according to the British interpretation of that act of Parliament, American vessels may export to and import from foreign countries other than the dominions aforesaid the produce and manufactures of those countries and colonies, respectively, in like manner with British vessels, and also whether all discriminating duties and charges, imposed either by the local authorities of the British colonies, or by the British Parliament, between vessels of the United States and British vessels have been abolished. The importance of a solution of these inquiries will readily present itself to you.

I avail myself of this occasion to renew to you a tender of my high consideration.

H. CLAY.

Rt. Hon. C. R. VAUGHAN, *Envoy Extraordinary and Minister Plenipotentiary from Great Britain.*

Mr. Vaughan to Mr. Clay.

WASHINGTON, *October* 20, 1826.

SIR: I am sorry that it is not in my power to answer satisfactorily the inquiry which you make in your note of yesterday, whether, under the act of Parliament of July, 1825, American vessels were allowed to export to foreign countries other than the dominions of Great Britain the produce of the British West Indian islands in like manner with British vessels.

I am not in possession of any documents which can lead me to put a construction upon the meaning of that act beyond the import of the words in which its provisions are conveyed.

I can only refer you, therefore, to that act, from whence you will be able to draw a just conclusion of the rule which it is intended should govern the commercial intercourse with British colonies.

I request that you will accept the renewed assurances of my distinguished consideration.

CHARLES R. VAUGHAN.

Hon. H. CLAY, *Secretary of State.*

No. 14.*

DEPARTMENT OF STATE, *Washington, November* 11, 1826.

SIR: Agreeably to the intimation given in my letter, under date the 31st ultimo, I proceed to communicate to you the view which has been taken here of the official note of his Britannic Majesty's principal Secretary of State for Foreign Affairs, addressed to you on the 11th September last.

If the British Government had contented itself with simply announcing in that note its determination no longer to treat with that of the United States on the intercourse with the British colonies, however unexpected by us such a determination would have been, we might have felt ourselves bound silently to acquiesce in the declared pleasure of his Britannic Majesty's Government. Two parties, at least, are necessary to the conduct of any negotiation, and if one absolutely declines treating, the other, of necessity, must abide by his decision. But the British Government, not satisfied with merely communicating the fact of its resolution no longer to negotiate with the United States for an arrangement of the colonial trade which might reconcile the interest and wishes of both parties, brings forward new principles, to some of which we cannot subscribe, and seeks to cast upon us the *blame* of the want of success which has attended past endeavors to effect that object, which we cannot admit. The frankness which has ever characterized all our correspondence with the British Government requires that our objections to those principles and our dissent from such an imputation should be respectfully stated. In doing this, I will begin with a brief statement of certain general propositions which are supposed to be incontestible.

It is the undoubted right of every nation to prohibit or allow foreign commerce with all or any part of its dominions, wherever situated and whatever may be their denominations, parental or colonial, or the modes of Government in the respective parts. It may prescribe for itself the conditions on which the foreign trade is tolerated; but these conditions are not obligatory upon other nations unless they in some form assent to them. All such conditions, in respect to foreign Powers, are in the nature of proposals, which they are as free to accept or decline as the other party was to tender them. If a nation has colonies it may unquestionably reserve to itself exclusively the right of trading with them.

But it cannot be admitted that in regard to foreign Powers there is anything in the nature and condition of colonies, or in the relation which subsists between them and the country to which they belong, which distinguishes the power of regulating their commerce from that which is exercised over the parent country. That parent country may have its motives of jealousy or policy for a rigorous exclusion of all intercourse between its colonies and foreigners. But the moment it chooses to relax and open its colonial ports to a foreign trade, whether the relaxation is moved by a temporary or permanent interest or necessity, the right is acquired by foreign States to examine and judge for themselves the conditions on which they are proposed to be admitted, and to reject or accept them accordingly. This right of foreign nations is conceded, in the official note which I am considering, when the colonial Power is urged by the pressure of immediate wants to throw open for a time its colonial ports, but is denied when it chooses to open them permanently. The right, in both instances, rests upon the same ground, and that is, that in all commercial exchanges, national or individual, the parties to them are equal, and have the same independent power of judging each for himself; and there is much more reason, on account of the greater duration of the interest, that the right in question should be exercised in a permanent than a temporary trade.

All commerce is founded upon mutual convenience and advantage. And this principle is equally applicable to a commerce with colonial possessions, and with the country to which they belong, or to any other country. In trading with any colonies we have no more imagined that a privilege had been gratuitously conceded to us than that we had made such a concession to the colonial Power in allowing its colonies to trade with the United States. It cannot, therefore, be admitted that any other compensation is due from the United States to Great Britain for the permission to trade with her colonies than that which springs from the mutual exchanges, which are the object of that and of all commerce. If the prosecution of any given trade be found upon experiment unprofitable to either party, that party will no longer pursue it; and we may safely confide in the discernment of individuals to repress or stimulate adventure, according to the loss or gain which may be incident to it. The British Government, fully sensible of this salutary law, was supposed, in the recent liberal commercial policy which it professed to have intended by the example of her homage, to have inculcated its observance upon all nations.

The idea that the admission into colonial ports of foreign vessels is a boon granted by the parent country, that is, a benefaction without equivalent, is as new as it is extraordinary. In that intercourse which has been allowed by the British Government between its colonies and the United States, never fully opened, sometimes entirely closed, and, when reluctantly admitted, fettered by numerous restrictions,

*This despatch was transmitted to Mr. Gallatin prior to the receipt of his answer of the 22d September to Mr. Canning's note of the 11th of the same month.

we recognize anything but a boon. The leading motive which appears to have actuated the British Government in respect to the exchange of American and colonial produce has been to sell here what could be sold, if sold at all, nowhere else so profitably, and to buy of us exactly so much as she could obtain nowhere else, at least so profitably.

On our side, whenever the trade has been open, there have been no restrictions as to the objects of exportation from the United States to the British colonies. An enumeration here of the numerous prohibitions and restrictions on the British side, upon articles both of colonial and American produce, would extend this paper to a most unreasonable length. And with respect to the transportation of the subjects of this limited trade, the aim of the British Government has been, by all its regulations, to engross a disproportionate share.

This intention was clearly developed in the treaty of 1794, and has been adhered to with steady perseverance during the thirty-two intervening years. Such an intercourse deserves to be characterized in any other way than that of a British boon to the United States.

It cannot be admitted that the fact that the United States have no colonies varies the principles applicable to an intercourse with the British colonies. In the consideration of the conditions on which a foreign trade shall be tolerated, it is of no consequence what name or what Government a State may choose to bestow on the several parts of its dominions. Some of the Territories of the United States are governed by peculiar local forms, altogether different from those of the States of the Confederacy; but we have never contended that this anomaly ought to affect the regulation of our commercial intercourse with foreign Powers. A country having no colonies may be so situated as to afford the same kind of productions as both another country and its colonies. And there may be a greater difference in the nature and value of the productions of two different countries, neither of which have colonies, than exists between those of a country and its colonies and another which has no colonies. It might as well be argued that the fact of twenty-four States composing this Union entitles it to demand concessions from all other Powers whose territory is not divided into an equal number of similar parts, or that the United Kingdom, being constituted by the union of three Kingdoms, would be justified in demanding upon that ground, from any Power composed only of a single Kingdom, more than it granted. In all commercial intercourse between different Powers the question resolves itself into one of profit and loss. If it be the interest of the parties that the trade should be allowed, it is altogether immaterial how those territories are governed or divided—both have an equal right to judge of the conditions of the intercourse. It would be most strange if the fact of a foreign State (Sweden for example) possessing a colony, no matter how unimportant, entitled such State to treat on different principles with Great Britain, in respect to an intercourse with her colonies, from the United States.

Neither can it be admitted that the possession of colonies entitles the nation holding them to the exclusive enjoyment of the circuitous navigation between the parent country and a foreign country through any or all of those colonies, upon the ground of its being the prosecution of a coasting trade, which is understood to have been taken by Great Britain. If the connexion between the United Kingdom and its numerous colonies is to be regarded in the light of that of a continuous coast, it must be allowed that this coast has very great extent. It passes around Cape Horn, doubles the Cape of Good Hope, crosses the Atlantic Ocean, penetrates almost every sea, touches every continent, and encircles the globe. A *colonial coasting trade* of this universal reach presents none of the properties of an ordinary coasting trade, except that of the identity of sovereign power. The foundation on which nations are supposed to reserve to themselves, exclusively, their own coasting trade is not merely that of monopoly, but principally because they are thereby better enabled to check all invasions of their own laws—a reason which is inapplicable to the widely dispersed condition of the British colonial possessions.

Entertaining such opinions as have been herein stated, in regard to the power of commercial regulation, the Government of the United States has always conceived that the trade between them and the British colonies was open to all considerations which are applicable to any other trade, and that it was consequently a fit subject of arrangement by treaty, or in any manner by which any other trade might be regulated. Great Britain may, undoubtedly, if she pleases, deny to herself the advantage of consulting with foreign Powers, through the accustomed organs of intercourse, as to the conditions on which, with mutual benefit, the trade may be carried on; but if she chooses to restrict herself to the single mode of regulating it by act of Parliament, it cannot be admitted either that such restriction is a necessary consequence from the nature of colonies, or, as will be hereafter shown, that it is in accordance with the practice of the British Government itself.

The British Secretary of State alleges that in 1822 the British Government opened the colonial intercourse to us, and withheld it from all other Powers; that, in effect, we thereby acquired a monopoly in the supply of the consumption of the British West Indies; but that Great Britain did not preclude herself from the right to open her colonial ports to other nations whenever it might suit her purposes. We did not ask that Great Britain should shut her colonial ports to other Powers. The occlusion was, no doubt, in consequence of the estimate which she made of her own interests, without any intention to confer an exclusive benefit upon us, as the opening of them by the act of 1825 is according to a similar estimate. We have no right to complain, and never have complained, that Great Britain seeks for the United Kingdom and for its colonies the best markets for sale and purchase, any more than we anticipate any complaint from her, if, when we are driven from her colonial ports, we should exercise the like liberty. If she has reason to felicitate herself that, by the course of events, she is enabled to draw from other sources those supplies which her colonies had been in the habit of obtaining from the United States, we have, perhaps, occasion for equal congratulation that, by the same or other events, markets have been opened to us, which may be found ample substitutes to those which it is her pleasure to close against us.

As to the monopoly which it is alleged we have enjoyed, it should be observed that the relative position of the British West India colonies to the United States, and the nature of their respective climates and productions, are eminently favorable to a mutually beneficial commerce between them. From their proximity to the United States they find their convenience in drawing from us those perishable and bulky articles which they want, rather than from more distant countries. If the West India islands were situated on the European instead of the American side of the Atlantic Ocean, and Europe could supply as cheaply and abundantly the same description of articles as the United States, the British West India colonies would prefer obtaining their necessary supplies from Europe. The United States contribute to other West India colonies in as great an extent, and share in the navigation between them as largely as they do in their intercourse with those of Great Britain. This is the effect of the law of proximity. If it be a monopoly, it has emanated from no human power, but from a much higher source. Far from repining

at the dispensations of Providence, nations, contented with the portion of his bounty which has been allotted to each, would do well to acquiesce, with cheerful submission, in the arrangements of the universe, which, in his wisdom, he has thought proper to order.

The United States have never made it a subject of serious complaint that for the indulgence which their laws have granted of unrestricted liberty of importation or exportation of whatever is produced or manufactured in the United States, or in the British colonies respectively, they have been met, in return, with a long catalogue of prohibitions and restrictions, including some of the staple commodities on both sides. Although they have desired the abolition of those restrictions, they have left it to the sole and undisturbed consideration of the British Government whether the prosperity of their colonies themselves would not be best promoted by the application to the intercourse of those liberal principles which have obtained the sanction of the present enlightened age. The Government of the United States has contented itself with insisting that, circumscribed as the trade has been, according to the pleasure of the British Government, the regulation of the navigation employed in it should be founded on principles of reciprocity, so as to allow fair competition between the vessels of the two countries.

The position now assumed, that colonial trade with foreign States is not a fit subject for negotiation with those States, but belongs exclusively to the regulation of the parent country, is entirely new. It is not sustained by the practice of other Powers having colonies. It is not sustained by the practice of Great Britain herself; and this brings me to the consideration of what has passed between the two Governments in relation to this trade.

They negotiated on that subject, to go no further back, in the year 1794. Their negotiations resulted in the 12th article of the treaty of amity, commerce, and navigation, which was then concluded. The very fact of treating between two independent States implies the right in each of considering and determining the mutual propositions which may be offered. The two Powers again negotiated on the same subject in 1796, and because the Government of the United States did not conceive that the concessions of Great Britain, contained in the 12th article of the treaty of 1794, were equivalent to the concessions on their side, it was annulled. They again negotiated in 1815, and actually entered into stipulations which, as you well know, form a part of the convention of the 3d of July of that year, for the regulation of the British East India trade; but not being able to come to any agreement in regard to the British West India trade, it was left to the two countries to regulate this subject by their respective laws. On that occasion it was stated by Lord Castlereagh that the British Government would not regard as unfriendly any measure which the United States might think it expedient to put into operation for the regulation of that trade. And to guard against all misconception, it is moreover expressly provided in the treaty itself that "the intercourse between the United States and his Britannic Majesty's possessions in the West Indies and on the continent of North America shall not be affected by any of the provisions of this article, but each party shall remain in the *complete* possession of its rights with respect to such an intercourse." With what propriety, then, can it be affirmed that "to withhold from the ship of a country having colonies, trading from the mother country to a foreign State, under a regular treaty between the two countries, the right of clearing for another port belonging to that mother country in another part of the world, is an injury"—an injury, "*undoubtedly* in deviation from the spirit of the treaty." The regular treaty referred to excludes, by its positive terms, all regulation of the intercourse between the United States and the British colonies in the West Indies. And yet it is contended that Great Britain has the right, according to the spirit of the treaty, not only to the benefit of the application of its provisions to a subject which it alone professes to regulate, but to have them applied also to another subject which is expressly declared not to be regulated, and as to which both parties are left in the "complete possession" of all their rights. And this is insisted upon, in behalf of Great Britain, without any corresponding privilege on the part of the United States. If the treaty be competent to carry a British vessel through the British West India ports to the United States, and *visa versa*, whilst, under similar circumstances, those ports are to remain shut, by British authority, against a vessel of the United States, it would equally entitle such British vessel to pass through the ports of any and every country upon the globe to and from the United States. The United States might, without any violation of the convention of 1815, interdict all intercourse with the British West Indies direct or circuitious. And surely the right to adopt the stronger and more comprehensive, includes the choice of the weaker measure—that of prohibiting to be done by British vessels what Great Britain prohibits, under analogous circumstances, American vessels from doing. It is alleged that that right, from the enjoyment of which we are interdicted by British regulation, nevertheless existed in Great Britain antecedently to any treaty, and at a period when no claim to any trade with British colonies had even been whispered by the United States. As a *right* it never existed one moment since the independence of the United States. If the privilege were exercised, it was from their moderation and by their sufferance. Since that epoch we are unaware of any period of time when the United States did not claim a reciprocal intercourse with the British colonies. The two countries again unsuccessfully negotiated in relation to the colonial trade in 1817, when Lord Castlereagh submitted a draught of four articles, which did not prove acceptable, and in 1818, and 1819, and finally in 1824. What was the footing on which the intercourse had been placed by the laws of the two countries at the period of opening that last negotiation, you will see by adverting to the instructions of my predecessor under date June 23, 1823, with a copy of which you have been furnished. The long and arduous discussions which took place between Mr. Rush and Messrs. Huskisson and S. Canning in 1824 brought the parties very near together. Each exchanged with the other the proposal with which he would be satisfied, but, as they could not then agree upon either, it was concluded to suspend the negotiation, with a distinct understanding, on both sides, that it should be again resumed at some convenient day. (See protocol of the 25th conference, page 131 of the printed pamphlet.) From a comparison of the American and British proposals (see the former, annexed to the protocol of the third conference, marked A, page 133 of the same pamphlet, and the British counter-projet, marked L, page 142—see also the British paper, marked W, page 135,) it will be seen—

1. That both parties were willing to abolish all discriminating duties on either side.

2. That the British Government was satisfied, and actually offered, that the intercourse should continue restricted to the direct voyage, as it then was by the respective laws of the parties; that is to say, that an American vessel clearing from the British West Indies, with their produce, for an American port, should be required to land her cargo in such port; and, on the other hand, a British vessel clearing from the United States, with their produce, for a colonial port, should be required to land her cargo in such port.

But thirdly, the point on which the parties could not then agree was, that the United States insisted

that American produce should be admitted into the British colonial ports upon the same terms as similar produce received from anywhere else; that is, either from a British possession or any foreign country.

Such an equal admission of our produce was contended for, in pursuance of the enactments of the Congress of the United States in the act of March, 1823.

Thus the two parties amicably separated, I repeat, with the perfect understanding of each, that the negotiation, in which such encouraging progress had been made, should be resumed and brought to a final conclusion at some future day. To that renewed negotiation the United States have invariably looked with the confident hope that, when the parties again met, they would be able to reconcile the only difference which obstructed an adjustment. They never could have dreamt that, without the smallest previous notice, and at the very moment of the arrival in England of a new American minister, fully prepared to resume the negotiation, it was to be suddenly arrested, and the new ground for the first time taken, that the subject itself was of a nature to admit of no negotiation. Entire confidence being reposed on the resumption of the negotiation, as the means on which both parties relied, upon the recall of Mr. Rush, in the spring of 1825, Mr. King was sent to replace him, fully empowered to treat on all the subjects (including the colonial trade) of the previous negotiation. He was instructed, in the first instance, as being a subject of more pressing urgency, to invoke the interposition of the British Government to remove the impediments to the execution of the St. Petersburg convention, which had been created by the British commissioner at Washington. And he was informed that his instructions on the objects of the suspended negotiation should be transmitted to him in time again to open it. They would have been so transmitted but that, upon his arrival in England, in the month of June, 1825, he was indisposed, that he learnt that his Britannic Majesty was ill, and that Mr. Canning was also unwell, and, moreover, that the British Cabinet was dispersed over the island, or upon the continent, in the pursuit of health and recreation. Happily his Britannic Majesty and his principal Secretary of Foreign Affairs were restored to health. The British Cabinet did not reassemble until the autumn of 1825, and Mr. King unfortunately remained feeble and unwell up to the period of his return to the United States in consequence of his indisposition. If his instructions were not forwarded to him, it was because it was known that he was engaged in discussions respecting the St. Petersburg convention, and it was believed that his languid condition did not admit of his entering upon the discharge of the more arduous duty of resuming the suspended negotiation. It would now seem to have been altogether useless to have transmitted them, the British Government having made up their mind, from the passage of the act of Parliament of July, 1825, to close the door of negotiation. Such a purpose was never hinted to the Government of the United States. On the contrary, as late as March 22, 1826, Mr. Vaughan addressed an official note to this Department, in which he stated, "I have received instructions from his Majesty's Government to acquaint you that it is preparing to proceed in the important negotiations between that country and the United States, now placed in the hands of the American minister in London; Mr. Huskisson has been already introduced to Mr. R. King, as his Majesty's plenipotentiary, and the Minister of State, having the Department of Foreign Affairs, has received his Majesty's commands to associate Mr. Addington, late his Majesty's Chargé d'Affaires in America, with Mr. Huskisson, as joint plenipotentiary on the part of Great Britain.

"The negotiations will therefore be forthwith resumed, and it will be for the Government of the United States to judge whether, considering the state of the health of Mr. Rufus King, which Mr. Canning laments to say has been, since his arrival in England, far from satisfactory, will join any other negotiator in the commission with him." If the British Government had then intended to bar all negotiation in respect to the colonial trade, no occasion could have been more fit than the transmission of that note to communicate such intention. So far from any such purpose being declared, it is formally notified to the American Government that the British Government is *preparing* to proceed in the important negotiations, &c., and that the negotiations will be forthwith *resumed*, [of course including the colonial trade.] It appears from the same note, that the British Government was perfectly acquainted with the feeble condition of Mr. King, and therefore made the friendly suggestion of associating some other persons with him to conduct the negotiation. Mr. Vaughan was verbally informed that we should prepare, as soon as practicable, to renew the negotiation, and that the state of Mr. King's health would be taken into consideration. The President did deliberate on it, and your willingness to be associated with Mr. King in that public service was ascertained.

In the meantime, and before the necessary arrangements could be made for your departure, a letter from Mr. King, under date the 21st day of March, 1826, was received, desiring permission to return, which was promptly granted, and you were immediately appointed, by and with the advice and consent of the Senate, to succeed him. Without any unnecessary delay you proceeded on your mission, charged with instructions, framed in the most amicable spirit, to renew the suspended negotiation on all points.

It is now necessary to turn back to the British act of Parliament of July, 1825. That act has never to this moment been officially communicated to the American Government by that of Great Britain, and it reached us only through other channels.

We did not suppose, whatever may be the general terms of its enactments, that it was intended to be applied to the United States until, at least, the experiment of the renewed negotiation should have been tried and should have failed. We entertained that supposition because both parties, by all their correspondence and public acts, appeared to regard the renewed negotiation as the means of settling the existing difference. We had other cogent reasons for that supposition. If the British Government intended irrevocably to abide by the conditions which the act of Parliament prescribed, we believed, not only that it would have been officially communicated with a notification to that effect, but that the British minister would have been instructed to give such information as might be necessary to enable us clearly to comprehend its provisions.

This information to a foreign Government could not be deemed altogether unreasonable in respect to an act of Parliament, extremely complicated, spread out into eighty-six sections, besides various tables, and which was accompanied by a contemporaneous act relating to the same subject; also containing numerous provisions, and both referring to other acts of Parliament, the titles of some of which are not even recited. Not only was no such information ever communicated, but you will perceive, from the accompanying correspondence with Mr. Vaughan in the last month, that up to that time he was not provided with instructions to afford a satisfactory answer to the inquiry, whether, according to the British interpretation of the act of Parliament, American vessels may trade between the British colonies and foreign countries other than the United Kingdom in like manner with British vessels, and whether all discriminating duties and charges imposed, either by the local authorities or by the British Parliament, between vessels of the United States and British vessels have been abolished.

The importance of the latter inquiry was increased by information which had reached us that lately, during the present year, the Government of Nova Scotia had passed an act by which American vessels were subjected to higher duties or charges than British. That we sincerely believed that negotiation, and not legislation, was the means by which it was expected an arrangement was to be effected by the parties, will further appear from a letter addressed by me, on the 25th day of December, 1825, to a member of Congress, a copy of which is herewith transmitted. In that letter the opinion is expressed that the British Government could not have intended to apply the act of Parliament of July 5, 1825, to the intercourse between the United States and the British colonies, because, "first, it would be inconsistent with professions made by that Government to this, and with negotiations between the two Governments contemplated, if not yet resumed; secondly, no notice has been given at Washington or at London of such a purpose as that which, for the first time, is indicated at Halifax; thirdly, the British minister here is unadvised by his Government of any intention to close the colonial ports against our vessels; and, fourthly, no information has been received here from any British colonial port, except Halifax, of such intention."

This letter was published in the American gazettes. A copy of it was furnished to Mr. Vaughan, which he is understood to have transmitted to his Government; and it is believed to have had some effect in producing the revocation of an order of the local Government by which the port of Halifax was to have been closed against vessels of the United States from the 5th of January last. The order was, in fact, from whatever cause, revoked; and as that port, and all other British colonial ports remained, after that day, open to our vessels, we were confirmed in the belief that the act, in the present state of the relations of the two countries, was not intended to be enforced on the commerce of the United States. This belief was further strengthened by the terms of the fourth section of the act, which are: "And whereas, by the law of navigation, foreign ships are permitted to import into any of the British possessions abroad, from the countries to which they belong, goods the produce of those countries, and to export goods from such possessions to be carried to any foreign country whatever; and whereas it is expedient that such permission should be subject to certain conditions: Be it therefore enacted, that the privileges thereby granted to foreign ships shall be limited to the ships of those countries which, having colonial possessions, shall grant the like privileges of trading with those possessions to British ships, or which, not having colonial possessions, shall place the commerce and navigation of this country, and of its possessions abroad, upon the footing of the most favored nation, unless his Majesty, by his order in council shall in any case deem it expedient to grant the whole or any of such privileges to the ships of any foreign country, although the conditions aforesaid shall not, in all respects, be fulfilled by such foreign country."

Now, his Britannic Majesty was thereby authorized, by his order in council, if he should, in any case, deem it expedient to grant the whole or any of the privileges mentioned in the section to the ships of any foreign country, "although the conditions aforesaid shall not, in all respects, be fulfilled by such foreign country." This investment of power in the Crown to dispense with a strict compliance with the conditions of the act in relation to any Powers, like the United States, not having colonies, seemed necessarily to imply discussion, and consequently negotiation with such Powers. It is not the object, in bringing forward the facts and observations which have been stated in vindication of the American Government, to convey any reproaches against that of Great Britain on account of the late unexpected resolution which it has taken. These facts and observations, however, show that it ought not to excite any surprise that the Congress of the United States declined legislating on a matter which it appeared to them was both most fitting in itself and preferred by Great Britain to be settled by mutual and friendly arrangement. When deliberating on the only proposition which was made during their last session, that of a simple repeal of all discriminating duties, which it now appears would have been unavailing and would have fallen far short of British expectations, they were unaware that they were acting under the pains and penalties of a British act of Parliament suspended over their heads, a non-compliance with the strict conditions of which subjected the United States not only to the forfeiture of all intercourse with the British colonies, but was to be attended with the further consequence of terminating all negotiation even between the parties.

I will now proceed to a consideration of the specific conditions required by the act of Parliament, the non-fulfilment of which is the professed ground of the late British order in council. These conditions are understood to be contained in the fourth section of the act which begins by reciting, "And whereas, by the law of navigation, foreign ships are permitted to import into any of the British possessions abroad, from the countries to which they belong, goods *the produce of those countries*, and to export goods from such possessions to be carried to any foreign country whatever; and whereas it is expedient that such permission should be subject to certain conditions." It then proceeds to enact in respect to countries not having colonial possessions, "That the privileges thereby granted to foreign ships shall be limited to the ships of those countries (not having colonial possessions) which shall place the commerce and navigation of '*this* country, and of *its possessions abroad*, upon the footing of the most favored nation,' unless his Majesty, by his order in council, shall, in any case, deem it expedient to grant the whole or any of such privileges to the ships of any foreign country, although the conditions aforesaid shalln ot, in all respects, be fulfilled by such foreign country." In considering this act of Parliament, the first circumstance which commands attention is the marked difference which it makes in the conditions required of foreign Powers, between those which have colonies and those which have none. From the colonial Powers it only demands that they should grant to British ships privileges of trading with their colonies, like those which the British law of navigation grants to those Powers of trading with the British colonies—that is to say, that such Powers should allow to British vessels the privilege of importing British produce into their colonies, and of exporting goods therefrom, to be carried to any country whatever except the parent country. But, from the Powers having no colonies, the act demands that they should place the commerce and navigation, both of the United Kingdom and its possessions abroad, upon the footing of the most *favored* nation. With the colonial Powers the act proposes an exchange of colonial trade for colonial trade, exclusive of the trade of the parent country. With Powers not having colonies it proposes to give the British colonial trade only in exchange for a trade between those Powers and the United Kingdom and all its possessions abroad. From the colonial Powers it asks nothing but mere reciprocity, which, viewing the vast extent of the British colonies in comparison with those of any other Power, is only nominal. The act, on the contrary, is not satisfied with demanding from the Powers having no colonies reciprocity of privileges, but it requires that, in consideration of the permission to import their produce into the British colonies, and to export therefrom produce of those colonies to any foreign country except Great Britain, those Powers should at once extend

to the commerce and navigation of the United Kingdom and its possessions abroad the full measure of all commercial privileges which they may have granted to the most favored nation. It is impossible not to see that this discrimination, made by the act of Parliament between different foreign Powers, operates exclusively upon the United States. All the maritime States have colonies, and therefore will be let into the trade with the British colonies upon the less onerous conditions. The United States are the only Power not having colonies which trades, or is ever likely to trade, in any extent with British colonies. And if they alone had been named in the second class of Powers described in the act, the application of its more burdensome conditions would not, in that case, have been more exclusively confined to them. The trade of the United States will bear an advantageous comparison with the trade of any of the colonial Powers, either in its amount or the value or variety of the articles which it comprehends; is greatly superior to that of most of them, and justly entitles us to demand from Great Britain as favorable terms as those which are extended to any of them. It is true that the act holds out the idea of some mitigation of these conditions in the authority confided to the King. But on what considerations his Britannic Majesty might be induced, by his order in council, to exercise the dispensing power vested in him, is not stated in the act itself, nor have they been disclosed by any order in council, or in any other manner which has come to our knowledge. The very investment of such a power, I repeat, implied friendly explanations and discussions, and consequently the means of negotiation which the British Government now rejects as altogether inadmissible. Being, therefore, unable to ascertain the undivulged considerations which might have led to some relaxation or variation of the conditions of the act of Parliament, we are confined to an examination of those specific conditions themselves.

They require that the United States, to entitle themselves to the permission of importation and exportation which is granted by the British law of navigation, should place the commerce and navigation of the United Kingdom and of its possessions abroad upon the footing of the most favored nation. The first observation occurring is, that, at the very moment when the British Government is putting forth the new principle that the regulation of the trade of the parent country and of its colonies depends upon two rules essentially different, the one admitting and the other excluding all consultation with foreign States, this act confounds them together, and requires not merely that we should place the British colonies upon the footing of the most favored colonies, but that, to entitle us to enjoy the privileges of an intercourse with those colonies, we must comply with the requirement of placing the navigation and commerce, both of the parent country and *all its possessions abroad*, on the footing of the most favored nation.

The first difficulty which is encountered in ascertaining the precise nature and extent of the conditions prescribed by the act of Parliament is, that it furnishes no definition of the terms, "the most favored nation," which it employs. According to one interpretation of those terms, they import the *gratuitous* concession of commercial privileges; according to another, they imply the nation which enjoys the greatest amount of commercial privilege, whether granted *with* or *without* equivalents.

That the first was not the sense in which the British Government intended to use those terms we conjectured; because, if it were, nothing remained to be done by the American Government to bring itself within the conditions of the act of Parliament, and we apprehended that the British Government required some positive act. Great Britain, in that sense of the terms, is, in respect to the commerce and navigation both of the parent country and its possessions abroad, on the footing of the most favored nation. Whatever commercial privileges are granted by the United States to any foreign nation by act of Congress, or by treaties, are founded upon equivalents. Holding out the principle of fair reciprocity to all nations, we neither ask, nor profess to bestow, commercial boons. Thus, in respect to alien or discriminating duties, we have not abolished them in behalf of any nation which has not professed to abolish them as to us. If they are now levied upon British vessels coming to the United States from British colonies, countervailing duties are now also levied upon American vessels entering British colonies, and have been constantly, as Mr. Canning declares, from 1823. If the amount of American tonnage admitted to entry in British colonial ports, and of British tonnage entering American ports from British colonies, were exactly equal, the collection of duties on one side would neutralize the collection on the other. But, as there is much more American than British tonnage employed in the colonial trade, we pay a greater amount of those duties than Great Britain. And, consequently, if there were cause of complaint on either side, on account of their existence, it would be with us. It could not, therefore, have been in the first, but must have been in the second, meaning of the terms that they are employed in the act of Parliament.

Great Britain is understood, then, to have demanded that the United Kingdom and its possessions abroad should be allowed to enjoy, in the ports of the United States, the greatest extent of commercial privileges which we have granted, no matter upon what ample equivalent, to any foreign nation whatever. In order to ascertain the latitude of concession thus required, it is necessary to glance, and it shall be done as rapidly as possible, at the state of our commercial relations with other foreign powers.

By the general law of navigation (see 6th vol. of the Laws of the United States, page 180) it is enacted that, after the 30th day of September, 1818, "no goods, wares, or merchandise shall be imported into the United States from any foreign port or place, except in vessels of the United States, or in such foreign vessels as truly and wholly belong to the citizens or subjects of that country of which the goods are the growth, production, or manufacture, or from which such goods, wares, or merchandise can only be, or most usually are, first shipped for transportation; *provided, nevertheless, that this regulation shall not extend to the vessels of any foreign nation which has not adopted, and which shall not adopt, a similar regulation.*"

Great Britain had, long prior to the passage of that act, adopted, and continues to enforce, the restriction on which it is founded; whilst almost all other nations have abstained from incorporating it in their navigation codes. A vessel, therefore, of the United States on entering a British port being limited by British law to the introduction of goods the produce of the United States, a British vessel on entering their ports is limited to the introduction of goods being of British produce; whilst the vessels of all other nations which have not adopted the restrictive regulation are allowed, on entering a port of the United States, to introduce *any* foreign produce whatever by paying the alien and discriminating duties, from which vessels of the United States are exempted.

By particular arrangements with various Powers, some by treaty, and others by separate but reciprocal acts of the Governments of the United States and those Powers, the alien duties of the United States are abolished as to them; and their vessels and those of the United States are allowed the reciprocal liberty of importation and exportation at the same rate of duty upon both ship and cargo.

Thus, by the act of Congress of January, 1824, "so much of the several acts imposing duties on the tonnage of vessels in the ports of the United States as imposes a discriminating duty between foreign

vessels and vessels of the United States is hereby suspended, so far as respects vessels truly and wholly belonging to subjects or citizens of the Kingdom of the Netherlands, of Prussia, of the Imperial Hanseatic cities of Hamburg, Lubec, and Bremen, of the Dukedom of Oldenburg, of the Kingdom of Norway, of the Kingdom of Sardinia, and of the Empire of Russia." And it enacts a like suspension of the discriminating duties on the cargo of any of the vessels of those several countries.

But it further enacts that the suspension of those duties shall "continue in behalf of each of the abovementioned nations, on condition that, and so long as, the vessels of the United States, and truly and wholly belonging to the citizens thereof, and all goods and merchandise of the produce and manufacture thereof, laden therein and imported into any of the said nations in Europe, respectively, shall be exempted from all and every discriminating duty of impost or tonnage, direct or indirect, whatsoever, other or higher than is levied upon the vessels and merchandise therein imported belonging to the subjects or citizens of each of the said nations respectively."

Thus, therefore, to comply with the conditions of the act of Parliament, we must, 1st, have allowed British vessels to import into the United States the produce of any foreign country whatever upon the payment of the alien duties, although vessels of the United States are and should have remained prohibited to import into British ports like produce upon any terms whatever; and, 2d, we must have abolished or suspended our discriminating duties, placing Great Britain upon the footing of the most favored nation, in whose behalf we had abolished or suspended them, although it now appears, from the averment of Mr. Canning, that duties of at least an equal amount have been, since the adoption of the order in council in the year 1823, and now are levied upon American vessels and their cargoes in British colonial ports.

So stood our law, and such must have been our compliance with the conditions of the act of Parliament at the time of its passage. But we suppose it to have been the understanding of the British Government, that if subsequent to that period we should grant to any foreign nation still greater privileges than those above described, by treaty or otherwise, in consideration of equivalents or not, such more extensive privileges must have immediately accrued to the United Kingdom and its possessions abroad, upon the rule of the most favored nation, or we must have subjected ourselves to the forfeiture of the colonial trade denounced by the act of Parliament.

Now, subsequently to the date of that act, to wit: on the 6th December last, we concluded a treaty with the Republic of the Federation of the Centre of America, which, having been afterwards ratified by both parties, is now in full operation. By this treaty it is stipulated that whatever can be exported from or imported into either country in its own vessels, to or from any foreign place whatever, may in like manner be exported or imported in the vessels of the other country, the vessel and the cargo paying in both cases the same and no higher duties, and consequently neither paying the alien duties. If we had entitled ourselves, by the fulfilment of the required conditions, to an intercourse with the British colonies, we would now be obliged, in order to retain the right to that intercourse, to allow British vessels, both of the parent country and its possessions abroad, a liberty of exportation and importation co-extensive with that of the vessels of the United States, although the interdict of the British law of navigation should remain in full operation on the vessels of the United States.

If we are mistaken in the extent of the concessions required by the British Government to place the United Kingdom and its possessions abroad on the footing of the most favored nation, the best and most friendly mode of correcting our error would have been to have accompanied an official communication of the act of Parliament with a full and frank explanation of those conditions, the performance of which, on our part, would have satisfied that Government. By withholding all explanation, if the Congress of the United States had legislated on that subject at its last session, it must have acted either, 1st, upon the exposition of the conditions of the act of Parliament now given; or, 2d, upon the views of the British Government as disclosed in the negotiations of 1824. It could not have conformed to the conditions of the act of Parliament, as we understand them, without a manifest sacrifice of the interests of the people of the United States, and an abandonment of those principles of reciprocity for which they have ever contended in all their negotiations with foreign powers. It now appears that it would have been unavailing if Congress had legislated in compliance with the views of the British Government as presented in the negotiations of 1824. According to those views, that Government was then willing that the trade between the colonies and the United States should continue restricted, as it then was by the laws of the two countries, to the direct intercourse—that is to say, that a British vessel clearing from the United States for a colonial port should be bound to land its cargo in that port, and an American vessel clearing from the colonies for the United States should be bound to land its cargo in them. But without any intimation to us, through the regular diplomatic channels, of an alteration in her views, Great Britain has now changed them, and on the 11th September, 1826, for the first time, announces her determination not "to consent to enter into any renewed negotiation upon the intercourse between the United States and the British colonies, so long as the pretension (the above restriction as to the direct intercourse) recorded in the act of 1823, and there applied to British colonies alone, remains part of the law of the United States." And we are also given to understand "that the British Government further owes it to the spirit of frankness, which it wishes to cultivate in all its relations with the United States, to declare that, after having been compelled to apply to any country the interdict prescribed by the act of 1825, the British Government cannot hold itself bound to remove that interdict, as a matter of course, whenever it may happen to suit the convenience of the foreign Government to reconsider the measures by which the application of that interdict was occasioned." The pretension referred to is the exact counterpart of a similar pre-existing pretension contained in the act of Parliament of 1822. The British Government does not appear to have reflected that its rejection of all negotiation on the subject deprives it of the best of the only two modes of getting rid of the exceptionable restriction.

From what has been now advanced it has been established, 1st, that the colonial trade was a fit subject for the adjustment, by friendly negotiation between the two Powers, of the conditions on which it should be carried on; 2d, that it has been long and often, in fact, a subject of negotiation between them; and, 3d, that the American Government was bound to conclude, from everything which passed between the two Governments, that both parties entertained the expectation that it was to be arranged by negotiation, and only by negotiation. It was under this full conviction that your general instructions were prepared.

What may be the nature of the proposals which you were authorized to make upon the renewal of the negotiation so confidently anticipated it is not now proper should be communicated to the British Government. Respect for ourselves, no less than for that Government, forbids that we should obtrude upon their consideration proposals against which they have deemed it proper to shut their ears. It will

be, however, no violation of that respect to say that they were of a character, on all the disputed points between the two Governments, authorizing us to believe that they would be satisfactory.

The Government of the United States is animated by the sincerest desire to maintain with that of Great Britain, not merely the forms of courtesy and amity, but to cultivate a cordial and lasting friendship; to settle every controverted question between them upon principles of justice and reciprocity, and, by an enlarged liberality in their mutual intercourse, to advance the real prosperity of both. Entertaining this desire, it has learnt with the most lively regret the resolution of the British Government to close the door against those friendly explanations and that frank and mutual exposition of the wishes and views of the parties which are, or should be, the object of all negotiation. The harmony of nations requires that every avenue to such explanations should always be kept fully open. But such a free access on all questions appears to the Government of the United States to be especially desirable between two such nations as Great Britain and the United States, whose interests and happiness are so intimately interwoven. By rejecting the ordinary mode of treating through the established agency of accredited ministers, and substituting to it that of mutual legislation, which, after all, is but another though less advantageous mode of negotiation, we deprive ourselves of many facilities. Congress and the British Parliament are numerous bodies, acting in different and distant spheres, and it is not derogating from their undoubted wisdom and superior intelligence to suppose that their organization is not the best suited to the exercise of diplomatic functions in all cases.

A single word of explanation, an instantaneous suggestion of the modification of a proposal elicited in conference, may lead to the adjustment of a difference, when ministers are treating face to face, which might not be settled for a long time in a negotiation conducted between two bodies, each composed of several hundred members, separated by the Atlantic Ocean. We do not mean to bring forward any formal complaint against Great Britain on account of her determination to exclude one of the means which experience has evinced to be best adapted to the accommodation of national differences. Our main purpose is to show that the United States are not justly chargeable with the consequences which may flow from that most unexpected decision.

As the only alternative which the course adopted by that Government has left, the President has determined to give a signal proof of his anxious wish to preserve a good understanding between the two Governments by laying the whole of the correspondence which has passed between them on this subject, including the instructions to our several ministers at the Court of St. James, before Congress at its next session. The wisdom of that body in the actual state of things is alone competent to decide whether the colonial intercourse shall remain closed, according to the pleasure of the British Government, as manifested in the late order in council, and whether that portion of it left open by the order shall remain open, or on what conditions compatible with the interests of the people of the United States Congress is willing the trade should be placed.

You will accompany the communication of the substance of this despatch, or the substance of such part of it as you may not have anticipated in any answer to Mr. Canning's note presented from yourself to the British Government, with the assurance that, notwithstanding their present decision, the Government of the United State at all times hereafter will be ready, at Washington or at London, to treat of the colonial intercourse whenever it may be their desire or inclination to negotiate on that subject.

I am, with great respect, your obedient servant,

H. CLAY.

ALBERT GALLATIN, *Envoy Extraordinary and Minister Plenipotentiary of the United States, London.*

General Convention of Friendship, Commerce, and Navigation, between the United States of America and his Majesty the King of Denmark.

BY THE PRESIDENT OF THE UNITED STATES.

A PROCLAMATION.

Whereas a general convention of friendship, commerce, and navigation, between the United States and his Majesty the King of Denmark, was concluded and signed at Washington, on the twenty-sixth day of April last, by Henry Clay, Secretary of State of the United States, on the part of the United States, and Peter Pedersen, minister resident from Denmark, on the part of Denmark, the respective plenipotentiaries of the two Powers: And whereas the said convention has been duly and respectively ratified by me, by and with the advice and consent of the Senate of the United States, and by his Majesty the King of Denmark, and the ratifications of the same have been exchanged on the tenth day of August last, at the City of Copenhagen, by John Rainals, Consul of the United States, on the part of the United States, and Count Schimelmann, Minister of Foreign Affairs of his Majesty the King of Denmark, on the part of Denmark, which convention is in the words following, to wit:

General Convention of Friendship, Commerce, and Navigation, between the United States of America and his Majesty the King of Denmark.

The United States of America and his Majesty the King of Denmark, being desirous to make firm and permanent the peace and friendship which happily prevail between the two nations, and to extend the commercial relations which subsist between their respective territories and people, have agreed to fix, in a manner clear and positive, the rules which shall, in future, be observed between the one and the other party, by means of a general convention of friendship, commerce, and navigation. With that object, the President of the United States of America has conferred full powers on Henry Clay, their Secretary of State, and his Majesty the King of Denmark has conferred like powers on Peter Pedersen, his Privy Counsellor of Legation, and minister resident near the said States, Knight of the Dannebrog, who, after having exchanged their said full powers, found to be in due and proper form, have agreed to the following articles:

ARTICLE 1. The contracting parties, desiring to live in peace and harmony with all the other nations of the earth by means of a policy frank and equally friendly with all, engage mutually not to grant any particular favor to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same freely if the concession were freely made, or on allowing the same compensation if the concession were conditional.

ARTICLE 2. The contracting parties being likewise desirous of placing the commerce and navigation of their respective countries on the liberal basis of perfect equality and reciprocity, mutually agree that the citizens and subjects of each may frequent all the coasts and countries of the other, (with the exception hereafter provided for in the sixth article,) and reside and trade there in all kinds of produce, manufactures, and merchandise; and they shall enjoy all the rights, privileges, and exemptions, in navigation and commerce, which native citizens or subjects do or shall enjoy, submitting themselves to the laws, decrees, and usages there established, to which native citizens or subjects are subjected. But it is understood that this article does not include the coasting trade of either country, the regulation of which is reserved by the parties, respectively, according to their own separate laws.

ARTICLE 3. They likewise agree that whatever kind of produce, manufacture, or merchandise, of any foreign country can be from time to time lawfully imported into the United States in vessels belonging wholly to the citizens thereof, may be also imported in vessels wholly belonging to the subjects of Denmark; and that no higher or other duties upon the tonnage of the vessel or her cargo shall be levied and collected, whether the importation be made in vessels of the one country or of the other. And, in like manner, that whatever kind of produce, manufacture, or merchandise, of any foreign country can be from time to time lawfully imported into the dominions of the King of Denmark in the vessels thereof, (with the exception hereafter mentioned in the sixth article,) may be also imported in vessels of the United States; and that no higher or other duties upon the tonnage of the vessel or her cargo shall be levied and collected, whether the importation be made in vessels of the one country or of the other. And they further agree that whatever may be lawfully exported or re-exported from the one country in its own vessels to any foreign country, may in like manner be exported or re-exported in the vessels of the other country. And the same bounties, duties, and drawbacks shall be allowed and collected, whether such exportation or re-exportation be made in vessels of the United States or of Denmark. Nor shall higher or other charges of any kind be imposed in the ports of one party on vessels of the other than are or shall be payable in the same ports by native vessels.

ARTICLE 4. No higher or other duties shall be imposed on the importation into the United States of any article the produce or manufacture of the dominions of his Majesty the King of Denmark, and no higher or other duties shall be imposed on the importation into the said dominions of any article the produce or manufacture of the United States than are, or shall be, payable on the like articles, being the produce or manufacture of any other foreign country. Nor shall any higher or other duties or charges be imposed in either of the two countries on the exportation of any articles to the United States, or to the dominions of his Majesty the King of Denmark, respectively, than such as are, or may be, payable on the exportation of the like articles to any other foreign country. Nor shall any prohibition be imposed on the exportation or importation of any articles the produce or manufacture of the United States, or of the dominions of his Majesty the King of Denmark, to or from the territories of the United States, or to or from the said dominions, which shall not equally extend to all other nations.

ARTICLE 5. Neither the vessels of the United States nor their cargoes shall, when they pass the Sound or the Belts, pay higher or other duties than those which are, or may be, paid by the most favored nation.

ARTICLE 6. The present convention shall not apply to the northern possessions of his Majesty the King of Denmark—that is to say, Iceland, the Feroe islands, and Greenland—nor to places situated beyond the Cape of Good Hope, the right to regulate the direct intercourse with which possessions and places is reserved by the parties, respectively. And it is further agreed that this convention is not to extend to the direct trade between Denmark and the West India colonies of his Danish Majesty; but, in the intercourse with those colonies it is agreed that whatever can be lawfully imported into, or exported from, the said colonies in the vessels of one party, from or to the ports of the United States, or from or to the ports of any other foreign country, may in like manner, and with the same duties and charges applicable to vessel and cargo, be imported into, or exported from, the said colonies in vessels of the other party.

ARTICLE 7. The United States and his Danish Majesty mutually agree that no higer or other duties, charges, or taxes, of any kind, shall be levied in the territories or dominions of either party upon any personal property, money, or effects, of their respective citizens or subjects, on the removal of the same from their territories or dominions reciprocally, either upon the inheritance of such property, money, or effects, or otherwise, than are, or shall be, payable in each State upon the same when removed by a citizen or subject of such State, respectively.

ARTICLE 8. To make more effectual the protection which the United States and his Danish Majesty shall afford, in future, to the navigation and commerce of their respective citizens and subjects, they agree mutually to receive and admit Consuls and Vice Consuls in all the ports open to foreign commerce, who shall enjoy in them all the rights, privileges, and immunities, of the Consuls and Vice Consuls of the most favored nation, each contracting party, however, remaining at liberty to except those ports and places in which the admission and residence of such Consuls may not seem convenient.

ARTICLE 9. In order that the Consuls and Vice Consuls of the contracting parties may enjoy the rights, privileges, and immunities, which belong to them, by their public character, they shall, before entering on the exercise of their functions, exhibit their commission or patent in due form to the Government to which they are accredited; and having obtained their exequatur, which shall be granted gratis, they shall be held and considered as such by all the authorities, magistrates, and inhabitants in the consular district in which they reside.

ARTICLE 10. It is likewise agreed that the Consuls and persons attached to their necessary service, they not being natives of the country in which the Consul resides, shall be exempt from all public service, and also from all kind of taxes, imposts, and contributions, except those which they shall be obliged to pay on account of commerce or their property, to which inhabitants, native and foreign, of the country in which such Consuls reside, are subject, being in everything besides subject to the laws of the respective States. The archives and papers of the consulate shall be respected inviolably, and under no pretext whatever shall any magistrate seize or in any way interfere with them.

ARTICLE 11. The present convention shall be in force for ten years from the date thereof, and, further, until the end of one year after either of the contracting parties shall have given notice to the other of its intention to terminate the same: each of the contracting parties reserving to itself the right of giving

such notice to the other at the end of the said term of ten years; and it is hereby agreed between them that, on the expiration of one year after such notice shall have been received by either from the other party, this convention, and all the provisions thereof, shall altogether cease and determine.

ARTICLE. 12. This convention shall be approved and ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by his Majesty the King of Denmark, and the ratifications shall be exchanged in the City of Copenhagen within eight months from the date of the signature hereof, or sooner if possible.

In faith whereof, we, the plenipotentiaries of the United States of America and of his Danish Majesty, have signed and sealed these presents.

Done in triplicate, at the City of Washington, on the twenty-sixth day of April, in the year of our Lord one thousand eight hundred and twenty-six, in the fiftieth year of the Independence of the United States of America.

H. CLAY.
PR. PEDERSEN.

Now, therefore, be it known that I, JOHN QUINCY ADAMS, President of the United States, have caused the said convention to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this fourteenth day of October, in the year of our Lord one thousand eight hundred and twenty-six, and of the Independence of the United States the fifty-first.

JOHN QUINCY ADAMS.

By the President:
H. CLAY, *Secretary of State.*

ADDENDUM.

Mr. Clay to Mr. Pedersen.

DEPARTMENT OF STATE, *Washington, April* 25, 1826.

The undersigned, Secretary of State of the United States, by direction of the President thereof, has the honor to state to Mr. Pedersen, minister resident of his Majesty the King of Denmark, that it would have been satisfactory to the Government of the United States if Mr. Pedersen had been charged with instructions, in the negotiation which has just terminated, to treat of the indemnities to citizens of the United States, in consequence of the seizure, detention, and comdemnation of their property in the ports of his Danish Majesty. But as he has no instructions to that effect, the undersigned is directed, at and before proceeding to the signature of the treaty of friendship, commerce, and navigation, on which they have agreed, explicitly to declare that the omission to provide for those indemnities is not hereafter to be interpreted as a waiver or abandonment of them by the Government of the United States, which, on the contrary, is firmly resolved to persevere in the pursuit of them until they shall be finally arranged upon principles of equity and justice. And to guard against any misconception of the fact of the silence of the treaty in the above particular, or of the views of the American Government, the undersigned requests that Mr. Pedersen will transmit this official declaration to the Government of Denmark. And he avails himself of this occasion to tender to Mr. Pedersen assurances of his distinguished consideration.

H. CLAY.

The Chevalier PEDERSEN, *Minister resident from Denmark.*

The Chevalier Peter Pedersen to Mr. Clay.

WASHINGTON, *April* 25, 1826.

The undersigned, minister resident of his Majesty the King of Denmark, has the honor herewith to acknowledge having received Mr. Clay's official note of this day, declaratory of the advanced claims against Denmark not being waived on the part of the United States by the convention agreed upon and about to be signed, which note he, as requested, will transmit to his Government. And he avails himself of this occasion to renew to Mr. Clay assurances of his distinguished consideration.

P. PEDERSEN.

HON. HENRY CLAY, *Secretary of State of the United States.*

General Convention of Peace, Amity, Commerce, and Navigation, between the United States of America and the Federation of the Centre of America.

BY THE PRESIDENT OF THE UNITED STATES.

A PROCLAMATION.

Whereas a general convention of peace, amity, commerce, and navigation, between the United States of America and the Federation of the Centre of America, was concluded and signed at Washington on the fifth day of December, in the year of our Lord one thousand eight hundred and twenty-five; which convention, being in the English and Spanish languages, is word for word as follows:

ORIGINAL.

General Convention of Peace, Amity, Commerce, and Navigation, between the United States of America and the Federation of the Centre of America.

The United States of America and the Federation of the Centre of America, desiring to make firm and permanent the peace and friendship which happily prevails between both nations, have resolved to fix, in a manner clear, distinct, and positive, the rules which shall in future be religiously observed between the one and the other, by means of a treaty or general convention of peace, friendship, commerce, and navigation.

For this most desirable object, the President of the United States of America has conferred full powers on Henry Clay, their Secretary of State, and the Executive power of the Federation of the Centre of America on Antonio José Canas, a Deputy of the Constituent National Assembly for the Province of San Salvador, and Envoy Extraordinary and Minister Plenipotentiary of that Republic near the United States, who, after having exchanged their said full powers in due and proper form, have agreed to the following articles:

ARTICLE 1. There shall be a perfect, firm, and inviolable peace and sincere friendship between the United States of America and the Federation of the Centre of America, in all the extent of their possessions and territories, and between their people and citizens, respectively, without distinction of persons or places.

ARTICLE 2. The United States of America and the Federation of the Centre of America, desiring to live in peace and harmony with all the other nations of the earth by means of a policy frank and equally friendly with all, engage mutually not to grant any particular favor to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same freely if the concession was freely made, or on allowing the same compensation if the concession was conditional.

ARTICLE 3. The two high contracting parties, being likewise desirous of placing the commerce and navigation of their respective countries on the liberal basis of perfect equality and reciprocity, mutually agree that the citizens of each may frequent all the coasts and countries of the other, and reside and trade there in all kinds of produce, manufactures, and merchandise, and they shall enjoy all the rights, privileges, and exemptions in navigation and commerce which native citizens do or shall enjoy, submitting themselves to the laws, decrees, and usages there established to which native citizens are subjected. But it is understood that this article does not include the coasting trade of either country, the regulation of which is reserved by the parties, respectively, according to their own separate laws.

ARTICLE 4. They likewise agree that whatever kind of produce, manufacture, or merchandise, of any foreign country, can be from time to time lawfully imported into the United States in their own vessels, may be also imported in vessels of the

ORIGINAL.

Convencion General de Paz, Amistad, Comercio, y Navegacion, entre la Confederacion de Centro America i los Estados-Unidos de America.

La Federacion de Centro-America i los Estados-Unidos de America, deseando hacer firme i permanente la paz i amistad que felizmente existe entre ambas potencias, han resuelto fijar de una manera clara, distinta y positiva, las reglas, que deben observar religiosamente en lo venidero, por medio de ún tratado ó convencion general de paz, amistad, comercio, y navegacion.

Con este muy deseable objeto, el Poder Executivo de la Federacion de Centro-America, ha conferido plenos poderes à Antonio José Canas, diputado de la Asemblea Nacional Constituyente por la Provincia de San Salvador, i Enviado Extraordinario i Ministro Plenipotenciario de la aquella Republica cerca de los Estados-Unidos, y el Presidente de los Estados Unidos de America, á Henrico Clay, su Secretario de Estado, quienes despues de haber canjeado sus espresados plenos poderes en debida i buena forma, han convenido en los articulos siguientes:

ARTICULO 1. Habra una paz, perfecta, firme, é inviolable y amistad sincera entre la Federacion de Centro-America y los Estados-Unidos de America, en toda la estencion de sus posesiones y territorios, y entre sus pueblos y ciudadanos respectivamente sin distincion de personas ni lugares.

ARTICULO 2. La Federacion de Centro-America y los Estados-Unidos de America, deseando vivir en paz y harmonia con las demas naciones de la tierra, por medio de una politica franca, é igualmente amistosa con todas, se obligan mutuamente à no conceder favores particulares à otras naciones, con respecto à comercio y navegacion, que no se hagan inmediatamente comun à una ù otra quien gozarà de los mismos libremente, si la concesion fuese hecha libremente ó prestando la misma compensacion, si la concesion fuere condicional.

ARTICULO 3. Los dos altas partes contratantes deseando tambien establecer el comercio y navegacion de sus respectivos paises sobre las liberales bases de perfecta igualidad y reciprocidad, convienen mutuamente que los ciudadanos de cada una podran frecuentar todas las costas y paises de la otra y residir i traficar en ellos con toda clase de producciones, manufacturas, i mercaderias, i gozaran de todos los derechos, privilegios y esempciones con respecto à navegacion i comercio que gozan ó gozaren los ciudadanos nativos, sometiendose à las leyes, decretos é usos establecidos à que estan sujetos dichos ciudadanos nativos. Pero deber entenderse que este articulo no comprende el comercio de costa de cada uno de los dos paises, cuya regulacion es reservada à las partes, respectivamente, segun sus propias i peculiares leyes.

ARTICULO 4. Igualmente convienen, que cualquiera clase de producciones, manufacturas ó mercaderias estrangeras que puedan ser, en cualquier tiempo, legalmente introducidas en la Republica Central en sus propios buques, puedan tambien ser introducidas

Federation of the Centre of America; and that no higher or other duties upon the tonnage of the vessel or her cargo shall be levied and collected, whether the importation be made in vessels of the one country or of the other. And in like manner that whatever kind of produce, manufactures, or merchandise, of any foreign country, can be from time to time lawfully imported into the Central Republic in its own vessels, may be also imported in vessels of the United States; and that no higher or other duties upon the tonnage of the vessel or her cargo shall be levied and collected, whether the importation be made in vessels of the one country or of the other. And they further agree that whatever may be lawfully exported or re-exported from the one country in its own vessels to any foreign country, may in like manner be exported or re-exported in the vessels of the other country. And the same bounties, duties, and drawbacks, shall be allowed and collected, whether such exportation or re-exportation be made in vessels of the United States or of the Central Republic.

ARTICLE 5. No higher or other duties shall be imposed on the importation into the United States of any articles the produce or manufactures of the Federation of the Centre of America, and no higher or other duties shall be imposed on the importation into the Federaton of the Centre of America of any articles the produce or manufactures of the United States than are or shall be payable on the like articles being the produce or manufactures of any other foreign country; nor shall any higher or other duties or charges be imposed in either of the two countries on the exportation of any articles to the United States or to the Federation of the Centre of America, respectively, than such as are payable on the exportation of the like articles to any other foreign country; nor shall any prohibition be imposed on the exportation or importation of any articles the produce or manufactures of the United States or of the Federation of the Centre of America to or from the territories of the United States, or to or from the territories of the Federation of the Centre of America, which shall not equally extend to all other nations.

ARTICLE 6. It is likewise agreed that it shall be wholly free for all merchants, commanders of ships, and other citizens, of both countries, to manage, themselves, their own business, in all the ports and places subject to the jurisdiction of each other, as well with respect to the consignment and sale of their goods and merchandise, by wholesale or retail, as with respect to the loading, unloading, and sending off their ships; they being, in all these cases, to be treated as citizens of the country in which they reside, or at least to be placed on a footing with the subjects or citizens of the most favored nation.

ARTICLE 7. The citizens of neither of the contracting parties shall be liable to any embargo, nor be detained with their vessels, cargoes, merchandise, or effects, for any military expedition, nor for any public or private purpose whatever, without allowing to those interested a sufficient indemnification.

ARTICLE 8. Whenever the citizens of either of the contracting parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions of the other with their vessels, whether merchant or of war, public or private, through stress of weather, pursuit of pirates, or enemies, they shall be received and treated with humanity, giving to them all favor and protection for repairing their ships, procuring provisions, and placing themselves in a situation to continue their voyage without obstacle or hindrance of any kind.

ARTICLE 9. All the ships, merchandise, and effects belonging to the citizens of the contracting parties, which may be captured by pirates, whether within the limits of its jurisdiction or on the high seas, and may be carried or found in the rivers, roads, bays, ports, or

en los buques de los Estados-Unidos; i que no se impondran ó cobraran otros ó mayores derechos de tonelada ó por el cargamento, ya sea que la importacion se haga en buques de la una ó de la otra. De la misma manera que cualesquiera clase de producciones, manufacturas ó mercaderias estrangeras que pueden ser en cualquier tiempo legalmente introducidas en los Estados-Unidos en sus propios buques, puedan tambien ser introducidas en los buques de la Federacion de Centro-America; i que no se impondran ó cobraran otros ó mayores derechos de tonelada ó por el cargamento ya sea que la importacion se haga en buques de la una ó de la otra. Convienen ademas, que todo lo que pueda ser legalmente esportado ó re-esportado de uno de los dos paises, en sus buques propios para un pais estranjero pueda de la misma manera ser esportado ó re-esportado en los buques de el otro. Y los mismos derechos, premios ó descuentos se concederan i cobraran ya sea que tal exportacion, ó re-esportacion se haga en los buques de la Republica Central ó de los Estados-Unidos.

ARTICULO 5. No se impondran otros ó mayores derechos sobre la importacion de cualquier articulo, produccion ó manufactura de los Estados-Unidos en la Federacion de Centro-America, i no se impondran otros ó mayores derechos sobre la importacion de cualquier articulo, produccion ó manufactura de la Federacion de Centro-America en los Estados-Unidos, que los que se pagan ó pagaren en adelante por iguales articulos, produccion ó manufactura de cualquiera pais estrangero; ni se impondran otros ó mayores derechos ó cargas en cualquiera de los dos paises sobre la esportacion de cualesquiera articulos para la Federacion de Centro-America ó para los Estados-Unidos respectivamente, que los que, se pagan ó pagaren en adelante por la esportacion de iguales articulos para cualquiera otro pais estrangero; ni se establecera prohivicion sobre la importacion ó esportacion de cualesquiera articulos, produccion ó manufactura de los territorios de la Federacion de Centro-America para los de los Estados-Unidos, ó de los territorios de los Estados-Unidos para los de la Federacion de Centro-America, que no sea igualmente estensiva á las otras naciones.

ARTICULO 6. Se conviene ademas, que serà enteramente libre y permitido, a los comerciantes, comandantes de buques y otros Ciudadanos de ambos paises el manejar sus negocios, por si mismos, en todos los puertos y lugares sujetos à la jurisdiccion de uno ù otro, asi respecto à las consignaciones y ventas por mayor y menor de sus efectos y mercaderias, como de la carga, descarga y despacho de sus buques, debiendo en todos estos casos, ser tratados como ciudadanos del pais en que residan, ó al menos puestos sobre un pic igual con los subditos ó ciudadanos de las naciones mas favorecidas.

ARTICULO 7. Los ciudadanos de una ù otra parte, no podràn ser embargados ni detenidos con sus embarcaciones, tripulaciones, mercaderias, y efectos comerciales de su pertenencia, para alguna espedicion militàr, usos publicos, ó particulares cualesquiera que sean, sin conceder à los interesados una suficiente indemnizacion.

ARTICULO 8. Siempre que los ciudadanos de alguna de las partes contratantes se vieren precisados à buscàr refujio, ó asilo en los rios, bahias, puertos, ó dominios de la otra, con sus buques, ya sean mercantes, ó de guerra, publicos, ó particulares, por mal tiempo, persecucion de piratas ó enemigos, seràn recibidos y tratados con humanidad, dandoles todo favor y proteccion, para reparar sus buques, procuràr viveres, y ponerse en situacion de continuar su viaje, sin obstaculo ó estorbo de ningun genero.

ARTICULO 9. Todos los buques, mercaderias y efectos pertenecientes a los ciudadanos de una de las partes contratantes, que sean apresados por piratas, bien sea dentro de los limites de su jurisdiccion, ó en alta mar, y fueren llevados, ó hallados en los rios,

dominions of the other, shall be delivered up to the owners, they proving, in due and proper form, their rights before the competent tribunals; it being well understood that the claim should be made within the term of one year by the parties themselves, their attorneys, or agents of the respective Governments.

ARTICLE 10. When any vessel belonging to the citizens of either of the contracting parties shall be wrecked, foundered, or shall suffer any damage on the coasts or within the dominions of the other, there shall be given to them all assistance and protection, in the same manner which is usual and customary with the vessels of the nation where the damage happens, permitting them to unload the said vessel, if necessary, of its merchandise and effects, without exacting for it any duty, impost, or contribution whatever, until they may be exported.

ARTICLE 11. The citizens of each of the contracting parties shall have power to dispose of their personal goods within the jurisdiction of the other by sale, donation, testament, or otherwise, and their representatives, being citizens of the other party, shall succeed to their said personal goods, whether by testament or *ab intestato;* and they may take possession thereof, either by themselves or others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country, wherein said goods are, shall be subject to pay in like cases. And if, in the case of real estate, the said heirs would be prevented from entering into the possession of the inheritance on account of their character of aliens, there shall be granted to them the term of three years to dispose of the same as they may think proper, and to withdraw the proceeds without molestation, and exempt from all duties of detraction, on the part of the Government of the respective States.

ARTICLE 12. Both the contracting parties promise and engage formally to give their special protection to the persons and property of the citizens of each other, of all occupations, who may be in the territories, subject to the jurisdiction of the one or the other, transient or dwelling therein, leaving open and free to them the tribunals of justice for their judicial recourse, on the same terms which are usual and customary with the natives or citizens of the country in which they may be; for which they may employ, in defence of their rights, such advocates, solicitors, notaries, agents, and factors, as they may judge proper, in all their trials at law; and such citizens or agents shall have free opportunity to be present at the decisions and sentences of the tribunals in all cases which may concern them, and likewise at the taking of all examinations and evidence which may be exhibited in the said trials.

ARTICLE 13. It is likewise agreed that the most perfect and entire security of conscience shall be enjoyed by the citizens of both the contracting parties in the countries subject to the jurisdiction of the one and the other, without their being liable to be disturbed or molested on account of their religious belief, so long as they respect the laws and established usages of the country. Moreover, the bodies of the citizens of one of the contracting parties, who may die in the territories of the other, shall be buried in the usual burying grounds or in other decent or suitable places, and shall be protected from violation or disturbance.

ARTICLE 14. It shall be lawful for the citizens of the United States of America and of the Federation of the Centre of America to sail with their ships, with all manner of liberty and security, no distinction being made who are the proprietors of the merchandise laden thereon, from any port to the places of those who are now, or hereafter shall be, at enmity with either of the contracting parties. It shall likewise be lawful for the citizens aforesaid to sail with the ships and merchandise before mentioned, and to trade with the same liberty and security,

radas, bahias, puertos, ó dominios de la otra, seràn entregados à sus dueños probando estos en la forma propia y debida sus derechos ante los tribunales competentes; bien entendido que el reclamo ha de hacerse dentro del termino de un año, por las mismas partes, sus apoderados ó agentes de los respectivos Gobiernos.

ARTICULO 10. Cuando algun buque perteneciente à los ciudadanos de alguna de las partes contratantes, naufrague, encalle, ó sufra alguna averia, en las costas, ó dentro de los dominios de la otra, se les darà toda ayuda y proteccion, del mismo modo que es uso y costumbre, con los buques de la nacion en donde suceda la averia: permitiendoles descargàr el dicho buque (si fuere necesario) de sus mercaderias y efectos, sin cobrar por esto hasta que sean esportados, ningun derecho, impuesto ó contribucion.

ARTICULO 11. Los ciudadanos de cada una de las partes contratantes tendrán pleno podér para disponér de sus bienes personales dentro de la jurisdiccion de la otra, por venta, donacion, testamento, ó de otro modo; y sus representantes, siendo ciudadanos de la otra parte, succederán á sus dichos bienes personales, ya sea por testamento ó *ab intestato,* y podran tomar posesion de ellos, ya sea por si mismos ó por otros, que obren por ellos, y disponer de los mismos, segun su voluntad, pagando aquellas cargas, solamente, que los habitantes del pais en donde estan los referidos bienes, estuvieren sujetos á pagar en iguales casos. Y si en el caso de bienes raices, los dichos herederos fuesen impedidos de entrár en la posesion de la herencia por razon de su caracter de estrangeros, se les dará el termino de tres años para disponer de ella como juzguen conveniente, y para estraér el producto sin molestia, y esentos de todo derecho de deduccion, por parte del Gobierno de los respectivos Estados.

ARTICULO 12. Ambas partes contratantes se compremeten y obligan formalmente á dar su proteccion especial á las personas y propiedades de los ciudadanos de cada una reciprocamente transeuntes ó habitantes de todas ocupaciones, en los territorios sujetos á la jurisdiccion de una y otra, dejandoles abiertos y libres los tribunales de justicia, para sus recursos judiciales, en los mismos terminos que son de uso y costumbre para los naturales ó ciudadanos del pais en que residan; para lo cual, podrán emplear en defensa de sus derechos aquellos abogados, procuradores, escribanos, agentes, ó factores que juzguen convenientes, en todos sus asuntos y litigios; y dichos ciudadanos ó agentes tendrán la libre facultad de estar presentes en las decisiones y sentencias de los tribunales, en todos los casos que les conciernan, como igualmente al tomar todos los examenes y declaraciones que se ofrezcan en los dichos litigios.

ARTICULO 13. Se conviene igualmente en que los ciudadanos de ambas partes contratantes gozen la mas perfecta y entera seguridad de conciencia en los paises sujetos á la jurisdiccion da una ù otra, sin quedar por ello espuestos á ser inquietados ó molestados en razon de su creencia religiosa, meintras que respeten las leyes y usos establecidos. Ademas de esto, podrán sepultarse los cadaveres de los ciudadanos de una de las partes contratantes, que fallecieren en los territorios de la otra, en los cementerios acostumbrados, ó en otros lugares decentes, y adecuados, los cuales, serán protejidos contra toda violacion ó trastorno.

ARTICULO 14. Será licito a los ciudadanos de la Federacion de Centro-America, y de los Estados-Unidos de America, navegár con sus buques, con toda seguridad y libertad, de cualquiera puertó á las plazas ó lugares de los que son ó fueren en adelante enemigos de cualquiera de las dos partes contratantes, sin hacerse distincion de quienes son los dueños de las mercaderias cargadas en ellos. Será igualmente licito á las referidos ciudadanos navegár con sus buques y mercaderias mencionadas y traficár con la misma libertad y seguridad, de los lugares,

from the places, ports, and havens, of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy, before mentioned, to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of one Power or under several. And it is hereby stipulated that free ships shall also give freedom to goods, and that everything shall be deemed to be free and exempt which shall be found on board the ships belonging to the citizens of either of the contracting parties, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship with this effect, that, although they be enemies to both or either party, they are not to be taken out of that free ship unless they are officers or soldiers and in the actual service of the enemies: Provided, however, and it is hereby agreed, that the stipulations in this article contained, declaring that the flag shall cover the property, shall be understood as applying to those Powers only who recognize this principle; but if either of the two contracting parties shall be at war with a third, and the other neutral, the flag of the neutral shall cover the property of the enemies whose Governments acknowledge this principle and not of others.

ARTICLE 15. It is likewise agreed that, in the case where the neutral flag of one of the contracting parties shall protect the property of the enemies of the other by virtue of the above stipulation, it shall always be understood that the neutral property found on board such enemy's vessels shall be held and considered as enemy's property, and as such shall be liable to detention and confiscation, except such property as was put on board such vessel before the declaration of war or even afterwards, if it were done without the knowledge of it; but the contracting parties agree that two months having elapsed after the declaration, their citizens shall not plead ignorance thereof. On the contrary, if the flag of the neutral does not protect the enemy's property, in that case the goods and merchandise of the neutral embarked in such enemy's ships shall be free.

ARTICLE 16. This liberty of navigation and commerce shall extend to all kinds of merchandise, excepting those only which are distinguished by the name of contraband, and under this name of contraband or prohibited goods shall be comprehended:

1. Cannons, mortars, howitzers, swivels, blunderbusses, muskets, fuzees, rifles, carbines, pistols, pikes, swords, sabres, lances, spears, halberds, and grenades, bombs, powder, matches, balls, and all other things belonging to the use of these arms.

2. Bucklers, helmets, breast-plates, coats of mail, infantry belts, and clothes made up in the form and for a military use.

3. Cavalry belts and horses, with their furniture.

4. And generally all kinds of arms, and instruments of iron, steel, brass, and copper, or of any other materials manufactured, prepared and formed expressly to make war by sea or land.

ARTICLE 17. All other merchandise, and things not comprehended in the articles of contraband explicitly enumerated and classified as above, shall be held and considered as free, and subjects of free and lawful commerce, so that they may be carried and transported in the freest manner by both the contracting parties, even to places belonging to an enemy, excepting only those places which are at that time besieged or blockaded; and to avoid all doubt in this particular, it is declared that those places only

puertos y enseñadas de los enemigos de ambas partes, ó de alguna de ellas, sin ninguna oposicion, ó disturbio cualquiera, no solo directamente de los lugares de enemigo arriba mencionados á lugares neutros, sino tambien de un lugar perteneciente á un enemigo, á otro enemigo, ya sea que esten bajo la jurisdiccion de una potencia, ó bajo la de diversas. Y queda aqui estipulado, que los buques libres, dan tambien libertad á las mercaderias, y que se ha de considerar libre y esento todo lo que se hallare á bordo de los buques pertenecientes á los ciudadanos de cualquiera de las partes contratantes, aunque toda la carga ó parte de ella pertenezca a enemigos de una ù otra, eceptuando siempre los articulos de contrabando de guerra. Se conviene tambien del mismo modo, en que la misma libertad se estienda á las personas que se encuentren á bordo de buques libres, con el fin de que aunque dichas personas sean enemigos de ambas partes ó de alguna de ellas, no deban ser estraidos de los buques libres, à menos que sean oficiales ó soldados en actual servicio de los enemigos: à condicion no obstante, y se conviene aqui en esto, que las estipulaciones contenidas en el presente articulo, declarando que el pabellon cubre la propiedad, se entenderàn aplicables solamente á aquellas potencias que reconocen este principio; pero si alguna de las dos partes contratantes, estuviere en guerra con una tercera, y la otra permaneciese neutrál, la bandera de la neutrál cubrirá la propriedad de los enemigos, cuyos Gobiernos reconozcan este principio y no de otras.

ARTICULO 15. Se conviene igualmente que en el caso de que la bandera neutrál de una de las partes contratantes protega las propiedades de los enemigos de la otra en virtud de lo estipulado arriba, deberá siempre entenderse, que las propiedades neutrales encontradas á bordo de tales buques enemigos, han de tenerse y considerarse como propiedades enemigas, y como tales estaràn sujetas á detencion, y confiscacion, eseptuando solamente aquellas propiedades que hubiesen sido puestas à bordo de tales buques antes de la declaracion de la guerra y aun despues, si hubiesen sido embarcadas en dichos buques, sin tenèr noticia de la guerra; y se conviene, que pasados dos meses despues de la declaracion, los ciudadanos de una y otra parte no podrán alegàr que la ignoraban. Por el contrario, si la bandera neutral, no protegiese las propiedades enemigas, entonces seràn libres los efectos y mercaderias de la parte neutràl, embarcadas en buques enemigos.

ARTICULO 16. Esta libertad de navigacion y comercio se estenderà a todo genero de mercaderias, eceptuando aquellas solamente, que se distinguen con el nombre de contrabando, y bajo este nombre de *contrabando* ó efectos prohibidos se comprenderán:

1. Canones, morteros, obuces, pedreros, trobucos, mosquetes, fusiles, rifles, carabinas, pistolas, picas, espadas, sables, lanzas, chuzos, alabardas, y grenadas, bombas, polvora, mechas, balas, con las demas cosas correspondientes al uso de estas armas.

2. Escudos, casquetes, corazas, cotas de mala, fornituras, y vestidos hechos en forma, y á forma, y á usanza militar.

3. Bandoleras, y caballos junto con sus armas y arneses.

4. Y generalmente todo especie de armas, é instrumentos de hierro, acero, bronce, cobre, y otras materias cualesquiera, manufacturadas, preparadas, y formadas espresamente para hacér la guerra por mar, ó tierra.

ARTICULO 17. Todas las demas mercaderias, y efectos no comprendidos en los articulos de contrabando esplicitamente enumerados, y clasificados en el articulo anterior, serán tenidos, y reputados por libres, y de licito y libre comercio, de modo, que ellos puedan sér transportados, y llevados de la manera mas libre, por los ciudadanos de ambas partes contratantes, aun á los lugares pertenecientes á un enemigo de una ù otra, eceptuando solamente aquellos lugares ó plazas, que estàn al mismo tiempo

are besieged or blockaded which are actually attacked by a belligerent force capable of preventing the entry of the neutral.

ARTICLE 18. The articles of contraband before enumerated and classified, which may be found in a vessel bound for an enemy's port, shall be subject to detention and confiscation, leaving free the rest of the cargo and the ship, that the owners may dispose of them as they see proper. No vessel of either of the two nations shall be detained on the high seas on account of having on board articles of contraband, whenever the master, captain, or supercargo of said vessels will deliver up the articles of contraband to the captor, unless the quantity of such articles be so great and of so large a bulk that they cannot be received on board the capturing ship without great inconvenience; but in this and in all other cases of just detention the vessel detained shall be sent to the nearest convenient and safe port for trial and judgment according to law.

ARTICLE 19. And whereas it frequently happens that vessels sail for a port or place belonging to an enemy without knowing that the same is besieged, blockaded, or invested, it is agreed that every vessel so circumstanced may be turned away from such port or place, but shall not be detained, nor shall any part of her cargo, if not contraband, be confiscated, unless, after warning of such blockade or investment from the commanding officer of the blockading forces, she shall again attempt to enter; but she shall be permitted to go to any other port or place she shall think proper. Nor shall any vessel of either, that may have entered into such port before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her cargo, nor, if found therein after the reduction and surrender, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners thereof.

ARTICLE 20. In order to prevent all kind of disorder in the visiting and examination of the ships and cargoes of both the contracting parties on the high seas, they have agreed, mutually, that whenever a vessel-of-war, public or private, shall meet with a neutral of the other contracting party, the first shall remain out of cannon shot, and may send its boat, with two or three men only, in order to execute the said examination of the papers concerning the ownership and cargo of the vessel, without causing the least extortion, violence, or ill treatment, for which the commanders of the said armed ships shall be responsible with their persons and property; for which purpose the commanders of said private armed vessels shall, before receiving their commissions, give sufficient security to answer for all the damages they may commit. And it is expressly agreed that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting her papers, or for any other purpose whatever.

ARTICLE 21. To avoid all kind of vexation and abuse in the examination of the papers relating to the ownership of the vessels belonging to the citizens of the two contracting parties, they have agreed, and do agree, that in case one of them should be engaged in war, the ships and vessels belonging to the citizens of the other must be furnished with sea letters or passports, expressing the name, property, and bulk of the ship, as also the name and place of habitation of the master or commander of said vessel, in order that it may thereby appear that the ship really and truly belongs to the citizens of one of the parties; they have likewise agreed that, such ships being laden, besides the said sea letters or passports, shall also be provided with certificates

sitiadas ó bloqueadas; y para evitar toda duda en el particulàr, se declaran sitiadas ó bloqueadas àquellas plazas, que en la actualidad estuviesen atacadas por una fuerza de un beligerante capaz de impedir la entrada del neutral.

ARTICULO 18. Los articulos de contrabando antes enumerados y clasificados, que se hallen en un buque destinado à puerto enemigo estarán sujetos à detencion y confiscacion; dejando libre el resto del cargamento y el buque, para que los duenos puedan disponer de ellos como lo crean conveniente. Ningun buque de cualquiera de las dos naciones, será detenido, por tener à bordo articulos de contrabando, siempre que el maestre, capitan, ó sobrecargo, de dicho buque quiera entregàr los articulos de contrabando al apresador, à menos que la cantidad de estos articulos sea tan grande y de tanto volumen, que no puedan sér recibidos à bordo del buque apresadór, sin grandes inconvenientes; pero en este, como en todos los otros casos de justa detencion, el buque detenido serà enviado al puerto mas inmediato, comodo, y seguro, para ser juzgado y sentenciado conforme à las leyes.

ARTICULO 19. Y por cuanto frecuentemente sucede que los buques navegan para un puerto ó lugàr perteneciente à un enemigo, sin saber que aquel esté sitiado, bloqueado ó envestido, se conviene en que todo buque en estas circunstancias se pueda hacer volver de dicho puerto, ó lugar; pero no serà detenido, ni confiscada, parte alguna de su cargamento, no siendo contrabando; à menos des despues de la intimacion de semejante bloqueo ó ataque, por el comandante de las fuerzas bloqueadoras, intentase otra vez entrar; pero le serà permitido ir à cualquiera otro puerto ó lugar que jusgue conveniente. Ni ningun buque de una de las partes, que haya entrado en semejante puerto, ó lugar, antes que estuviese sitiado, bloqueado ó envestido por la otra, sera impedido de dejar el tal lugar con su cargamento ni si fuere hallado alli despues de la rendicion y entrega de semejante lugar, estrarà el tal buque ó su cargamento sujeto à confiscacion, sino que seràn restituidos á sus dueños.

ARTICULO 20. Para evitar todo genero de desorden en la visita, y examen de los buques y cargamentos de ambas partes contratantes en alta mar, han convenido mutuamente, que siempre que un buque de guerra, publico ó particular se encontrase con un neutral de la otra parte contrante, el primero permanecerà fuera de tiro de cañon, y podrà mandàr su bote, con dos ó tres hombres solamente, para ejecutàr el dicho examen de los papéles concernientes á la propiedad y carga del buque, sin ocasionàr la menor estorcion, violencia ó mal tratamiento, por lo que los comandantes del dicho buque armado seràn responsables, con sus personas y bienes; á cuyo efecto los comandantes de buques armados, por cuenta de particulares, estaràn obligados antes de entregarseles sus comisiones ó patentes, à dar fianza suficiente para respondér de los perjuicios que causen. Y se ha convenido espresamente, que en ningun caso se exigira à la parte neutral, que vaya à bordo del buque examinadór con el fin de exibir sus papeles, ó para cualquiera otro objeto sea el que fuere.

ARTICULO 21. Para evitar toda clase de vejamen y abuso en el examen de los papeles relativos à la propiedad de los buques pertenecientes à los ciudadanos de las dos partes contratantes, han convenido y convienen, que en caso de que una de ellas estuviere en guerra, los buques, y bajeles pertenecientes à los ciudadanos de la otra, seràn provistos con letras de màr, ó pasaportes, espresando el nombre, propiedad y tamaño del buque, como tambien el nombre y lugar de la residencia del maestre ó comandante, à fin de que se vea que el buque, real y verdaderamente pertenece à los ciudadanos de una de las partes; y han convenido igualmente, que estando cargados los espresados buques, ademas de las letras de mar, ó pasaportes, estaran tambien pro-

containing the several particulars of the cargo, and the place whence the ship sailed, so that it may be known whether any forbidden or contraband goods be on board the same; which certificates shall be made out by the officers of the place whence the ship sailed in the accustomed form; without which requisites said vessel may be detained to be adjudged by the competent tribunal, and may be declared legal prize unless the said defects shall be satisfied or supplied by testimony entirely equivalent.

ARTICLE 22. It is further agreed that the stipulations above expressed, relative to the visiting and examination of vessels, shall apply only to those which sail without convoy; and when said vessels shall be under convoy, the verbal declaration of the commander of the convoy, on his word of honor, that the vessels under his protection belong to the nation whose flag he carries, and when they are bound to an enemy's port, that they have no contraband goods on board, shall be sufficient.

ARTICLE 23. It is further agreed that in all cases the established courts for prize causes, in the country to which the prizes may be conducted, shall alone take cognizance of them. And whenever such tribunal of either party shall pronounce judgment against any vessel, or goods, or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives on which the same shall have been founded, and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of said vessel without any delay, he paying the legal fees for the same.

ARTICLE 24. Whenever one of the contracting parties shall be engaged in war with another State, no citizen of the other contracting party shall accept a commission, or letter of marque, for the purpose of assisting or co-operating hostilely with the said enemy against the said party so at war, under the pain of being treated as a pirate.

ARTICLE 25. If by any fatality, which cannot be expected, and which God forbid, the two contracting parties should be engaged in a war with each other, they have agreed, and do agree, now for then, that there shall be allowed the term of six months to the merchants residing on the coasts and in the ports of each other, and the term of one year to those who dwell in the interior, to arrange their business, and transport their effects wherever they please, giving to them the safe conduct necessary for it, which may serve as a sufficient protection until they arrive at the designated port. The citizens of all other occupations, who may be established in the territories or dominions of the United States and of the Federation of the Centre of America, shall be respected and maintained in the full enjoyment of their personal liberty and property, unless their particular conduct shall cause them to forfeit this protection, which, in consideration of humanity, the contracting parties engage to give them.

ARTICLE 26. Neither the debts due from individuals of the one nation to the individuals of the other, nor shares, nor moneys, which they may have in public funds, or in public or private banks, shall ever, in any event of war, or of national difference, be sequestered or confiscated.

ARTICLE 27. Both the contracting parties, being desirous of avoiding all inequality in relation to their public communications and official intercourse, have agreed, and do agree, to grant to the envoys, ministers, and other public agents, the same favors, immunities, and exemptions, which those of the most favored nation do or shall enjoy; it being understood that whatever favors, immunities or privileges the United States of America or the Federation of the Centre of America may find it proper to give the

vistos de certificatos, que contengan los por menores del cargamente, y el lugar de donde salió el buque, para que asi pueda saberse, si hay à su bordo algunos efectos prohibidos ó de contrabando, cuyos certificatos serán hechos por los oficiales del lugár de la procedencia del buque, en la forma acostumbrada, sin cuyos requisitos el dicho buque puede ser detenido, para ser juzgado por el tribunal competente, y puede ser declarado buena presa, à menos que satisfagan, ó suplan el defecto con testimonios enteramente equivalentes.

ARTICULO 22. Se ha convenido ademas, que las estipulaciones anteriores, relativas al examen y visita de buques, se aplicaràn solamente à los que navegan sin conboy y que cuando los dichos buques estuvieren bajo de conboy, será bastante la declaracion verbal del comandante del conboy, bajo su palabra de honór, de que los buques que estàn bajo su proteccion pertenecen a la nacion, cuya bandera llevan, y cuando se dirijen á un puerto enemigo, que los dichos buques no tienen á su bordo articulos de contrabando de guerra.

ARTICULO 23. Se ha convenido ademas, que en todos los casos que occurran, solo los tribunales establecidos para causas de presas, en el pais á que las presas sean conducidas, tomarán conocimiento de ellas. Y siempre que semejante tribunal de cualquiera de las partes, pronunciase sentencia contra algun buque, ó efectos, ó propiedad reclamada por los ciudadanos de la otra parte, la sentencia ó decreto harà mencion de las razones ó motivos en que aquella se haya fundado, y se entregará sin demora alguna al comandante ó agente de dicho buque, si lo solicitase, un testimonio autentico de la sentencia, ó decreto, ó de todo el proceso, pagando por el los derechos legales.

ARTICULO 24. Siempre que una de las partes contratantes estuviere empeñada en guerra, con otro Estado ningun ciudadano de la otra parte contratante aceptara una comision, ó letra de marca, para el objeto de ayudár ó co-operar hostilmente con el con el dicho enemigo, contra la dicha parte que este asi en guerra, bajo la pena de ser trata do como pirata.

ARTICULO 25. Si por alguna fatalidad, que no puede esperarse, y que Dios no permita, las dos partes contratantes se viesen empeñadas en guerra una con otra, han convenido y convienen de ahora para entonces, que se concederà el termino de seis meses á los comerciantes residentes en las costas y en los puertos de entrambas, y el termino de un año á los que habitan en el interior, para arreglár sus negocios, y transportár sus efectos á donde quieran, dandoles el salvo conducto necesario para ello, que les sirva de suficiente proteccion hasta que lleguen al puerto que designen. Los ciudadanos de otras ocupaciones, que se hallen establecidos en los territorios ó dominios de la Federacion de Centro-America, ó los Estados-Unidos de America, serán respetados, y mantenidos en el pleno goze de su libertad personal y propiedad, á menos que su conducta particular les haga perdér esta proteccion, que en consideracion á la humanidad, las partes contratantes se conprometen á prestarles.

ARTICULO 26. Ni las deudas contriadas por los individuos de una nacion, con los individuos de la otra, ni las acciones ó dineros, que pueden tenér en los fondos publicos, ó en los bancos publicos, ó privados, serán jamas secuestrados ó confiscados en ningun caso de guerra, ó diferencia nacional.

ARTICULO 27. Deseando ambas partes cantratantes, evitár toda diferencia, relativa á etiqueta en sus comunicaciones, y correspondencias diplomaticas han convenido asi mismo, y convienen en conceder á sus enviados, ministros, y otros agentes diplomaticos, los mismos favores, inmunidades, y esenciones da que gozan, ó gozaren en lo venidero los de las naciones mas favorecidas, bien entendido que cualquier favór, inmunidad ó privilegio, que la Federacion de Centro-America ó los Estados-Unidos

ministers and public agents of any other Power, shall, by the same act, be extended to those of each of the contracting parties.

ARTICLE 28. To make more effectual the protection which the United States and the Federation of the Centre of America shall afford in future to the navigation and commerce of the citizens of each other, they agree to receive and admit Consuls and Vice Consuls in all the ports open to foreign commerce, who shall enjoy in them all the rights, prerogatives, and immunities of the Consuls and Vice Consuls of the most favored nation; each contracting party, however, remaining at liberty to except those ports and places in which the admission and residence of such Consuls may not seem convenient.

ARTICLE 29. In order that the Consuls and Vice Consuls of the two contracting parties may enjoy the rights, prerogatives, and immunities which belong to them by their public character, they shall, before entering on the exercise of their functions, exhibit their commission or patent, in due form, to the Government to which they are accredited; and having obtained their *exequatur*, they shall be held and considered as such by all the authorities, magistrates, and inhabitants in the consular district in which they reside.

ARTICLE 30. It is likewise agreed that the Consuls, their Secretaries, officers, and persons attached to the service of Consuls, they not being citizens of the country in which the Consul resides, shall be exempt from all public service, and also from all kind of taxes, imposts, and contributions, except those which they shall be obliged to pay on account of commerce or their property, to which the citizens and inhabitants, native and foreign, of the country in which they reside are subject, being in everything besides subject to the laws of the respective States. The archives and papers of the consulate shall be respected inviolably, and under no pretext whatever shall any magistrate seize, or in any way interfere with them.

ARTICLE 31. The said Consuls shall have power to require the assistance of the authorities of the country for the arrest, detention, and custody of deserters from the public and private vessels of their country; and for that purpose they shall address themselves to the courts, judges, and officers competent, and shall demand the said deserters in writing, proving, by an exhibition of the registers of the vessels or ship's roll, or other public documents, that those men were part of the said crews; and on this demand, so proved, (saving, however, where the contrary is proved,) the delivery shall not be refused. Such deserters, when arrested, shall be put at the disposal of the said Consuls, and may be put in the public prisons at the request and expense of those who reclaim them, to be sent to the ships to which they belonged, or to others of the same nation. But if they be not sent back within two months, to be counted from the day of their arrest, they shall be set at liberty, and shall be no more arrested for the same cause.

ARTICLE 32. For the purpose of more effectually protecting their commerce and navigation, the two contracting parties do hereby agree, as soon hereafter as circumstances will permit them, to form a consular convention, which shall declare specially the powers and immunities of the Consuls and Vice Consuls of the respective parties.

ARTICLE 33. The United States of America and the Federation of the Centre of America, desiring to make as durable as circmstances will permit the relations which are to be established between the two parties by virtue of this treaty, or general convention of peace, amity, commerce, and navigation, have declared solemnly and do agree to the following points:

de America, tengan por conveniente dispensár á los enviados, ministros, y agentes diplomaticos de otras Potencias, se haga por el mismo hecho extensivo á los de una y otra de las partes contratantes.

ARTICULO 28. Para hacér mas efectiva la proteccion, que la Federacion de Centro-America, y los Estados-Unidos de America, darán en adelante á la navegacion y comercio de los ciudadanos de una y otra, se convienen en recibir y admitir Consules y Vice Consules en todos los puertos abiertos al comercio estrangero, quienes gozarán en ellos todos los derechos, prerogativas é inmunidades de los Consules y Vice Consules de la nacion mas favorecida, quedando no obstante en libertad cada parte contratante, para eceptuar aquellos puertos y lugares en que la admision y residencia de semejantes Consules y Vice Consules no parezca conveniente.

ARTICULO 29. Para que los Consules y Vice Consules de las dos partes contratantes, puedan gozar los derechos, prerogativas, é inmunidades, que les corresponden por su caracter publico, antes de entrár en el ejercicio de sus funciones, presentarán su comision ó patente en la forma debida, al Gobierno conquien esten acreditados, y habiendo obtenido el *exequatur*, serán tenidos, y considerados como tales, por todas las autoridades, majistrados y habitantes del distrito consular en que residan.

ARTICULO 30. Se ha convenido igualmente, que los Consules, sus Secretarios, officiales y personas agregadas al servicio de los consulados (no siendo estas personas ciudadanos del pais en que el Consul reside) estaran esentos de todo servicio publico, y tambien de toda especie de pechos, impuestos, y contribuciones, eceptuando aquellas que esten obligados á pagar por razon de comercio, ó propiedad, y á las cuales estan sujetos los ciudadanos, y habitantes naturales, y estrangeros del pais en que residen, quedando en todo lo demas, sujetos a las leyes de los respectivos Estados. Los archivos y papeles de los consulados serán respetados inviolablemente, y bajo ningun pretest ó los occupará magistrado alguno, ni tendrá en ellos ninguna intervencion.

ARTICULO 31. Los dichos Consules tendrán poder de requerir el auxilio de las autoridades locales, para la prision, detencion y custodia de los desertores de buques publicos y particulares de su pais, y para este objeto se dirigiràn á los tribunales, jueces, y oficiales competentes, y pedirán los dichos desertores por escrito, probando por una presentacion de los registros de los buques, rol del equipage, ù otros documentos publicos, que aquellos hombres eran parte de las dichas tripulaciones, y á esta demanda asi probada (menos no obstante cuando se probare lo contrario) no se reusará la entrega. Semejantes desertores, luego que sean arrestados, se pondrán á disposicion de los dichos Consules, y pueden ser depositados en las prisiones publicas, á solicitud y espensas de los que los reclamen, para ser enviados á los buques á que corresponden ó á otros de la misma nacion. Pero si no fueren mandados dentro de dos meses contados des de el dia de su arresto, serán puestos en libertad, y no volverán a ser presos por la misma causa.

ARTICULO 32. Para protegér mas efectivamente su comercio y navegacion, las dos partes contratantes se convienen en formar luego que las circunstancias lo permitan, una convencion consulár, que declare mas especialmente los poderes é inmunidades de los Consules y Vice Consules de las partes respectivas.

ARTICULO 33. La Federacion de Centro-America y los Estados-Unidos de America, deseando hacer tan duraderas y firmes, como las circunstancias lo permitan las relaciones que han de establecerse entre las dos potencias, en virtud del presente convencion ó tratado general de paz, amistad, navegacion, y comercio, han declarado solemnemente y convienen en los puntos siguientes:

1. The present treaty shall remain in full force and virtue for the term of twelve years, to be counted from the day of the exchange of the ratifications, in all the parts relating to commerce and navigation; and in all those parts which relate to peace and friendship, it shall be permanently and perpetually binding on both powers.

2. If any one or more of the citizens of either party shall infringe any of the articles of this treaty, such citizen shall be held personally responsible for the same, and the harmony and good correspondence between the two nations shall not be interrupted thereby—each party engaging in no way to protect the offender or sanction such violation.

3. If, (which, indeed, cannot be expected,) unfortunately, any of the articles contained in the present treaty shall be violated or infringed in any other way whatever, it is expressly stipulated that neither of the contracting parties will order or authorize any acts of reprisal, nor declare war against the other, on complaints of injuries or damages, until the said party considering itself offended shall first have presented to the other a statement of such injuries or damages, verified by competent proof, and demanded justice and satisfaction, and the same shall have been either refused or unreasonably delayed.

4. Nothing in this treaty contained shall, however, be construed or operate contrary to former and existing public treaties with other sovereigns or States.

The present treaty of peace, amity, commerce, and navigation, shall be approved and ratified by the President of the United of America, by and with the advice and consent of the Senate thereof, and by the Government of the Federation of the Centre of America, and the ratifications shall be exchanged in the City of Guatemala, within eight months from the date of the signature hereof, or sooner if possible.

In faith whereof, we, the plenipotentiaries of the United States of America and of the Federation of the Centre of America, have signed and sealed these presents.

Done in the City of Washington, on the fifth day of December, in the year of our Lord one thousand eight hundred and twenty-five, in the fiftieth year of the Independence of the United States of America, and the fifth of that of the Federation of the Centre of America, in duplicate.

H. CLAY. [L. S.]
ANTONIO JOSÉ CANAS. [L. S.]

1. El presente tratado permanecerá en su fuerza y vigor por el termino de doce años contados desde el dia del cange de las ratificaciones, en todos los puntos, concernientes à comercio y navegacion, y en todos los demas puntos que se refieren á paz y amistad, será permanente, y perpetuamente obligatorio para ambas potencias.

2. Si alguno, ó algunos de los ciudadanos de una ù otra parte infringiesen alguno de los articulos contenidos en el presente tratado, dichos ciudadanos seran personalmente responsables, sin que por esto se interrumpa la harmonia y buena correspondencia entre las dos naciones, comprometiendose cáda una à no protegér de modo alguno al ofensor, ó sancionár semejante violacion.

3. Si (lo que á la verdad no puede esperase) desgraciadamente, alguno de los articulos contenidos en el presente tratado, fuesen en alguna otra manera violados, ó infringidos, se estipula espresamente que ninguna de las dos partes contratantes, ordenará, ó autorizará ningunos actos de represalia, ni declarará la guerra contra la otra por quejas de injurias, ó daños, hasta que la parte que se crea ofendida, haya antes presentado á la otra una esposicion de aquellas injurias, ó daños, verificada con pruebas y testimonios competentes, exigiendo justicia y satisfaccion, y esto haya sido negado, ó diferido sin razon.

4. Nada de cuanto se contiene en el presente tratado, se construirá sin embargo, ni obrará, en contra de otros tratados publicos anteriores, y existentes con otros soberanos ó Estados.

El presente tratado de paz, amistad, comercio, y navegacion, será ratificado por el Gobierno de la Federacion de Centro-America, por el Presidente de los Estados-Unidos de America, con consejo y consentimiento del Senado de los mismos; y las ratificaciones serán cangeadas en la Ciudad de Guatemala dentro de ocho meses contados desde este dia, ó antes si fuese posible.

En fe de lo cual nosotros los plenipotenciarios de la Federacion de Centro-America y de los Estados-Unidos de America, hemos firmado y sellado las presentes.

Dadas en la Ciudad de Washington, el dia cinco de Deciembre del año del Señor mil ocho cientos veinticinco quinto de la Independencia de la Federacion de Centro-America y quinquagesimo de la de los Estados-Unidos de America, per duplicado.

ANTONIO JOSÉ CANAS. [L. S.]
H. CLAY. [L. S.]

And whereas the said convention has been duly ratified on both parts, and the respective ratifications of the same were exchanged, at Guatemala, on the second day of August, one thousand eight hundred and twenty-six, by John Williams, Chargé d'Affaires of the United States near the Government of the Federation of the Centre of America, and Pedro Gonzalez, Chief Officer of the Department of State, Despatch, War, and Marine, Secretary of Legation of the Republic of Central America near the Governments of South America, on the part of their respective Governments:

Now, therefore, be it known that I, John Quincy Adams, President of the United States, have caused the said convention to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this twenty-eighth day of October, in the year of our Lord [L. S.] one thousand eight hundred and twenty-six, and of the Independence of the United States the fifty-first.

JOHN QUINCY ADAMS.

By the President:

H. CLAY, *Secretary of State.*

AFFAIRS WITH BRAZIL.

COPIES AND EXTRACTS FROM THE CORRESPONDENCE OF CAPTAIN JESSE D. ELLIOTT, COMMUNICATED WITH THE PRECEDING MESSAGE OF DECEMBER 5, 1826.

Captain J. D. Elliott to the Secretary of the Navy.

UNITED STATES SHIP CYANE, *Rio de Janeiro, March* 18, 1826.

"On the 15th instant I had the honor to address you, and now to say that I am supplied with provisions and water; that in the morning I shall depart hence for the La Plata.

"By the same vessel which conveys this letter the State Department will be apprised of the protest entered by both of our representatives at the Courts of Buenos Ayres and of Brazil against the legality of the blockade proclaimed of the whole extent of the coast of Buenos Ayres, and of that of the Banda Oriental, by Admiral Lobo, of the navy of his Imperial Majesty the Emperor of Brazil.

"Here I am called upon to adopt a course, in relation to this proclamation, entirely new and novel, but which I hope, in the end, will prove satisfactory to the Government and the nation. The present force employed in the blockade is extended to nearly thirty vessels, and an additional one of three frigates is now preparing to relieve and to reinforce that already at the La Plata. A schooner has just entered this port from Montevideo, and brings the information that, in order to enforce more fully the blockade, all vessels warned off are obliged to enter into bonds at Montevideo, to an amount equal to the value of both vessel and cargo, that they will not repeat the attempt to re-enter the river. It is here said the English vessels-of-war resist this measure, and that the English Consul at Montevideo has protested in toto against the blockade; but how far this is correct I am not prepared to say. I have had a full and free intercourse with Mr. Raguet, as you will perceive by the correspondence enclosed. With the laws of nations before me, and with the constant and steady grounds taken and maintained by the various administrations of our Government in relation to this subject, I shall deport towards the squadron as becomes both the interests of the Navy of the nation and of its commerce."

Extract of a letter from Woodbridge Odlin, Esq., to J. D. Elliott, Esq., Commander of the United States Ship Cyane, dated St. Salvador, March 4, 1826.

"The slave trade appears to be carried on with little interruption by the Brazilians; and a large portion of said negroes are, as I understand, taken in to the north of the line. I have never been able to ascertain that any citizens of the United States have, directly or indirectly, any interest whatever in said slave trade. I am well acquainted with the concerns of those Americans who live here, and do not believe they have any interest in said trade.

"The greater part of the vessels employed in said slave trade at and from this port are built in the United States, are regularly sold here, and the crews discharged, and, to the best of my knowledge, return to the United States. Some few, who frequently desert, I cannot tell where they proceed, as they do not often call on me. It is common for American vessels to take freight and proceed to Africa from this port, and commonly return in ballast. At present I do not think of any other information to make known; should I obtain any, I will, with pleasure, give you notice of it."

UNITED STATES SHIP CYANE, *Rio de Janeiro, March* 14, 1826.

SIR: The Government of the United States has assigned to me a cruise on the coast of Brazil, for the double purpose of giving protection to our commerce, as also to have intercourse with our public agents on shore. Destined further south, the stay I shall make in port will be only sufficiently long to enable me to replenish my stock of provisions. Should you have any communications to make touching the first two points, I shall be glad to receive them. At the period of my departure from the United States our Government was not then possessed of information as to the blockade of the Rio de la Plata, and perhaps it is important I should have information from you on four points: first, as to the legality of the blockade; second, as to the force, both naval and military, employed in carrying it into effect; third, whether designed to exclude from the river both the civil and military marine of each of the various nations; fourth, whether each point is presented with such force, by *both* sea and land, as will enforce its declaration.

With great respect, I have the honor to be, your obedient servant,

J. D. ELLIOTT.

CONDY RAGUET, Esq., *in Charge of the Affairs of the United States at the Capital of Brazil.*

LEGATION OF THE UNITED STATES OF AMERICA, *Rio de Janeiro, March* 18, 1826.

SIR: I had the honor to receive, on the day subsequent to its date, your communication of the 14th instant, and, in reply thereto, submit the following observations:

The presence of one or more of the public ships of the United States on this coast during the continuance of the war now existing between the Empire of Brazil and the Republic of the United Provinces of the River Plate cannot fail, for reasons well known to you, to be highly beneficial to the commerce of our

citizens. Even long before the existence of hostilities the want of such protection as could only be afforded by a naval force was in some degree felt; but our Government, aware of the existence, in some parts of this country, of a disposition to oppose the present order of things, and desirous to avoid all imputations of intermeddling in the concerns of another State, very wisely and discreetly abstained from the employment of any portion of its marine in this quarter. I need hardly state to you that, had our Government resolved to station on this coast even a single ship during the time when an attempt was making to establish a Republic in the northern provinces, it would have been difficult to persuade a suspicious people that we were not instrumental in promoting revolutionary schemes. The President, no doubt, foresaw this, and it was the determination of our Government to act, in regard to the Brazilian question, with the same fairness and neutrality which have invariably marked our political conduct in regard to other States. A course has been pursued which cannot fail to entitle us to the character of a just and consistent nation. The independence and tranquillity of Brazil having, however, placed her on a footing with other established nations, all occasion for extreme delicacy, on our part, is at an end; and I cannot but hope that our Government will see the advantage of maintaining in this sea a respectable force upon a permanent establishment. The very presence of a public ship always commands respect for the nation to which she belongs, and that respect acts as a check upon aggressions which might otherwise be attempted. This, I have no doubt, will be fully proved by your visit to the river Plate; and should it happen that your active interference be not required for the protection of American citizens and property, I am well persuaded that this will be the result of that passive influence which silently operates and prevents the commission of outrages.

In relation to your inquiries respecting the blockade of the river Plate, I answer as follows:

On the 6th and 7th days of December last, notice was given by this Government to the diplomatic and consular agents here residing that the ports of the United Provinces of the River of Plate would be blockaded. In consequence of this notice, I thought it proper to address a note to the Minister of Foreign Affairs explanatory of the views entertained by the Government of the United States, as far as I was acquainted with them, in relation to the laws of blockade, with the object of avoiding, at the commencement, all misunderstanding to which a different construction might give rise. Of this note, which was dated on the 13th December, I take the liberty of handing you a copy; and I also enclose to you a copy of the answer received from the minister, under date of the 22d of same month.

As to the legality of the blockade, in regard to its enforcement, we have, at this distance, no means of judging. You will, however, have observed, by the protest made on the 13th of February by Mr. Forbes, our minister at Buenos Ayres, a copy of which I furnished you yesterday, against the blockade, as being altogether inefficient, that, in his opinion, it was clearly illegal *at that period.* Whether or no it has since been renewed by an adequate force you can best ascertain on your arrival in the river. But I would respectfully call your attention to one point, which you will find asserted in my note to the minister, and which I consider to be a very important one in the actual state of affairs, that "if any withdrawal of the blockading force should at any time take place, owing to the power of the besieged or his allies, or to the necessity of refitting or procuring supplies, or for the purpose of cruising or blockading other places, or from any other cause, (except storms, which drive it temporarily from its position, *but which it immediately resumes,*) the blockade was considered at an end; and a repetition of it could only be considered as a new blockade, and not as an uninterrupted continuation of the original one, which could affect the interest of neutrals who had entered the port in the meanwhile, when no blockading force was present to warn them off, or to obstruct their entry." From late advices it does appear that the blockading force has been once or twice entirely withdrawn; and it is, therefore, very clear that all seizures or detentions, on their leaving port, of neutral vessels which had entered when there was no blockade in existence must be illegal. We have no positive information, but it is supposed that the Brazilian squadron in the river, at the time of the declaration of the blockade, consisted of about forty-five sail, including gun-boats. As Buenos Ayres is not besieged by land, no military force is employed against it.

As to the question whether the blockade is designed to exclude public ships as well as merchant vessels of neutral nations, I reply that no communication has been made to me upon that subject by this Government; and although I have heard it said that the Minister of Foreign Affairs, in December last, stated, in conversation with some of my colleagues in public employment, that it was the intention of this Government to prohibit the entry into Buenos Ayres of foreign ships-of-war, yet the recent fact of the British corvette Chasseur having visited that port in the latter end of February is conclusive as to the non-existence at this day of any such design. Had any serious intention existed at any time on the part of the Brazilian ministry to attempt a measure so clearly at variance with the established laws of nations, official notice would undoubtedly have been given, and in that case I should not have failed to resist the doctrine as wholly inadmissible by the United States, and at the same time to have given notice that any attempt to impede the entry into a blockaded port of an American ship-of-war would be resisted by force.

The foregoing remarks appear to me to be such as are called for by your letter, and are respectfully submitted to your better judgment. I will merely add that the proclamation of Admiral Lobo, announcing the blockade, was dated on December 20, but it did not reach Buenos Ayres until the 31st. The declaration of war issued here was dated on the 10th of same month, but not made public until the 16th. No advices either of the blockade or war left this for the United States until the 26th of December.

Wishing you a pleasant and expeditious passage, and begging you to write to me whenever convenience and opportunity combine, I remain, with much esteem and respect, your friend and servant,

CONDY RAGUET.

J. D. ELLIOTT, Esq., *Commanding United States Ship Cyane.*

Mr. Raguet to the Minister of Foreign Affairs.

[BLOCKADE QUESTION.]

The undersigned, Chargé d'Affaires of the United States of America, presents his compliments to the Viscount of St. Amaro, Counsellor, Minister, and Secretary of State for Foreign Affairs, and acknowledges

the receipt, on the days of their respective dates, of his excellency's communications of 6th and 7th instant, the first announcing that "his Majesty the Emperor had ordered to be fitted out a naval force with the object of placing in effective blockade all the ports belonging to the Government of the United Provinces of the River of Plate," and the second, giving notice "that the said ports were to be blockaded by order of his Majesty the Emperor by the forces already there stationed, reinforced by those which have just departed."

As this measure of war cannot fail deeply to affect the interests of neutral nations, the merchants of which, with their own ships and capitals, carry on almost exclusively the foreign trade with Buenos Ayres and the other ports intended to be blockaded, and as the general terms of the notification involve a question of infinite importance to the interests of the United States, and all the other Powers of America, as well as the secondary States of Europe, the undersigned, as representing one of the nations most interested, conceives it to be his duty to bring to the view of his Majesty's Government some observations upon the principles of blockade, as maintained by the United States in their construction of national law, in the hopes that they may be found to be in accordance with those professed by his Majesty's Government, and that thus all liability to any misunderstanding which might possibly arise from the misapplication of those principles may be removed at the outset. The necessity of making this representation is rendered the more imperious on the undersigned by the occurrence of a case wherein a valuable American ship, seized by one of the commanders of his Majesty's naval service for an alleged breach of the blockade of Pernambuco, in September, 1824, remains to this day, *after a lapse of near fifteen months*, not only without a decision in the first instance, but even without an early prospect of one. As this matter, however, will form the subject of a separate communication, no further remarks in relation to it will here be made.

It cannot but be known to his excellency that the doctrine of blockades, as maintained in the *practice* of modern times by some of the European Powers, has been entirely subversive of the principles respected by the majority of nations, and which have been held to be settled by the most distinguished writers on public law, and even by those very Powers themselves in theory. The right of a belligerent to distress his enemy by the institution of sieges and blockades cannot be questioned; but the extent to which he may lawfully prejudice the interests of neutrals is a matter which it is not competent for the belligerent alone to decide. Neutrals as well as belligerents have their rights; and if the former have acceded to the rule that trade in articles of contraband of war may not be carried on with a country of a belligerent, this acquiescence is to be viewed as the result of that respect for the laws of humanity which desires to see a speedy termination to the disasters of war wherever they have unhappily been displayed. To this same respect for the laws of humanity is to be ascribed that further concession in favor of belligerents, by which neutral nations agree not to convey provisions or other supplies to ports or places actually besieged or blockaded, and upon no other principle can the abandonment, by neutral nations, of their innocent commerce with States with which they are in amity be contended for.

Neutral nations, however, in thus giving up for the common good a portion of their natural rights, by no means intended that an assailing belligerent should be invested with an *artificial* power to distress his antagonist, or with any advantages not due to the positive force of his arms. It was for this reason that the maxim was settled that no port could be considered as in a state of blockade unless so guarded as that "no vessel could enter without evident danger on account of vessels-of-war so stationed there as to form an effectual blockade." From this principle it followed that if any withdrawal of the blockading force should at any time take place, owing to the power of the besieged or his allies, or to the necessity of refitting or procuring supplies, or for the purpose of cruising, or blockading other places, or from any other cause, (except storms, which drive it temporarily from its position, *but which it immediately resumes,)* the blockade was considered at an end, and a repetition of it could only be considered as a new blockade, and not as an interrupted continuation of the original one, which could affect the interests of neutrals who had entered the port in the meanwhile when no blockading force was present to warn them off or obstruct their entry. In accordance with this equitable construction of the laws of blockade, as defined above, by the armed neutrality of 1780, the Government of Great Britain, the most powerful maritime nation of the world, in a convention with the Empire of Russia, formed in the year 1801, stipulated "that, in order to determine what characterizes a blockaded port, that denomination is only given to a port where there is, by the disposition of the Power that attacks it with ships stationary or sufficiently near, an evident danger in entering." It is needless to say that the other Powers of Europe as well as the United States, at that time the only independent American Power, never having disputed the principle, it could be otherwise regarded than as the established law of nations at the commencement of the present century, and it is equally clear that it must be so considered at this day, nothwithstanding the violations that have been practiced by States which acknowledged its correctness.

The principle, then, being indisputable that the existence on the spot of the means adequate to the end was necessary for the institution of a blockade, the next question that presented itself was, how were neutrals to be notified of the fact. That all aggressions upon an innocent and friendly stranger were contrary to the laws of humanity and justice was too palpable to be denied, and the very proper practice was soon introduced of warning neutrals about to enter a blockaded port of the existence of a blockade; and without this warning by the blockading force they could not be considered as liable to capture and confiscation. This just and equitable rule, not at all shaken by the refinements of modern sophistry or the outrages of modern injustice, was grounded upon a fair demarkation of the limits between the rights of neutrals and the rights of belligerents, and is supported by the following reasoning:

The right to prevent the entry of neutrals into the blockaded port of a Power with which they are in amity is, as above declared, the result of a concession in favor of the belligerent; but a concession only made for such length of time as the blockading party actually maintains the blockade. To prevent the entry of a neutral, even for a moment after the raising of the blockade, would be a manifest infringement of his rights; and if the doctrine were admitted that a notice published in a distant country of a blockade, which might by possibility be raised long before any vessel could reach the designated port, was the only one requisite, the consequences would be highly injurious to the interests of a distant nation, whose merchants would be deprived of the advantages, enjoyed by those near at hand, of furnishing supplies to the party which had been, by the recurrence of peace or other causes, relieved from the distresses of a siege. In countries which are proximate to each other, as Great Britain, France, Holland, &c., where the intercourse requires but the lapse of a few hours or days, the institution or withdrawal of a blockade may be known in so short a period of time as to render the importance of the principle here advocated less manifest than it is to nations which are relatively more distant, such as those that are separated by the Atlantic Ocean, and especially those that are located in different hemispheres. To meet

this argument by contending that a vessel is bound to call for information at a neighboring port would be only substituting one measure of injustice for another. Leaving out of the question the impracticability in many cases, especially those wherein whole coasts are blockaded, of complying with such a demand, no belligerent has a right to compel a neutral vessel to perform a circuitous route to the port of her destination; nor has he the right to impose upon her the necessity of incurring the expense of port and other charges in his own ports or those of any other nation. So satisfied with the correctness of this principle was the Government of Great Britain that, in the year 1804, in consequence of a remonstrance made by the American Government against a declaration of a general blockade of "the islands of Martinique and Guadaloupe," proclaimed by the British naval commander, orders were issued to him "not to consider any blockade of those islands existing, unless in respect to particular ports which may be actually invested, and then not to capture vessels bound to such ports *unless they shall previously have been warned not to enter there.*"

The United States, maintaining these same principles, have always denied the doctrine of general and diplomatic notifications of blockades as binding upon their citizens. Whenever they are made, however, they regard them as friendly offices on the part of the Government from which they proceed, because it gives their merchants an opportunity of taking into the calculations of their voyages the contingency of a *continued effective* blockade of the ports designated, and affords them occasion for advancing their own particular views upon that branch of the public code which has been so frequently violated by some of the principal Powers of Europe. In the year 1816 the Government of the United States, having been notified by the Spanish minister at Washington of a declaration of the blockade of the "ports of the Vice Royalty of Santa Fé," lost no time in protesting against the general terms of the same, and its representative at Madrid was instructed to advise the Government of Spain that a "blockade, to be acknowledged by the United States as valid, must be confined to particular ports, each having a force *stationed* before it sufficient to intercept the entry of vessels, and no vessel shall be seized even in attempting to enter a port so blockaded till she has been previously warned away from that port." It was also notified that indemnity would be claimed for all captures of American vessels not made in accordance with this rule.

It is manifestly not the interest of the new independent American States to adopt in their practice the broadest possible construction of the laws of blockade; for the time may come when, being at war with the powerful maritime nations of Europe, they may find it all important to be able to show that, like the United States, they have always adhered to these maxims which have been received and acknowledged as settled principles of national law, and have always been ready to observe those rules which, consistenly with self-protection, have operated least injuriously to neutral and friendly nations.

It is for this reason that the undersigned begs leave to invite the attention of his excellency to the following considerations connected with the important question referred to.

The submission of neutrals to the laws of blockade, as above established, is a concession granted to the besieger, and can only be construed to extend so far as shall promote his benefit. Any act, therefore, which can be shown to inflict a positive injury upon a neutral, without conferring a benefit on the besieger in the furtherance of his plans, must be inadmissible upon the common principles of national justice. Thus, if a neutral's vessels and property are within a port at the time of the institution of a blockade, it would be manifestly unjust to prohibit their departure, inasmuch as by so doing extensive evils would be brought upon the citizens of friendly nations in their pursuit of a lawful commerce. It is, indeed, difficult to imagine what justifiable motive could influence a besieger to prevent a neutral from withdrawing from the besieged place his ship and property; for, by such act, the means of escape and of defence, as well as the means of prolonging the contest, would be at the same time withdrawn from the enemy.

With respect to the right of neutral ships to depart, there seems to be no difference of opinion among nations, but the same does not happen in regard to their *cargoes.* In the year 1813, while Great Britain was at war with the United States, some of the European Powers remonstrated against the unjustifiable pretensions of her system of blockade, which embraced a chief part of the coast of the United States; and, in an answer given to the minister of Sweden, it was contended that although neutral *vessels* which had entered the American ports without a knowledge of the blockade might, in conformity with the established rule, be allowed to depart, yet that this permission could not be extended to their *cargoes.* Special motives in this particular case, on the part of Great Britain, might amply account for a measure which she might not perhaps willingly have approved if adopted by any other Power; and it is not to be wondered at that a nation which already monopolized so great a share of the commerce of the world should have pursued a system calculated to exclude from competition the capitals of other States.

If, therefore, it can be made to appear, to the satisfaction of his Majesty's Government, that the citizens of nations with which his Majesty is in amity are the proprietors of a large amount of property already in the ports of the United Provinces of the River Plate, or which may enter them before the institution of the blockades, the undersigned would respectfully submit to the consideration of his Majesty's Government whether it would not be advisable to furnish the officers who are to direct the same (in case the measure has not been already adopted) with explicit instructions on the subject, in order that by no misconception of Powers may neutrals be exposed to the privation of their property either by detention in port or by seizure after leaving it.

The undersigned trusts that in this communication his excellency will perceive an additional evidence of the desire by which he is actuated, of endeavoring to perpetuate the harmony and good understanding which so happily subsists between their respective nations, and which will be more and more strengthened in proportion as they mutually embrace the same principles of justice and of respect for each other's rights.

The undersigned, on this occasion, renews to his excellency the Viscount of St. Amaro the assurance of his great respect and esteem, and of the high consideration with which he has the honor to subscribe himself his excellency's most obedient and humble servant,

CONDY RAGUET.

Rio Janeiro, *December* 13, 1825.

[Translation.]

The undersigned, Counsellor, Minister, and Secretary of State for Foreign Affairs, acknowledges the receipt of the note directed to him by Mr. Condy Raguet, Chargé d'Affaires of the United States of America, and has to inform him that the Government of his Imperial Majesty, penetrated with the sentiments of justice and impartiality expressed in his note, which accords with the liberal policy practiced by this Government, who never desire to adopt measures by which the subjects of other nations should suffer inconveniences which they would be unwilling their own should suffer in similar cases, has ordered the undersigned, in answer to your said note, to assure you that in the orders despatched to the commandant of the squadron blockading the ports of the United Provinces of the River of Plate, are expressly considered the vessels of neutral and friendly Powers which might have been there prior to the blockade, and determined that the said commandant should declare, by proclamation, [manifesto] that all the above mentioned vessels might freely depart with their cargoes within the term of fourteen days, and that the departure of vessels without cargoes (in ballast) should not be impeded at any time.

By those orders the Government have endeavored to prevent the occurrence of just motives of dispute or controversy between the said Government and that of neutral nations, in consequence of the actual war and of the said blockade; and the undersigned flatters himself that Mr. Condy Raguet will perceive in this answer the justice and frankness of the proceedings of this Government.

The undersigned has, by these motives, another occasion of expressing to Mr. Condy Raguet the sentiments of friendship and esteem which he renews.

VISCONDE DE S. ANDRE.

PALACE OF RIO JANEIRO, *December* 23, 1825.

The following important documents have been submitted to us for publication from the Department of Foreign Relations:

LEGATION OF THE UNITED STATES OF AMERICA, *Buenos Ayres, February* 13, 1826.

The undersigned, Chargé d'Affaires of the United States of America, having communications of high international interest to make to Admiral Lobo, commanding the Brazilian blockading squadron, most respectfully begs his excellency General de la Cruz, Minister of Foreign Relations, to grant him a flag of truce, according to the usages of war, to guaranty the safety of such an intercourse.

In order to manifest to this Government that sincere confidence which ought to exist between sister Republics, the undersigned has the honor to communicate a copy of the note which he wishes to transmit to the Brazilian Admiral. This note has for its object an humble effort to vindicate neutral rights in the principles and rules which ought to be observed in cases of blockade; and it is to be hoped that this attempt will not be misconstrued into any the slightest deviation from the straight line of most scrupulous and delicate neutrality between the belligerent parties, which it is the policy of the United States to observe under present circumstances.

The undersigned prays his excellency General de la Cruz, Minister of Foreign Relations, to accept the assurances of his highest consideration and respect.

JOHN M. FORBES.

His Excellency General DON FRANCISCO DE LA CRUZ, *Minister of Foreign Relations, &c., &c., &c.*

LEGATION OF THE UNITED STATES OF AMERICA, *Buenos Ayres, February* 13, 1826.

In the official note which the undersigned, Chargé d'Affaries of the United States of America had the honor to address to his excellency Admiral Lobo, commander of the imperial Brazilian squadron blockading the coasts and ports of Buenos Ayres, under date of 1st of January last, it was reserved by the undersigned to present on a future occasion the views and principles professed and put forth by the Government of the United States on the law of blockade. In conformity to that reservation, the undersigned now takes the liberty to present to the consideration of his excellency Admiral Lobo, and, if deemed worthy of transmission, to that of his Imperial Majesty's ministry, the following observations:

If the subject of blockade, so simple in its original application, now involves the most complicated questions of maritime law among nations, it is to be ascribed to abuses of power on one side, to too much condescension on the other, and to the multitude of incidental cases which have arisen as precedents, establishing arbitrary and ephemeral doctrines, since the breaking down of the original bounds and landmarks of mutual and universal rights.

Although the commerce of the United States has been, to a greater extent than any other, the victim of those gigantic abuses of power, it has never suffered without just complaints, in individual cases, and constant and strong remonstrances on the part of the Government of said States, against the principle and practice of everything like an imaginary blockade, the Hydra of lawless oppression.

Thus it has ever been maintained by the United States that a proclamation, or ideal blockade of an extensive coast, not supported by the actual presence of a naval power competent to enforce its simultaneous, constant and effective operation on every point of such coast, is illegal throughout its whole extent, even for the ports which may be in actual blockade; otherwise, every capture under a notified blockade would be legal, because the capture itself would be proof of the blockading force. This is, in general terms, one of the fundamental rules of the law of blockade as professed and practiced by the Government of the United States. And if this principle is to derive strength from the enormity of consequences resulting from a contrary practice, it could not be better sustained than by the terms of the original declaration of the existing Brazilian blockade, combined with its subsequent practical application.

The manifesto of his excellency Admiral Lobo, dated 21st of December last, declares that "all the ports and coasts of the Republic of Buenos Ayres, and all those on the Oriental side, (of La Plata,) which may be occupied by the troops of Buenos Ayres, are, from that date, subject to the most rigorous blockade." This declaration of blockade embraces an extent of maritime coast of more than twenty degrees of latitude; on which vast coast it is not pretended that his Imperial Majesty maintains any force beyond a single corvette, the "Maria da Gloria." If, therefore, there can exist anything like an imaginary blockade, this is, most unequivocally, one of that description; and, as such, in conformity with the principles before laid down, it calls for the resistance of the Government of the United States. If we turn our attention to the manner in which the blockade has been enforced in the immediate waters of Buenos Ayres, abundant matter of criticism presents itself. Since the establishment of the blockade, six foreign vessels, according to the annexed list, have entered the inner roads of Buenos Ayres, and three have gone into the port of Ensenada. Among the former, one was carried into Montevideo, detained nearly a week, and then suffered to take a new destination, without any endorsement of the notice of blockade on the principal papers of the vessel, as is practiced in similar cases by other maritime nations. Another, the Hamburg ship "Daphne," passed within gun shot of the Brazilian squadron, and, under the protection of a very inferior force, proceeded up to the anchorage in the inner roads. By these examples, occurring in a fine season of the year, there being no violent stormy weather to justify such a failure to enforce the blockade, it seems to be conclusively proved, either that the Brazilian squadron cannot, or that it will not, enforce it. And thus this high and important belligerent measure, which ought to be rigorously, constantly, and uniformly put into execution, has dwindled into a feeble and inefficient effort, depending on casualty, caprice, or convenience.

On a full view and mature consideration of all these circumstances, the undersigned feels it his indispensable duty to remonstrate and protest, and he thus remonstrates and protests against the blockade of the ports and coasts of the Republic of Buenos Ayres, as lately declared by his excellency Admiral Lobo, commander-in-chief of his Imperial Brazilian Majesty's forces; the said blockade being, in its general character, as well as in its practical application, stamped with inefficiency; supported by a naval power wholly incompetent to enforce it in its whole extent, and consequently illegal; prostrating neutral rights, and wholly inadmissible on the part of the Government of the United States.

Having thus remonstrated and protested against the said blockade, the undersigned reserves to the Government of the United States the right of continuing, as may be deemed expedient, the further discussion of national and individual interests involved in this very important subject.

The undersigned takes this occasion to renew to his excellency Admiral Lobo the assurances of his highest consideration and respect.

JOHN M. FORBES.

His Excellency Don Rodrigo José Ferreira Lobo, *Vice Admiral of the Squadron of his Majesty the Emperor of Brazil, &c., on board the Corvette "Liberal."*

List of vessels arrived at the ports of Buenos Ayres and Ensenada after the declaration of the blockade to which the adjoined communication relates.

AT BUENOS AYRES.

December 23, 1825. English brig Brothers.
December 26, 1825. American brig Mohawk.
December 31, 1825. English brig Mary Ann.
December 31, 1825. American brig Ant.
January 10, 1826. American schooner Grace Anne.
February 8, 1826. Hamburg ship Daphne.

AT ENSENADA.

January 25, 1826. American brig Caroline Augusta.
January 29, 1826. English brig Harmony.
February 9, 1826. English brig Intrepid Packet.

United States Ship Cyane, *Rio de Janeiro, April* 21, 1826.

Sir: Herewith I have the honor to enclose you copies of letters, et cetera, which I have felt myself called upon to conduct with his excellency Don Rodrigo José Ferreira Lobo, commanding his Imperial Majesty the Emperor of Brazil's naval forces employed in enforcing a blockade of the ports in and about the Rio de la Plata; this has eventuated in the withdrawal, on the part of his excellency, of the previously proclaimed blockade of all that section of coast without the immediate confines of the La Plata; this, in the absence of force, and with a threat of the use of the little I had, was the best I could obtain. You will perceive I have not admitted the legality of the blockade to the extent it at present exists. Other particulars, in connexion with abuses committed on our trading vessels previous to my arrival at the La Plata, are also submitted to your inspection and use.

With great respect, I have the honor to be your obedient servant,

J. D. ELLIOTT.

Condy Raguet, Esq., *in charge of the affairs of the United States at Rio de Janeiro.*

UNITED STATES SHIP CYANE, *off Montevideo, May* 5, 1826.

SIR: On the 18th of March I had the honor to apprise you of my departure from Rio Janeiro, and I have now to say that on the 1st of April I arrived near Montevideo. After a detention there of two days by head winds, on the evening of the second I got under way for Buenos Ayres, and on the following morning I discovered a squadron of nearly thirty vessels at anchor off Cape Antonio, a part of which soon got under way and stood for the Cyane. I immediately altered my course for the purpose of nearing them, when, at the moment stated in the log-book, (an extract of which is herewith enclosed, marked A,) I was spoken by a frigate having a corvette and three brigs in company; was ordered to send my boat on board, which demand was *peremptorily refused*, but, at the same time, remarked that a boat would be received, and which was soon after sent alongside. On ascertaining the name of the ship, I was informed that the port of Buenos Ayres was in blockade, and that I could not be permitted to proceed; to which I replied that even if I were to admit their right to proclaim a blockade of an extent of coast against a civil marine, that both English and French vessels-of-war were in the habit of proceeding, since the proclamation of it, almost daily to and from Montevideo and Buenos Ayres, as instanced both in the British and French corvettes Chasseur and Fawn; that I would allow him thirty minutes to deliberate on his future action, and at the expiration of that time I should proceed, prepared to resist all consequences; that the flag I wore carried under it the sovereignty of the soil it represented; that violated, the soil became invaded, and I should defend the ship to the last moment; that I had a communication for Admiral Lobo, which he asked for, and which I declined presenting until he should have returned from the frigate and discovered to me his true character. At the expiration of the time named, I hailed, and asked if he desired any further intercourse; to which he replied that he would be glad to receive the letter for Admiral Lobo, when I remarked that it would be received by sending his boat alongside, which he soon did, with a polite message in the offer of anything he had on board for myself or the ship, and wished me a pleasant passage. On presenting the enclosed, marked B, I replied that I should return in a few days, and desired him to say so to the Admiral; that individually, as well as the ship, we were abundantly supplied, and wished nothing hereafter but a free, a liberal, and polite intercourse. I immediately made sail, passed round his bow and down the line, under all the canvas of the ship. On the 5th of April I reached the outer roads of Buenos Ayres, despatched an officer on shore with the accompanying communication, marked C, together with a message to Admiral Brown of their Navy, exchanged salutes with the military authority, as also with the Admiral, and on the morning following paid my respects to the President of Buenos Ayres, and to the other Government authorities, which were kindly received and returned.

Here I discovered many Americans in distress; received such of them on board as wished to come *guests* to myself and officers, and on the 18th I got under way and proceeded for the squadron of Admiral Lobo, whom I met on the 20th, exchanged honors with him, and received the accompanying communication, marked D. On the following evening I arrived at Montevideo, and exchanged salutes with the authority on shore. After obtaining a true translation of Admiral Lobo's letter of the 6th, (a copy of which is enclosed, marked E,) I replied to it by communication marked F.

Observing, previous to my departure from Buenos Ayres, in a New York paper, brought by a brig which had eluded the blockading force, that Lieutenant Cooper, in the Porpoise, had departed that port for the coast of Brazil, presuming he had instructions for me *definitely* on the subject of the blockade, I deferred acting, as previously intended, until I could receive them. I therefore left the subject open, taking with me to Rio de Janeiro, in the absence of force, the best *conditions* and *terms* I could obtain, produced by a friendly call I made Admiral Lobo, (who had just arrived from his anchorage with his squadron, several of them dismasted in a gale, which was severe, and lasted forty-eight hours,) stating to him that the object of my visit was entirely intended to exchange our ideas on the subject of the blockade, and the effects to be produced on our commerce. He remarked it was not a measure of his, but of his Imperial Majesty the Emperor of Brazil; that he agreed with me as to the illegality of the measure, and, at my suggestion, would so far alter his previous proclamation as to confine it to the Rio de la Plata, leaving open all outside, and that no vessel should be captured, on first presenting, in the river. When warned off, she had a right to enter any port outside. This condition was preceded by a remark from me that I should take all the American vessels at Montevideo in convoy, and protect them to any port where the conditions we required (to constitute a regular blockade) were not complied with. On the 25th and 27th of April I addressed him two notes, enclosed and marked G and H. On the night of the 27th Admiral Brown appeared, and with his squadron attacked that of Admiral Lobo, leaving me, as you may readily suppose, a little inconvenienced. I appeared one of them, and when his shot began to affect us, I got under way and separated about two miles from the combatants. After a most severe and desperate attack on the weathermost ship, a frigate of 60 guns, called the Emperatrice, the remainder of the squadron got under way, stood off, leaving the squadron of Brown in close combat, who soon after withdrew, steering after the fleet of Admiral Lobo. We, therefore, have no information of him. The odds as to ships and guns are several hundred per cent. in favor of the Brazilians, yet the undaunted spirit of Brown and his followers seem to make up the deficit. Under the impression that Admiral Lobo would be absent some time, I concluded to await a few days his return, in order to receive his written note. On the morning of the 4th instant he arrived, and I was presented with the enclosed, marked I. I replied by the enclosed, marked K, and received for answer the enclosed, marked L. This opens to us an extent of coast 900 miles which has been heretofore considered in rigorous blockade.

The accompanying communication, marked M, is a copy of my note to the United States Consul at Montevideo, and his reply.

The English and French forces restlessly acquiesce in the blockade with evidently disturbed feelings; they have millions at stake where we have only pounds. The Brazilians have a force of 250 pieces of cannon, which is quite enough to carry into complete effect the blockade, but its energies are so badly directed that it is evaded almost daily by merchant vessels of all the various nations; and in order to extend the same terms that were in the first instance offered to vessels found at Buenos Ayres on the proclamation of the blockade, by Captain Christyvalier, of the French national brig Alacrity, who arrived at Buenos Ayres on the 9th April, in a passage of two days from Montevideo, we are informed that Admiral Lobo would permit the French ship Olindo, which had passed unseen by his squadron, to take in a cargo with free permission to depart the port. I presume he will extend the same to all nations, thereby directly encouraging a violation of his own blockade. Whilst Admiral Lobo remains in one position off the Ortiz, Admiral Brown, with a temporarily fitted force, occupies the whole river of La Plata, and, under the guns of Montevideo and Colonia, captures and runs on shore, burns, and drives out and into

port both the naval and merchant vessels of his enemy. Whilst he is moving with great energy, his Government seems to remain most completely inactive, waiting, as I am informed, the mediation of England to close the difference with the Emperor of Brazil. There are many diplomatic points in connexion with both nations on which I could enlarge, but I refrain, as I presume our accredited agents keep the Government constantly advised of them.

It may perhaps be proper to explain to you my motive in attempting the passage of the Rio de la Plata. I will briefly remark, that as I had visited the capital of his Imperial Majesty the Emperor of Brazil, that, in justice to his enemy, I felt myself most imperiously called upon, under our strict neutral character, to show the Cyane before Buenos Ayres, which, with some risk to her, I was enabled to do.

This evening I shall depart hence for Rio de Janeiro.

With great respect, I have the honor to be your obedient servant,

J. D. ELLIOTT.

Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy, Washington City.*

P. S.—N and O are communications to Joshua Bond and John M. Forbes, Esqs.

A.

Extract from the Log-Book of the United States Ship Cyane, April 3, 1826.

"At 8 a. m., moderate, pleasant weather; at 9, discovered the vessels at anchor ahead to be the Brazilian blockading squadron, about ten miles E. SE. of the SE. end of the Ortiz Bank; at 9.30, observed five vessels-of-war under way, standing towards us; at 10, made them to be one frigate, one corvette, and three brigs; prepared for battle, and showed our colors; at 11, shortened sail to the topsails, and hauled up for the Brazilian squadron under way; at 11.30, the frigate was on the lee beam at about 150 yards distance, two brigs on the lee bow, the other a little on the weather quarter, and the corvette astern and to leeward; at 11.40, hailed the frigate and asked her name; answered, his Imperial Majesty's frigate Maria de Gloria. The name of our ship was then asked and given, succeeded by a demand that a boat should be sent. This demand was peremptorily refused by Captain Elliott, adding that a boat should never be sent from his ship, although one would be received; observed the guns of the frigate trained and tompions out; kept the larboard guns on the main-deck manned for the frigate and her consorts on the lee bow, and manned the starboard quarter deck guns for the brig on the weather quarter; observed the brig on the weather shortly after drop astern; at 11.45, received a boat from the frigate and brig, with two officers, who were introduced to Captain Elliott in his cabin, by whom he was informed that the port of Buenos Ayres was blockaded, and he could not be permitted to proceed. To which he replied, that if even he were to admit their right to proclaim the blockade of an extent of coast against a civil marine, he could not against neutral vessels-of-war; that both English and French vessels-of-war were in the habit of proceeding, almost daily, to and from Montevideo and Buenos Ayres, as instanced both in the British and French corvettes Chasseur and Fawn; that he would allow him 30 minutes to deliberate on his future actions, and at the expiration of that time he would proceed, prepared to resist all consequences; that the flag he wore carried under it the sovereignty of the soil it represented; that violated, the soil became invaded; and that he should defend his ship to the last moment. Captain Elliott further observed to the officer that he had a communication for Admiral Lobo, which was requested. Captain Elliott declined giving it to the officer until he returned from his frigate and discovered her true character. At 12, the Brazilian boats left the ship; during all this time the weatherly position of the ship was maintained, and every other precaution taken to resist, with effect, an attack from the squadron, which appeared to be meditated; at 12.20, hailed the frigate to know if they had any further communication to make; they answered by asking if Captain Elliott would send the Admiral's letters and papers; yes, was the reply, if you will send a boat; at 12.45, a boat came alongside for letters and papers for the Admiral, with the compliments of the commanding officer to Captain Elliott, tendering every civility, and offering any supplies he might be in want of, with his best wishes for a speedy and pleasant passage to Buenos Ayres; Captain Elliott returned his compliments and thanks, adding that his ship was abundantly supplied with every necessary, and that all he wanted was a free and generous intercourse with all nations, concluding with an offer to be the bearer of any communication the commanding officer, or any other in the squadron, might have to make with Buenos Ayres; at 1, the Brazilian boat departed; bore up, passed within hail of the Brazilian squadron along their line; made all sail for Buenos Ayres."

B.

UNITED STATES SHIP CYANE, *off the Ortiz Bank, April* 3, 1826.

SIR: The undersigned, commanding the United States naval force on the coast of Brazil, begs leave to submit for the consideration of Admiral Lobo, commanding his Imperial Majesty's forces at the Rio de la Plata, a few remarks on the subject of the blockade recently proclaimed by him of the whole extent of coast of the Republic of Buenos Ayres, and all those on the Oriental side of the La Plata, an extent of nearly *thirty degrees of latitude.*

The United States, just in her intercourse with the nations on both sides of the hemisphere, will expect a correspondent return. She has steadfastly contended for and uniformly *sustained* the *point,* that she will not submit to the terms of a blockade of a whole coast of nearly thirty degrees of latitude, such as you have been pleased to set forth in your manifesto of the 21st of December last; and the undersigned begs leave to remark to Admiral Lobo that, whilst the United States will observe a strict neutrality between the parties in the present contest, she will most steadfastly and scrupulously defend a point

which she has already waded through a bloody but a successful war in the maintenance of. The intelligence of an officer vested with the command of a force of the magnitude of the present, it is presumed, will induce him to look into and search for information of those authorities which treat on international law and can enlighten and illume the mind. He will there have brought to his view the terms of the armed neutrality of 1780, which settled all those points amongst the different European nations. Great Britain, then the most powerful of the maritime nations in the world, in a convention with the Empire of Russia, entered into in 1801, stipulated "That, in order to determine what characterized a blockaded port, that denomination is only given to a port where there is, by the disposition of the Power that attacks it with ships stationary or sufficiently near, an evident danger in entering." It is needless to say that the other Powers of Europe, as well as the United States, then the only independent one of the great western world, never having disputed the principle, it could not be otherwise regarded than as the established line drawn between all. It commenced with the present century, and is equally clear that it must be so considered at this time, notwithstanding the violations practiced in recent days. So satisfied with the correctness of this principle was the Government of Great Britain, that, in the year 1804, in consequence of a remonstrance made by the American Government against a declaration of a general blockade "of the islands of Martinique and Guadaloupe," proclaimed by the British naval commander, orders were issued to him "not to consider any blockade of these islands existing, unless in respect to particular ports which may be actually invested, and then not to capture vessels bound to such ports *unless* they have been previously warned not to enter them." The United States will not acknowledge a blockade as valid against its civil marine unless confined to particular ports, each one having *stationed before it* a force sufficiently great to prevent the entry of all vessels carrying materials to succor the besieged; and no vessel shall be seized, even in attempting to enter the port so blockaded, till she has been previously warned off and the fact endorsed on her register. The undersigned will also avail himself of this occasion to express his regret that the representative of his Imperial Majesty should have found it necessary to adopt a course in relation to the United States so well calculated to disturb the harmony and good feelings which exist between the two Governments; that whilst he has the disposition to present to Admiral Lobo an earnest of those feelings of his Government when she stepped forth *first* from among the nations of the earth in the recognition of the Empire of Brazil as, amongst them, *free*, *sovereign*, and *independent*, he will also assure him that indemnity will be claimed, and, if necessary, the undersigned will feel himself called upon to bring into operation that arm of the nation's naval force placed subject to his control in repelling all improper encroachments on American vessels and on her maritime and neutral rights.

With great respect and consideration, I have the honor to subscribe, your obedient servant,

J. D. ELLIOTT.

His Excellency Don Rodrigo José Ferr. Lobo,
Vice Admiral of the Forces of his Imperial Majesty the Emperor of Brazil.

D.

[Translation.]

On board the Imperial Brazilian Corvette Liberal,
At anchor in the River la Plata, April 6, 1826.

The undersigned Vice Admiral, commanding the naval forces stationed in the River de la Plata, informs the illustrious Signor J. D. Elliott, commanding the naval forces of the United States on the coast of Brazil, that he has before him his note of the 3d instant, relative to the blockade which his Majesty the Emperor of Brazil has ordered to be declared against all the ports on the western bank of the River de la Plata, as well as against those on the eastern bank which may be in the possession of the enemy; these ports, and likewise those from the coast of Patagonia to Bahia Branca, are the ones which it is the intention of the undersigned to blockade. The ports, also, which are between the rivers Parana and Uruguay ought to be considered as under blockade by the ships which are cruising in the River la Plata, inasmuch as the latter river is the entry to the others; and to blockade a port it is not necessary to be always in sight of it, but it is sufficient to cruise about the place which forms its entry. For example, the undersigned might blockade Buenos Ayres while at Dos Bancos de Ortiz, and did so while on the bank of the River la Plata. This is his opinion, and he believes that nothing can be reasonably urged against it.

The undersigned would be the first to acknowledge the amity subsisting between the Cabinet of the United States and that of the Empire of Brazil; and he hopes that he will give no cause for the slightest dissension or misunderstanding between the two Governments. Nor ought the commission with which the undersigned is intrusted to be productive of detrimental consequences to either nation; because nothing is more easy, when a good understanding subsists, than to conform to the established laws of a blockade, which laws the undersigned has not departed from, inasmuch as his mode of proceeding with the vessels of allied nations has been as follows: Whenever the undersigned has met with vessels of allied nations he has informed them the ports of the Republic of Buenos Ayres were under blockade, and has directed a note to be attached to their passports stating this fact. Until the present, all have obeyed. Slight difficulties have arisen; but, in the end, all have obeyed, with the exception of an American schooner, which, after being examined, entered the port of Montevideo, and there obtained a passport, if I rightly remember, to double Cape Horn, and, going out, entered again by the northern channel, and afterwards proceeded to Buenos Ayres. She is now a schooner-of-war of that Republic, called the Sarando.

The undersigned is of opinion that he has forces more than sufficient to blockade the ports of the River la Plata. Until the present day he has not met with any vessels of allied nations which were not bound to Buenos Ayres. He conceives, however, that he has fulfilled his duty by being in sight of Buenos Ayres, or even at Dos Bancos, according to the established principle for blockading a port; and any vessel whatever, being warned in the manner which the undersigned continues to give warning, is liable to the established laws if she afterwards violates the blockade.

The undersigned is of opinion that he has satisfactorily answered the note which he received, dated

the 3d of April; but, if this reply is not sufficient, recourse must be had to the Cabinet of the Empire of Brazil at Rio de Janeiro.

The undersigned profits by this opportunity to assure the illustrious Signor commanding the naval forces of the United States of America on the coast of Brazil of the consideration and respect with which he has the honor to salute him.

RODRIGO JOSÉ FERA. LOBO, *Vice Admiral.*

F.

UNITED STATES SHIP CYANE, *off Montevideo, May* 4, 1826.

SIR: There is still one letter of your excellency to which I feel called upon to reply. In taking leave of the subject we have had under discussion, I will briefly remark that I have not yet seen the grounds on which his Imperial Majesty presents the justice of his blockade of the extent you set forth in answer to my note of the 3d ultimo. Second, that because some of the European Powers have attempted to introduce a system most pernicious to the commerce of non-belligerents, the justice of a similar action on the part of one of the youngest Governments on this side of the hemisphere can by no means be made apparent. If there is authority, I should be glad to see it; and will submit, for your further consideration, some other on the subject of blockade which is new to us on this side of the water, and requires great circumpection in the introduction of a system which, in the end, may be quoted and used successfully against us. The following is of British origin, strengthened by reference to those able writers on international law, Grotius and Vattel.

"Chitty on Belligerent Powers and Neutral Rights; Boston edition, pages 129, 130, 131, and 132.

"It is under this impression that tribunals of the law of nations, before they have enforced the provisions of a blockade, have uniformly required it to be established by clear and unequivocal evidence, first, that the party proceeded against has had due notice of the existence of the blockade; and secondly, that the squadron allotted for the purposes of its execution was fully competent to cut off all communications with the interdicted port. These points have been deemed so indispensably requisite to the existence of a legal blockade, that the failure of either of them has been held to amount to an entire defeasance of the measure, and this even in cases where the notification of it has issued immediately from the fountain of supreme authority."(*)

"The blockade must not only have been declared by competent authority, but must be also an actually existing blockade. A blockade is then only to be considered as actually existing when there is a power to enforce it.(†) 'The very notion of a complete blockade,' said Sir William Scott, in the case of the Stert,(‡) 'includes that the besieging force can apply its power to every point of the blockaded State. If it cannot, there is no blockade of that part where its power cannot be brought to bear.' We find, however, from the case of the Frederick Molke,(§) that 'it is not an accidental absence of the blockading force, nor the circumstance of being blown off by wind, (if the suspension, and the reason of the suspension, are known) that will be sufficient in law to remove a blockade.' But if the relaxation happen not by such accidents as these, but by mere remissness of the cruisers stationed to maintain the blockade, (who are too apt, by permitting the passage of some vessels, to give fair grounds to others for supposing the blockade concluded,) then it is impossible for a court of justice to say that the blockade is actually existing. 'It is in vain,' said Sir William Scott, in the case of the Jaffrow Maria Schroeder,(‖) 'for Goverments to impose blockades, if those employed on that service will not enforce them. The inconvenience is very great, and spreads far beyond the individual case. Reports are eagerly circulated that the blockade is raised; foreigners take advantage of the information; the property of innocent persons is ensnared, and the honor of our own country is involved in the mistake.'"

Perhaps I may be considered as travelling a little out of the strict path of my duty as a naval commander when I present for your information those authorities on international law; but when one feels disposed not to call forth unpleasant discussion with our respective Governments, there is always a hope when light can be shed, and this reference seems to meet the present case at issue.

I did not expect you would have introduced the case of the Grace Anne; it is one to which you may have supposed I had an allusion in the closing paragraph of my communication. She was a trading vessel belonging to citizens of the United States, from one of its ports, destined for Buenos Ayres. Since the receipt of your note, the particulars of her case as well as those of the brigs Henry, of Portland, and the Joseph, of Boston, have been presented to me through an official source; the former, it appears, was taken forcible possession of off the Ortiz by your squadron, brought back to Montevideo, and there detained three days as a prize; and, at the same time, the master was denied all opportunity of having intercourse with the shore, or of communicating with the United States Consul; and she was further detained full three weeks in your possession, on the pretext that she had more goods on board than was stated in the manifest of her cargo. The Henry was also boarded off Buenos Ayres, the vessel overhauled, the mate and one of the seamen most cruelly beaten; and the Joseph was also taken possession of off Montevideo, there held, the vessel drifted about by the current and returned to the master, her geographical position not then known, and was eventually lost on the English Bank. These points are presented for your explanation. I will further beg leave to remark to your excellency, it has been always admitted that when a blockade is established first on lawful principles, a trading vessel has a right to present herself before any force there, to be warned not to enter the port. Should a further attempt be made, she may be taken possession of, and, under the forms of a trial, be condemned, it becomes a matter on which the vessel and cargo is the only forfeit. I am somewhat at a loss to perceive how your excellency can believe your force stationed in the blockade of all the ports of the Rio de la Plata, according to maritime principles,

(*) This was decided in the Court of Appeal, in February, 1792, Dr. Phillimore on License Trade, 52, in notes.

(†) Mercurius, 1 Rob. Rep. 80.

(‡) 4 Rob. Rep. 66; 1 Acton, 64, 5 Lord Erskine's speech, 8th March, 1808, on the Orders in Council, 10 Cobbett's Parl. Deb. 949, 950.

(§) 1 Rob. Rep. 86; 1 Rob. 93, 94, 147, 156; 1 Acton's Rep. 59.

(‖) 3 Rob. Rep. 156; ibid., 158, 159, note; 1 Acton's Rep. 59.

being in a line parallel to a shore distant on one side 30 miles, and on the other 17, and from the three most important ports more than 100 miles, commanding the space between your buoys, where vessels may pass and repass unseen, at their pleasure, instanced in the arrival at Buenos Ayres, whilst my ship lay there, of an American, of a French, and of two English brigs, all richly ladened.

Possessed of a fleet of nearly fifty sail wearing the flag of his Imperial Majesty and now in the La Plata, Admiral Brown, from a declared blockaded port, with a temporarily fitted force of only six vessels, passes and repasses at pleasure, in your presence and within 20 miles of you, attacks and captures at Colonia and Montevideo both his Imperial Majesty's vessels-of-war, as also those of his subjects; this fact is instanced in the arrival within the space of six days of six prizes at Buenos Ayres.

On closing this, the undersigned begs leave to call your excellency's attention to his former communication setting forth the views of his Government on the subject of blockade, and trusts they will meet with the entire approbation of his Imperial Majesty.

With high consideration, the undersigned has the honor to subscribe, your obedient servant,

J. D. ELLIOTT.

Don RODRIGO JOSÉ FERREIRA LOBO, *Vice Admiral commanding the Brazilian Forces at the Rio de la Plata.*

G.

UNITED STATES SHIP CYANE, *Montevideo, April* 25, 1826.

SIR: The very frank and free conversation I had with your excellency this morning has greatly relieved my mind on the subject of the further bearing you intend your blockade to have on the commerce of the United States; and I will be frank to say that my Government *cannot* nor *will not* object to the proclamation of Buenos Ayres and Ensenada in close blockade, and made so by the force you at present have in the La Plata, leaving the outer coast and that of Patagonia, and the northern coast of the Banda Oriental, not designated.

With high consideration, and with great personal esteem, I have the honor to remain your excellency's most obedient servant,

J. D. ELLIOTT.

Don RODRIGO JOSÉ FERREIRA LOBO, *Vice Admiral Brazilian Navy, Commander-in-chief of the Naval Forces in the Rio de la Plata.*

H.

UNITED STATES SHIP CYANE, *Montevideo, April* 27, 1826.

The undersigned would suggest to his excellency Vice Admiral Lobo the propriety of our settling, previous to separating at this time, the grounds on which the blockade in the River la Plata should be conducted in relation to the commerce of the United States. This, the undersigned feels well assured, will be productive of a continuance of those harmonious feelings which at present exist in our respective Governments.

With high consideration and respect, I have the honor to subscribe, your obedient servant,

J. D. ELLIOTT.

Don RODRIGO JOSÉ FERR'A LOBO,
Vice Admiral Brazilian Navy, commanding the Naval Forces in the Rio de la Plata.

I.

ON BOARD THE CORVETTE LIBERAL, *at anchor in sight of Montevideo, April* 27, 1826.

The undersigned, Vice Admiral commanding the naval forces of the Brazilian Empire in the River la Plata, has considered the two notes which were addressed to him by the illustrious Signor J. D. Elliott, commanding the frigate Cyane, of the United States of America, relative to the blockade of the ports of the Republic of Buenos Ayres, as declared in the proclamation of the undersigned, approved by his Government. The illustrious Signor J. D. Elliott is unwilling to conform to this blockade in its whole extent, but only with regard to Buenos Ayres and Ensenada, and thinks that all the other ports ought not to be considered under blockade. In this opinion the undersigned cannot agree with the illustrious Signor J. D. Elliott, who pretends that all the other ports, both within and without the Rio la Plata, should be excluded from the blockade; and the undersigned reminds the illustrious Signor J. D. Elliott that it was his decided opinion, in the conference which they had, that all the ports comprehended within the Rio de la Plata, that is, from Capes Santa Maria and Santa Antonio within, where his ships generally were, were under a rigorous blockade. The undersigned hopes that he has satisfied the illustrious Signor J. D. Elliott; but if the decision should not be satisfactory to him, he may apply to the Court at Rio de Janeiro where he will be completely satisfied. The undersigned is not competent to revoke what has been approved by his Government, and he can do no more, on this occasion, than suggest the arguments which offer themselves to him relative to the matter in question.

It remains to the undersigned to make the protestations of esteem and consideration with which, &c., &c.

RODRIGO JOSÉ FERR'A LOBOS, *Vice Admiral.*

The Illustrious Signor J. D. ELLIOTT.

K.

UNITED STATES SHIP CYANE, *off Montevideo, May* 4, 1826.

SIR: The undersigned has the honor to acknowledge the receipt of the communication of his excellency Vice Admiral Lobo of the present date; and in answer he has to remark that he understood distinctly from your excellency's declaration at the conference to which you allude, that the blockade you intended hereafter to enforce was confined to the ports within the Rio de la Plata; and that the coast outside was no longer to be considered as in blockade; this was also the understanding of his officer, who had conference with your excellency the succeeding day.

The undersigned has the honor to subscribe your excellency's most obedient servant,

J. D. ELLIOTT.

DON RODRIGO JOSÉ FERR'A LOBO,
Vice Admiral commanding the Brazilian Forces at the Rio de la Plata.

L.

I acknowledge the receipt of your note, dated to-day, in reply to the one which I addressed to you relative to the ports which I hold to be rigorously blockaded, which are those within the River de la Plata from Cape Santa Maria and Cape Santa Antonio, both on the eastern and western bank, with the exception of Montevideo. This was my fixed opinion in the conference which I had with you, and I cannot alter it in any respect. If you understand it differently, I am not to be blamed, inasmuch as I have the misfortune not to understand your language; and I cannot be responsible for the errors which may have been committed by the individuals who acted as interpreters.

You are aware that my proclamation having been approved by his Imperial Majesty, it is not in my power to revoke what has been published; and I do not a little in considering only the ports which I have mentioned above as under rigorous blockade.

This is all that suggests itself to communicate to you relative to the matter in question.

It remains to me to salute you with all consideration and respect.

God preserve you.

On board the corvette Liberal, anchored in front of Montevideo, May 4, 1826.

RODRIGO JOSÉ FERRA. LOBO, *Vice Admiral.*

The Illustrious Signor J. D. ELLIOTT.

M.

UNITED STATES SHIP CYANE, *Montevideo, April* 1, 1826.

SIR: The Government of the United States has assigned to me a cruise on the coast of Brazil for the double purpose of having communication with our public agents on shore, as also to give protection to our trade. If you have any communication to make on the subject of either, I will be glad to receive it at an early moment, and will be most happy to see you on board the United States ship Cyane.

This will be handed to you by Mr. Auchmuty, one of my officers.

With great respect, your obedient servant,

J. D. ELLIOTT.

JAMES BOND, Esq., *Vice Consul of the United States at Montevideo.*

CONSULATE OF THE UNITED STATES, *Montevideo, April* 26, 1826.

SIR: In compliance with the request made in your note of the 1st instant, I have the honor to enclose a report of the circumstances which have had an injurious tendency upon the American commerce at this place since the commencement of the war between the Emperor of Brazil and the United Provinces of the Rio de la Plata. This report has been drawn up by my brother, then acting Vice Consul, during a temporary absence from this place.

I have the honor to be, sir, your very obedient servant,

JOSHUA BOND, *Consul of the United States.*

J. D. ELLIOTT, Esq., *Commander of the United States Naval Forces, &c.*

CONSULATE OF THE UNITED STATES, *Montevideo April* 25, 1826.

On the 16th of December information was received, by an arrival from Rio de Janeiro, that the Emperor of Brazil had determined to commence hostilities against the Republic of the United Provinces of the Rio de la Plata, and, on the 22d of the same month, an official notice was received at this consulate

from Vice Admiral Lobo, commander of the Brazilian naval forces in this river, dated 20th of the same month, of his intention to blockade the ports of Buenos Ayres, to commence from the date of his communication; and on the evening of the next day several vessels sailed from the port to enforce the blockade. The effect of this measure was soon felt by the commerce of the United States; several vessels which had touched here, bound to Buenos Ayres, either entered or sought other markets, and several others arrived which had been warned off by the squadron.

On the 31st of December I was informed that the schooner Grace Anne, of Baltimore, had been brought into the port under charge of a prize crew, and that the master and crew were confined on board, and denied permission to come on shore. I immediately waited on Admiral Lobo to make inquiries into the cause of her seizure, and was informed by him that she was detained on suspicion either of having attempted to pass the squadron, after being warned off, or of having more goods on board than were contained in the manifest. He assured me that he would go on board without delay, make inquiry into the charges alleged against the vessel, and inform me of the result. On the following day I addressed a note to Admiral Lobo, requesting that the master, who was reported to be severely indisposed, might be permitted to land, which was granted; but not receiving any communication from the Admiral, I addressed a second note to him on the 3d, demanding a release of the officers and crew. No attention, however, being paid to this demand, I made a representation of the affair, on the 4th, to the Viscount de Laguna, the Captain General of the Province; and late in the evening of the same day a note from Admiral Lobo was received, enclosing the vessel's papers, in which he stated that the charges alleged against the schooner were without foundation, and that he would immediately despatch a vessel for that part of the crew who were detained on board the squadron, which was accordingly done, and the men restored to the vessel. The matter thus ended without any explanation or apology being made.

By a letter dated the 19th of January the Viscount de Laguna made known to me that, in consequence of neutral vessels having cleared out from this port for the Pacific, and, subsequently, eluding the blockading squadron, no vessel would be suffered to depart with cargoes other than the produce of this province, unless the master or consignees should previously give bonds to the amount of the vessel and cargo that they would not enter the ports of Buenos Ayres, and, upon enforcing this order, the bonds were required to be secured by a lien on real estate. One American vessel, the ship Superior, of New York, complied with this order, but it has not been enforced in any other case, and has been virtually abandoned.

On the 1st of March the brig Joseph, of Boston, sailed from this port, and was the next day lost upon the English Bank. The master stated, in his protest, that the same evening he was fired at and brought to by a Brazilian brig-of-war which was in sight at the time of his sailing, and ordered to send his boat on board, which he refused. He was afterwards repeatedlv fired at, and was detained until the next day afternoon, and attributed the loss of his vessel to his having been carried out of his course by the Brazilian vessel.

These comprise the only instances in which our commerce has suffered any detriment in this quarter since the commencement of the war; and, in order to make you more correctly acquainted with the facts, I enclose copies of the correspondence with Admiral Lobo, and also the letter of the Viscount de Laguna referred to above.

Yours, &c.,

JAMES BOND.

JOSHUA BOND, *Consul of the United States, Montevideo.*

CONSULATE OF THE UNITED STATES, *Montevideo, January* 2, 1826.

SIR: Frequent representations having been made to me respecting the dangerous and increasing illness of the captain of the American schooner Grace Anne, of Baltimore, now under seizure in this port, and fearing lest the state of the weather may prevent your excellency from visiting the vessel today, I request that permission be given for him to come on shore.

As it appears to be absolutely necessary that assistance should be rendered him without delay, which cannot be properly done on board, and as the permission cannot affect the truth of the reports alleged against him, I hope your excellency will be pleased to grant the order as promptly as the urgency of his situation demands.

I have the honor to be your excellency's most obedient servant.

His Excellency RODRIGO JOSÉ FERRA. LOBO, *Vice Admiral, &c.*

Sent about 2 o'clock.

CONSULATE OF THE UNITED STATES OF AMERICA, *Montevideo, January* 3, 1826.

The undersigned has the honor of informing his excellency Admiral Lobo that he has received a letter from Captain John Boddily, master of the American schooner Grace Anne, of Baltimore, now in this port, stating the circumstances of his seizure and detention by a Brazilian squadron in the river Plate, and demanding his interference in his behalf.

According to Captain Boddily's statement, it appears that, on the 28th of December last, while proceeding on his voyage from Santos, in Brazil, to Buenos Ayres, he was boarded in the river Plate, off Point Indio, by an officer from a brig bearing the flag of his Imperial Majesty the Emperor of Brazil, and himself and the papers of the vessel taken on board the said brig, where he was detained until the next morning, when he was sent on board the brig in company, called the Masseo, and after some hours' further detention, was returned to his own vessel, accompained by an officer and prize crew, who, having sent his second mate and four seamen on board the Masseo, brought the vessel to this port, where she arrived on the evening of the 30th; and since arrival Captain Boddily and his crew have not been allowed to leave

the vessel nor communicate with the shore, in consequence of which he has been unable to make known his situation to the Consul of the United States.

In the interview which the undersigned had with his excellency Admiral Lobo on the morning of the 1st, but before he was in possession of any positive information of this subject, his excellency informed him that the vessel was detained on suspicion of having more cargo than her manifest could account for, and also that he had either attempted to pass the squadron after having been notified of the blockade, or that she had endeavored to escape pursuit when first discovered by the squadron, and, if the undersigned comprehended his excellency, these suspicions originated since her arrival in this port. If the undersigned misunderstood the charges, he requests to be more explicitly informed respecting them.

As far, then, as the undersigned can ascertain, no positive charges are alleged against Captain Boddily, but himself and his crew have been confined on reports which the undersigned is assured are without foundation, and the truth and falsehood of which could have been ascertained on the slightest examination, and yet no attempt has been made to investigate them.

It is now the duty of the undersigned to ask his excellency Admiral Lobo that Captain Boddily, and such of his crew as remain on board the vessel, be immediately released, and that orders be sent with all possible despatch to liberate the men confined on board the Masseo, and restore them to the vessel from which they were taken, unless evidence can be produced to justify these proceedings.

The undersigned has the honor to be his excellency's obedient servant.

Delivered 11 o'clock.

CONSULATE OF THE UNITED STATES OF AMERICA, *Montevideo, January* 4, 1826.

The undersigned, Vice Consul of the United States of America, has the honor to represent to his excellency Viscondo da Laguna that the American schooner Grace Anne, of Baltimore, John Boddily master, while proceeding on her voyage from Santos, in Brazil, to Buenos Ayres, on the 28th of December last, then being in the river Plate, off Point Indio, was fired at and brought to by a brig bearing the flag of his Imperial Majesty the Emperor of Brazil, and afterwards boarded by an officer from said brig, and Captain Boddily and the papers of the vessel taken on board, where he was detained all night, exposed to the weather, on the deck of the vessel, although at that time he was suffering under an excruciating disease, and had been confined to his bed for some days. The next morning he was sent on board a ship in company, called the Masseo, and after some hours' further detention he was returned to his vessel, accompanied by an officer and prize crew, who, having removed the second mate and four seamen to the Masseo, proceeded with the vessel to Montevideo. They arrived in this port on the evening of the 30th December, since which time Captain Boddily and his remaining crew have not been permitted to leave the vessel, nor communicate with shore, by the orders, as he was informed, of his excellency Admiral Lobo, in consequence of which he was unable to make known his situation to the Consul of the United States until the night of the 2d instant, when permission was obtained for him to land.

In an interview which the undersigned had with Vice Admiral Lobo on this subject, but before he had received any authentic information respecting it, he was informed by his excellency that he did not consider her as a prize, but that she was detained on suspicion of having more cargo than was included in the manifest, and also that she had either attempted to pass the squadron after having been informed of the blockade, or (for his excellency did not seem to know the exact nature of the charge) she had endeavored to escape when first descried by the squadron; and, if the undersigned comprehended his excellency, these suspicions had originated since the arrival of the vessel in this port, and were not suggested by the officer who seized her, and who does not appear to have assigned any cause for his conduct. If these charges were misunderstood by the undersigned, he requests that he may be more correctly informed of their nature. His excellency Vice Admiral Lobo, at the same time, assured the undersigned that he would examine into those reports that afternoon, or without fail the next morning, and acquaint him with the result of his investigation, but no communication has yet been received from his excellency on that subject.

From all the undersigned can learn, it appears, then, that this vessel has been seized without any known pretext, the captain and crew rigorously confined and debarred from all communication at a time when the situation of the former required assistance, on reports which the undersigned is assured are without foundation, and the truth or falsehood of which could have been ascertained on the slightest examination, yet no disposition to investigate them has been shown.

The undersigned not having received any answer to his applications on this subject in another quarter, it now becomes his duty, in order that speedy justice be rendered to the sufferers in this case, to request, in the name of his Government, that his excellency Visconde da Laguna will cause immediate inquiries to be made into the charges alleged against the captain and crew, and unless evidence can be produced sufficient to authorize their further detention, that Captain Boddily, and such of his crew as remain on board the vessel, be set at liberty; that those of the crew who are confined on board the brig Masseo be restored to the vessel from which they were unjustly taken as speedily as circumstances will allow, and that immediate restitution be made of the vessel and cargo; and further claims, in behalf of Captain Boddily, officers, crew, and all others concerned, compensation for all damages they may have incurred by the illegal seizure and detention of themselves and vessel.

The undersigned cannot close this communication without protesting against the conduct of the officers who sent the vessel into port, and requesting an explanation of the causes which led him to adopt this measure; for the maltreatment of Captain Boddily and detention of his crew; nor without expressing his sincere wish that, in representing this affair to his Government, he may be able to give assurance that no outrage of this kind will occur in future.

The undersigned takes this occasion to tender to his excellency Visconde da Laguna the assurance of his consideration and profound respect.

Sent 6 o'clock, p. m.

To the illustrious Signor the Vice Consul of the United States of America:

I have received the note which you addressed to me under date of the 2d instant, and, with regard to the request contained in it, that I will permit the captain of the American schooner, who is ill on board of her, to be removed on shore, I have to inform you that I yesterday told the said captain, as likewise the supercargo, that they might go on shore, which liberation, I am pleased to find, coincides with your request.

I profit by the occasion to present you my consideration and esteem. God preserve you many years.

Headquarters of the Marine in Montevideo, 3d of January, 1826.

RODRIGO JOSÉ FERR. LOBO, *Vice Admiral.*

To the illustrious Signor James Bond, Vice Consul of the United States:

I have the honor to acknowledge the receipt of your letter dated the 3d instant; and in reply to its contents I have to inform you that, having proceeded to examine the cargo on board the schooner Grace Anne, I found it to be the same as that stated in the manifest, which I remit to you, together with the passport and other documents. You may therefore take charge of the ship; and I intend to-morrow to withdraw my men and to send aboard the corvette Masseo to look for the men belonging to the said schooner, and, when they are found, I will replace them on board of her.

I profit by this opportunity to salute you with all consideration and respect. God preserve you many years.

Headquarters of the Marine in Montevideo, 4th of January, 1826.

RODRIGO JOSÉ FERR. LOBO, *Vice Admiral.*

MONTEVIDEO, *January* 5, 1826.

The Captain General Viscount da Laguna having been informed that the affair of the detention of the American schooner Grace Anne, which was the subject of the official note addressed to him under date of yesterday by the illustrious Signor James Bond, Vice Consul of the United States, has been settled; it only remains to him to acknowledge the receipt of the said note, and to profit by this opportunity of making his compliments to the Signor, and assuring him of his consideration and esteem.

VISCOUNT DA LAGUNA.

The Illustrious Signor JAMES BOND, *Vice Consul of the United States.*

MONTEVIDEO, *January* 19, 1826.

ILLUSTRIOUS SIR: Having understood that several merchant vessels belonging to neutral and friendly nations, abusing the passports which they obtained from this Government for ports in the Pacific, and taking advantage of accidents which it was not in the power of the blockading squadron to guard against, have entered the ports of the Republic of Buenos Ayres, and that merchants, animated with the hope of like success, are preparing expeditions with a similar destination, I have determined that no vessels of neutral nations, unless their cargo consists of the produce of this province, shall be permitted to clear out until their captains or consignees have first deposited in the treasury of the place a legal bond, equivalent to the integral value of the goods which they may export according to the prices current of the market, in order that they may not abuse the passports of this Government, nor enter into the ports of the Republic of Buenos Ayres; which resolution I communicate to you, in order that you may impart it to the captains or masters of merchant vessels of your nation.

God preserve you.

VISCOUNT DA LAGUNA.

N.

UNITED STATES SHIP CYANE, *Montevideo, April* 27, 1826.

SIR: Herewith I have to acknowledge the receipt of your communication of the 26th, together with its several enclosures.

I am prepared to receive the seaman whom John Thomas, master of the brig Lincoln, of Boston, complained of; he had, therefore, better be sent off to-day. I am also prepared to receive the seaman you have demanded from the Brazilian Navy.

With great respect, your obedient servant,

J. D. ELLIOTT.

JOSHUA BOND, Esq., *Consul of the United States at Montevideo.*

UNITED STATES SHIP CYANE, *off Montevideo, April* 28, 1826.

SIR: Herewith I have to apprise you that my negotiation with his excellency Vice Admiral Lobo, commanding the naval forces of his Imperial Majesty the Emperor of Brazil, blockading the Rio de la Plata, have eventuated thus: that, henceforth, the blockade proclaimed in December last, of the ports of the United Provinces of the La Plata and those of the Banda Oriental, shall be confined to those of the La Plata *only*, and that all outside are considered no longer blockaded; that American merchant vessels shall, on presenting before his squadron, be warned not to enter ports in the river, with the fact endorsed on their register, which will not deny them, as heretofore, the privilege of entering any one of the ports along the northern or southern coast. This fact you will cause to be communicated to our countrymen interested in the subject.

I have the honor to subscribe, your obedient servant,

J. D. ELLIOTT.

JOSHUA BOND, Esq., *Consul of the United States at Montevideo.*

UNITED STATES SHIP CYANE, *off Montevideo, May* 5, 1826.

SIR: You will receive enclosed a copy of the official communication of his excellency Rodrigo José Ferreira Lobo, commanding his Imperial Majesty the Emperor of Brazil's forces, employed in blockading at the La Plata; this you will be pleased to apprise our countrymen of in such way as may be deemed most proper for the occasion.

With great respect, your obedient servant,

J. D. ELLIOTT.

JOSHUA BOND, Esq., *Consul of the United States at Montevideo.*

O.

UNITED STATES SHIP CYANE, *off Montevideo May* 5, 1826.

SIR: I have the honor to acknowledge the receipt of your letter of the 25th ultimo. In answer I have to reply, that I have had intercourse with his excellency Vice Admiral Lobo on the subject of a privilege previously granted the French ship Olinda; the Vice Admiral denies positively that he gave permission to that ship to depart the port of Buenos Ayres with a cargo, and, of course, he could not extend it to the vessels of other nations. After some considerable close and warm correspondence with his excellency, he agreed to withdraw his blockade of all the ports and coasts without the Rio de la Plata. A copy of his letter is herewith enclosed for your inspection, and for the use of all our countrymen at Buenos Ayres.

With great respect, I have the honor to be your obedient servant,

J. D. ELLIOTT.

JOHN M. FORBES, Esq., *in charge of the Affairs of the United States at Buenos Ayres.*

Captain J. D. Elliott to the Secretary of the Navy.

UNITED STATES SHIP CYANE, *Rio de Janeiro, June* 11, 1826.

"Until I could learn the ultimate decision on an affair which presented on the 5th instant, I have refrained from bringing to your notice an attempt which was on the eve of being made, in the examination of some of our merchant vessels, by Commander Frederic du Plantys, commanding his most Christain Majesty the King of France's frigate La Seine. Some part of his crew had deserted previous to that date; and on the 5th instant, whilst some of our merchant vessels were about departing the port, he sent one of his lieutenants on board, with instructions to obtain my permission to board and examine those vessels, with others, for his men. I directed his officer to reply that under no circumstances whatever could that permission be given, and trusted he possessed too great a sense of propriety for one moment to urge the measure, and in the event of his doing so I should resist every inch by force. I accordingly made the necessary preparation, and he abandoned the point."

R.

EXTRACTS FROM THE CORRESPONDENCE OF COMMODORE J. BIDDLE.

Extract of a letter from Commodore James Biddle to the Secretary of the Navy, dated United States frigate Macedonian, Rio Janeiro, August 16, 1826.

"I arrived here on the 11th instant, and, upon my arrival, I saluted the flag of Brazil, and my salute as had been previously arranged, was returned, gun for gun. I found the Cyane here, waiting my arrival

The Boston is cruising, by order of Captain Elliott, off La Plata river, between Capes St. Mary and St. Antonio, for the purpose of giving information of the blockade of the river to American vessels. By two different opportunities I have written to Captain Hoffman, directing him to join me here. It is not my intention, however, to remain here until Captain Hoffman does join me, nor to permit him, in case he arrives soon after I sail, to remain here until I return. I shall probably go to sea in about a fortnight; and should I not previously see him, I shall leave orders for Captain Hoffman to cruise at sea, and to meet me here about the middle of November next.

No American vessels have been sent in here by the blockading squadron, except the brig Leonidas, belonging to Boston, and bound, when she was seized, from Canton to Buenos Ayres. She is detained, I understand, more from a suspicion that her cargo is enemy's property, than for any intention to violate the blockade, with which, in fact, it is impossible she could have been acquainted."

Extract of a letter from Commodore James Biddle to the Secretary of the Navy, dated United States frigate Macedonian, Rio Janeiro, September 10, 1826.

"The Boston sloop-of-war arrived here on the 8th instant from Montevideo, and I enclose Captain Hoffman's report to me. The presence of a public vessel of the United States in the river has a tendency, you perceive from Captain Hoffman's report, to prevent American vessels from being sent to this port for adjudication. This is of itself important service, as the delay of obtaining the acquital here of the most innocent vessel is injurious and vexatious. I have therefore directed the Boston to sail as soon as she is ready to sail, and return to the anchorage off Montevideo. I enclose a copy of my orders to Captain Hoffman; he is to meet me here in November, when he will require provisions, and which cannot be procured in the river.

"I shall sail to-morrow, and go to the north as far as Bahia. It was my intention to have sailed earlier, but when the crew of the brig Ruth were sent on board this ship, Mr. Raguet became responsible to this Government for their forthcoming; and had I sailed before the taking of their depositions, it would have been necessary to send them to the prison ship for safe keeping. There was no public object to induce me to go to sea under such circumstances. I feel the utmost repugnance to American seamen being on board the prison ship, as well because they are there in the power of the Brazilian officers, as because the prison ship is exceedingly crowded, filthy, and unhealthy. These seamen are now on board the Boston, and in a day or two will certainly be examined. After their examination it is no longer necessary that we should take care of them, and they will then be returned to the vessel to which they belong."

Extract of a letter from Beekman V. Hoffman, Esq., Commanding United States ship Boston, to Commodore James Biddle, dated Montevideo, August 26, 1826.

"I have just had the honor to receive your letter of the 13th instant by the English packet, and lost no time in proceeding agreeable to your instructions. During my anchorage off Montevideo there were three American vessels captured by the Brazilian squadron, all of which were released upon my interceding in their behalf, whose names are inserted below.

"There were several applications made to me by American seamen in the Brazilian naval service, requesting I would intercede in procuring their release, as they had been impressed. I made application for them through the American Consul, and obtained the release of three, with the assurance from the Admiral that he would not suffer an American seaman to be detained in his squadron unless regularly entered for the service."

Extract from Commodore James Biddle's instructions to Captain B. V. Hoffman, dated United States frigate Macedonian, Rio Janeiro, September 10, 1826.

"As soon as the seamen belonging to the American brig Ruth are examined, and your ship is ready to sail, be pleased to get under way and proceed to sea. The presence of the Boston at Montevideo having already been advantageous, I wish you to return thither without delay. Do not go higher up the river than Montevideo, and in case there is any fighting there, you must be careful to move your ship out of the way of it in time to avoid injury.

"Should any American vessel be seized, or any American citizens impressed or abused, use all your endeavors to obtain redress. I recommend your cultivating acquaintance and good will with the Brazil Admiral, so far, at least, as his conduct towards our countrymen will permit. Much may be effected in this way towards protecting American citizens and American property.

"Our laws wisely and humanely consider seamen as a peculiar class of citizens, and requiring the particular care of the Government. I understand that there are many Americans in the Brazil squadron, some of whom have been impressed. If any case of impressment of American seamen comes to your knowledge, use your influence to obtain their release, and provision them on board until you return to Rio Janeiro. If our Consul at Montevideo has any American seamen whom he is supporting at the public expense, receive them also on board as supernumeraries, and bring them out of the river. Receive on board, also, all American seamen who may request you to do so. The scarcity of seamen is sensibly felt within the United States, both in the public and private service, and it is important that we should aid such as have been left abroad to return home.

"I wish you to leave the anchorage of Montevideo about the first day of November next, in order to meet me here, as I shall then want the Boston to accompany me to the river. The Cyane is to meet me here early in November, and it is my wish that all three go in company to the river."

19TH CONGRESS.] No. 439. [2D SESSION.

BRITISH COLONIAL TRADE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES DECEMBER 18, 1826.

To the Senate and House of Representatives of the United States:

I transmit to Congress extracts of a letter received since the commencement of their session from the minister of the United States at London, having relation to the late discussions with the Government of Great Britain concerning the trade between the United States and the British colonies in America.

JOHN QUINCY ADAMS.

WASHINGTON, *December* 8, 1826.

Extract of a despatch, No. 16, *from Mr. Gallatin to Mr. Clay, dated London, October* 27, 1826.

"Mr. Canning, in his official note of 11th September last, on the subject of the colonial intercourse, has the following observation respecting the provision of the act of Congress of March 1, 1823, which prevented British vessels entering American ports, except directly from the British West Indies, from clearing out for any of those colonies: 'It must not be forgotten that this enactment, founded professedly on the limitations of the British act of Parliament of 1822, is continued fourteen months after the passing of the British act of 1825, by which the limitations were done away. Since the 5th of January, 1826, an American ship trading to a British West India colony may clear out from thence to any part of the world, the United Kingdom and its dependencies alone excepted; but the British ship in the American port still remains subject to all the restrictions of the American laws of 1823,' &c. Although I did not know at the time what act of Parliament of 1825 was alluded to, I could have no doubt of the repeal of the limitations of the act of Parliament of 1823, and thus expressly stated; and the fact is accordingly taken for granted in my official answer to Mr. Canning of the 22d of September. Yet, on examining the various acts of Parliament, I have found some difficulty to discover by what act, in what manner, to what extent, and from what date, the said limitations had been actually repealed.

"The act of 1822, which contains the limitations alluded to, is that of June 24, 1822, (44th chap. of 3d Geo. 4th,) entitled 'An act to regulate the trade between his Majesty's possessions in America and the West Indies, and other places in America and the West Indies;' and the limitations in question are two. By the 3d section, goods imported in foreign ships into the free ports of the British colonies must be shipped and brought directly from the country or place of which they are the growth, produce, or manufacture. By the 4th section, goods exported from any of the said free ports in foreign ships must be exported direct to the country or State to which such ship belongs. Although Mr. Canning has used the word *limitations* in the plural number, it is clear that he intended to apply his observation, 'that the limitations were done away,' to the last mentioned limitation only, and not to the first.

"The act of July 5, 1825, (6th Geo. 4th, chap. 114,) entitled 'An act to regulate the trade of the British possessions abroad,' does not contain any clause repealing either of the limitations of the act of June 24, 1822. But the fourth section states that, by the *law of navigation*, foreign ships are permitted to import into any of the British possessions abroad, from the countries to which they belong, goods the produce of those countries, and to export goods from such possessions to be carried to any foreign country whatever.

"The *law of navigation*, referred to as above, must be the act also of July 5, 1825, (6th Geo. 4th, ch. 109,) entitled 'An act for the encouragement of British shipping and navigation.' It is enacted by its first section that the act shall be in force from the 5th of January, 1826, and shall constitute and be the *law of navigation* of the British Empire. The 11th section provides 'that no goods shall be imported into any British possessions in Asia, Africa, or America, in any foreign ships, unless they are ships of the country of which the goods are the produce, and from which the goods are imported.' The 4th and 10th sections provide against the importation, in foreign ships, into the United Kingdom or into any British possession in Asia, Africa, or America, of goods carried from any such British possession. There is not in the act any provision restricting the exportation of goods from any such British possession in foreign ships to any foreign country whatever. But the act does not expressly repeal any such restriction previously in force, nor indeed any former act whatever relating to trade and navigation. The preamble, which makes part of the first section, only states that the laws relating to the encouragement of British navigation will be repealed in consequence of another act passed in the same session of Parliament, entitled 'An act to repeal the several laws relating to the customs.'

"This last mentioned act is that of 6th Geo. 4th, ch. 105, passed also on the 5th of July, 1825. Though purporting from its title to repeal only custom-house laws, this act repreals, from and after the 5th day of July, 1826, so much and such parts of the several and respective statutes thereinafter mentioned and recited as relates to the trade and navigation of the Kingdom, or to the importation or exportation of goods, &c., &c. The statutes thus therein sanctioned and repealed amount to about four hundred and fifty, including, as I believe, all former acts relating to the trade and navigation from 17th Richard 2d to 5th Geo. 4th, ch. 94. The 16th section specially repeals so much of the navigation act, 12th Charles 2d, ch. 18, as remains unrepealed; and the 359th section repeals altogether the first above mentioned act of June 24, 1822, (3 Geo. 4th, ch. 44,) entitled 'An act to regulate the trade between his Majesty's possessions in America and the West Indies, and other places in America and the West Indies.'

"From what precedes, it follows, first, that the restriction which limits the importations in foreign vessels of goods into the British West Indies and American colonies, the vessels of the country of which the goods are the produce, and coming direct from [such] country, having been revived by the navigation act of July 5, 1825, is still in force; secondly, that the restrictions which limited the exportations in foreign vessels of goods exported from the British West Indies and American colonies, to a direct expor-

tation to the country to which such vessel did belong, is so far repealed as that such exportations in such vessels may be made to any country whatever, Great Britain and its dependencies not excepted.

"But it would seem that that repeal took place from the 5th of July, 1826 only; and Mr. Canning having stated that it had taken place from the *5th of January*, 1826, I have addressed a private letter to Mr. Planta, acting Secretary of State during Mr. Canning's absence, asking an explanation of that apparent discrepancy, to which, however, not much importance can be attached.

"From the tenor of your instructions of the 19th of June and 8th of August, 1826, it appears that even to the last date you were under an impression that both of the limitations of the act of Parliament of 24th of June, 1822, on the indirect or circuitous intercourse with the British colonies, were still in force; this, considering the manner in which the repeal of the limitation in question has been effected, is not a matter of surprise; and there was another circumstance calculated to strengthen that opinion.

"It appears, from your instruction of the 19th of June last, that the two acts of Parliament on that subject which had reached you or attracted your notice, were the act of 5th of July, 1825, (6th Geo. 4th, ch. 114,) to regulate the trade of the British possessions abroad, and an act of 27th of June, 1825, (6th Geo. 4th, ch. 73,) entitled 'An act for the further regulating the trade of his Majesty's possessions in America and the West Indies, and for the warehousing of goods therein.' By the sixth section of the last mentioned act the permission to export in foreign vessels goods from any of the British colonial free ports to any foreign country, taken in the most extensive sense of which it is susceptible, applies only to countries in Europe, Africa, or Asia, within the Mediterranean Sea, and to ships belonging to such countries. It does not extend to America, and does not embrace American ships. And it was, therefore, a natural inference that the 4th section of the act of 5th of July, 1825, (6th Geo. 4th, ch. 114,) when stating that foreign ships were permitted to export goods from the British possessions abroad to any foreign country whatever, referred to the last mentioned sixth section of the act of 27th of June, 1825, and had no reference to American ships. It is proper here to add, that this act of 27th of June, 1825, has since been repealed, not by the act abovementioned, of 5th of July, 1825, (6th Geo. 4th, 105,) 'to repeal the several laws relating to the customs,' but by a subsequent act of 26th of May, 1826, (7th Geo. 4th, ch. 48.)

"It seems to me that the intricacy of these several acts of Parliament, and the difficulty of understanding their precise meaning, might have been considered by the Government of Great Britain as a sufficient reason why that of the United states might not have been disposed to accept the conditions on which, by those acts, the intercourse was opened with the British colonies, without having previously, at least, come to an understanding of their true intent and meaning. In point of fact, it was understood by the American Government that one of those conditions was a prohibition to export goods in American vessels from those colonies to any other country than the United States."

19TH CONGRESS.] No. 440. [2D SESSION.

BRITISH COLONIAL TRADE.

COMMUNICATED TO AND ORDERED TO BE PRINTED BY THE HOUSE OF REPRESENTATIVES.

STATUTES

OF

THE BRITISH PARLIAMENT IN RELATION TO THE COLONIAL TRADE;

TO WHICH ARE APPENDED

THE ACTS OF CONGRESS ON THE SAME SUBJECT.

IN THE HOUSE OF REPRESENTATIVES, *December* 19, 1826.

Ordered, That the Clerk cause to be printed the acts of the Parliament of Great Britain of June 24, 1822, June 27, 1825, the two acts of July 5, 1825, the act of May, 1826, the orders in council, dated July 27, 1826, relating to the trade between the United States and the British colonies.

CAP. XLIV.

AN ACT to regulate the trade between his Majesty's possessions in America and the West Indies, and other places in America and the West Indies.—*June* 24, 1822.

"Whereas divers acts of Parliament have been, from time to time, passed for regulating the importation and exportation of certain articles into and from certain territories, islands, and ports, under the dominion of his Majesty, in America and the West Indies, and it is expedient that the said several acts should be repealed, and other provisions made in lieu thereof:" Sec. c. 119. § 5. post.

Acts regulating the importation and exportation of certain articles into and from certain colonies in America and the West Indies herein recited, repealed, viz:

Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this act, an act passed

28 G. 3, c. 6. in the twenty-eighth year of the reign of his late Majesty King George the Third, entitled "An act for regulating the trade between the subjects of his Majesty's colonies and plantations in North America and in the West India islands and the countries belonging to the United States of America, and between his Majesty's said subjects and the foreign

28 G. 3, c. 39. islands in the West Indies;" also, an act passed in the twenty-eighth year of the reign of his late Majesty King George the Third, entitled "An act to allow the importation of rum and other spirits from his Majesty's colonies or plantations in the West Indies into the province of Quebec without payment of duty, under certain conditions and restrictions;"

29 G. 3, c. 16. also, an act passed in the twenty-ninth year of the reign of his said late Majesty, entitled "An act to enable his Majesty to authorize, in case of necessity, the importation of bread, flour, Indian corn, and live stock, from any of the territories belonging to the United States of America, into the province of Quebec and all the countries bordering on the Gulf of Saint Lawrence, and the islands within the said Gulf, and to the coast of Labrador;"

29 G. 3, c. 56. also, another act passed in the twenty-ninth year of the reign of his said late Majesty, entitled "An act for explaining and amending an act passed in the last session of Parliament, entitled 'An act to regulate the trade between the subjects of his Majesty's colonies and plantations in North America and in the West India islands and the countries belonging to the United States of America, and between his Majesty's said subjects and

30 G. 3, c. 8. the foreign islands in the West Indies;'" also, an act passed in the thirtieth year of the reign of his said late Majesty, entitled "An act to amend two acts made in the twenty-eighth year of the reign of his present Majesty, the one entitled 'An act for regulating trade between the subjects of his Majesty's colonies and plantations in North America and in the West India islands and the countries belonging to the United States of America, and between his Majesty's said subjects and the foreign islands in the West Indies;' and the other entitled 'An act to allow the importation of rum or other spirits from his Majesty's colonies or plantations in the West Indies into the province of Quebec without payment of duty, under certain conditions and restrictions;'" also, an act passed

31 G. 3, c. 38. in the thirty-first year of the reign of his said late Majesty, entitled "An act to amend an act made in the twenty-eighth year of his present Majesty's reign for regulating the trade between the subjects of his Majesty's colonies and plantations in North America and in the West India islands and the countries belonging to the United States of America, and between his Majesty's said subjects and the foreign islands in the West Indies;" and also an act made in the twenty-seventh year of his present Majesty's reign for allowing the importation and exportation of certain goods, wares, and merchandise, in the ports of Kingston, Savannah la Mar, Montego Bay and Santa Lucia, in the island of Jamaica, in the port of Saint George, in the island of Grenada, in the port of Rosea, in the island of Dominica, and in the port of Nassau, in the island of New Providence, one of the Bahama

33 G. 3, c. 50. islands, under certain regulations and restrictions; also, an act passed in the thirty-third year of the reign of his said late Majesty, entitled "An act to amend an act passed in the twenty-seventh year of his present Majesty's reign for allowing the importation and exportation of certain goods, wares, and merchandise, in foreign ships, into and from certain ports and places in the West Indies; and for amending so much of an act made in the thirty-second year of the reign of his present Majesty as relates to permitting the importation of sugar in the Bahama and Bermuda islands in foreign ships; and so much of two acts, made in the twenty-eighth and thirty-first years of his present Majesty's reign, as prohibits the importation of timber into any island under the dominion of his Majesty in the West Indies from any foreign colony or plantation in the West Indies or South America; and so much of the said act, made in the twenty-eighth year of his present Majesty's reign, as prohibits the importation of pitch, tar, and turpentine into Nova Scotia or New Brunswick from any country belonging to the United States of America;"

44 G. 3, c. 101. also, an act passed in the forty-fourth year of the reign of his said late Majesty, entitled "An act for permitting, until the first day of August, one thousand eight hundred and seven, the exportation of salt from the port of Nassau, in the island of New Providence, the port of Exuma, and the port of Crooked island, in the Bahama islands, in ships belonging to the inhabitants of the United States of America, and coming in ballast;" also, an

45 G. 3, c. 57. act passed in the forty-fifth year of the reign of his said late Majesty, entitled "An act to consolidate and extend the several laws now in force for allowing the importation and exportation of certain goods and merchandise into and from certain ports in the West

46 G. 3, c. 724. Indies;" also, an act passed in the forty-sixth year of the reign of his said late Majesty, entitled "An act for enabling his Majesty to permit the importation and exportation of certain goods and commodities into and from the port of Road Harbor, in the island of

48 G. 3, c. 125. Tortola;" also, an act passed in the forty-eighth year of the reign of his said late Majesty, entitled "An act to permit the importation of rice, flour and grain from any foreign colonies on the continent of America into certain ports in the West Indies, and to allow certain articles to be imported from the United States of America into the British provinces in North America for the purpose of exportation to the British islands in the

49 G. 3, c. 22. West Indies;" also, an act passed in the forty-ninth year of the reign of his said late Majesty, entitled "An act for allowing the importation and exportation of certain goods and commodities into and from the port of Falmouth, in the island of Jamaica;" also, an

52 G. 3, c. 79. act passed in the fifty-second year of the reign of his said late Majesty, entitled "An act to allow British plantation sugar and coffee, imported into Bermuda in British ships, to be exported to the territories of the United States of America in foreign ships or vessels, and to permit articles the production of the said United States to be imported into the

52 G. 3, c. 99. said island in foreign ships or vessels;" also, another act passed in the said fifty-second year of the reign of his said late Majesty, entitled "An act for allowing certain articles to be imported into the Bahama islands and exported therefrom in foreign vessels, and for

53 G. 3, c. 37. encouraging the exportation of salt from the said islands;" also, an act passed in the fifty-third year of the reign of his said late Majesty, entitled "An act to amend an act of the twenty-eighth year of his present Majesty for allowing the importation of rum or other spirits from his Majesty's colonies or plantations in the West Indies into the province

of Quebec without payment of duty;" also, another act passed in the fifty-third year of the reign of his said late Majesty, entitled "An act for further allowing the importation and exportation of certain articles at the island of Bermuda;" also, an act passed in the fifty-fourth year of the reign of his said late Majesty, entitled "An act to revive and make perpetual certain acts for consolidating and extending the several laws in force for allowing the importation and exportation of certain articles into and from certain ports in the West Indies;" also, an act passed in the fifty-seventh year of the reign of his said late Majesty, entitled "An act to extend the powers of two acts for allowing British plantation sugar and coffee and other articles, imported into Bermuda in British ships, to be exported to America in foreign vessels, and to permit articles the produce of America to be imported into the said island in foreign ships to certain other articles;" also, another act passed in the said fifty-seventh year of the reign of his said late Majesty, entitled "An act to extend several acts for allowing the importation and exportation of certain goods and merchandise to Porta Maria, in the island of Jamaica, and to the port of Bridge Town, in the island of Barbadoes;" also, an act passed in the fifty-eighth year of the reign of his said late Majesty, entitled "An act to allow for three years, and until six weeks after the commencement of the then next session of Parliament, the importation into ports specially appointed by his Majesty, within the provinces of Nova scotia and New Brunswick, of the articles therein enumerated, and the re-exportation thereof from such ports;" also, an act passed in the said fifty-eighth year of the reign of his late Majesty, entitled "An act to permit the importation of certain articles into his Majesty's colonies or plantations in the West Indies or on the continent of South America, and also certain articles into certain ports in the West Indies;" also, an act passed in the fifty-ninth year of the reign of his said late Majesty, entitled "An act to make perpetual an act of the forty-fourth year of his present Majesty for permitting the exportation of salt from the port of Nassau, in the island of New Providence, the port of Exuma, and the port of Crooked Island, in the Bahama islands, in American ships coming in ballast;" also, an act passed in the fifty-ninth year of the reign of his said late Majesty, entitled "An act to extend the provisions of three acts of the fifty-second, fifty-third, and fifty seventh years of his present Majesty, for allowing British plantation sugar and coffee and other articles, imported into Bermuda in British ships, to be exported to America in foreign vessels, and to permit articles the produce of America to be imported into Bermuda in foreign ships to certain other articles;" also, an act passed in the first year of the reign of his present Majesty, entitled "An act to extend several acts for allowing the importation and exportation of certain goods and merchandises to Morant Bay, in the island of Jamaica;" also, another act passed in the first year of his present Majesty's reign, entitled "An act to permit the importation of coffee from any foreign colony or plantation in America into the port of Bridge Town, in Barbadoes;" also, an act passed in the first and second years of the reign of his present Majesty, entitled "An act to make perpetual an act of the fifty-eighth year of his late Majesty to allow the importation into certain ports in Nova Scotia and New Brunswick of certain enumerated articles, and the re-exportation thereof from such ports," shall be, and the same are hereby, repealed.

53 G. 3, c. 50. 54 G. 3, c. 48. 57 G. 3. c. 28. 57 G. 3, c. 74. 58 G. 3, c. 19. 58 G. 3, c. 27. 59 G. 3, c. 18. 59 G. 3, c. 55. 1 G. 4, c. 12. 1 G. 4, c. 32. 1 and 2 G. 4, c. 7.

II. *Provided also, and be it further enacted*, That nothing in this act contained shall extend or be deemed, or construed to extend, to release or discharge any seizure of goods, wares, and merchandise, or of any ship or vessel, or to release or discharge any forfeiture or penalty incurred on or before the passing of this act, but that the same may be prosecuted, sued for, recovered, and divided in such and the like manner as any such seizure, forfeiture, or penalty might have been prosecuted, sued for, recovered, and divided, if this act had not been made.

Proviso for seizures, forfeitures and penalties already incurred.

III. *And be it further enacted*, That from and after the passing of this act it shall be lawful to import into any of the ports enumerated in the schedule annexed to this act, marked A, from any foreign country on the continent of North or South America, or from any foreign island in the West Indies, whether such country or island as aforesaid shall be under the dominion of any foreign European Sovereign or State, or otherwise, the articles enumerated in the schedule annexed to this act, marked B, either in British built ships or vessels owned and navigated according to law, or in any ship or vessel *bona fide* the build of and owned by the inhabitants of any country or place belonging to or under the dominion of the Sovereign or State of which the said articles are the growth, produce, or manufacture, such ship or vessel being navigated with a master and three-fourths of the mariners, at least, belonging to such country or place; or in any British built ship or vessel which has been sold to and become the property of the subjects of any such Sovereign or State, such ship or vessel last mentioned being also navigated with a master and three-fourths of the mariners, at least, belonging to such country or place: *Provided always*, That no articles enumerated in the said schedule shall be imported in any foreign ship or vessel, or in any British built ship or vessel so sold as aforesaid, unless shipped and brought directly from the country or place of which they are the growth, produce, or manufacture.

Articles in schedule B may be imported from North or South America or West Indies under dominion of European Sovereign, &c., into ports in schedule A either in British vessels or vessels of the country.

IV. *And be it further enacted*, That it shall be lawful to export in any British built ship or vessel owned and navigated according to law, or in any foreign ship or vessel, as aforesaid, or in any British built ship or vessel so sold as aforesaid, from any of the ports enumerated in the schedule annexed to this act, marked A, any article of the growth, produce, or manufacture of any of his Majesty's dominions, or any other article legally imported into the said ports, provided that the said articles, when exported in any such foreign ship or vessel, or in any British built ship or vessel so sold as aforesaid, shall be exported direct to the country or State in America or the West Indies to which such ship or vessel belongs, as aforesaid; and before the shipment thereof, security by bond shall be given to his Majesty, his heirs and successors, in a penalty equal to half the value of the said articles; such bond to be entered into by the master and exporter before the Collector, or other chief officer of the customs of such colony, plantation, or

Certain articles may be exported direct from ports in schedule A in such British or foreign vessels on certain conditions.

Bond by master and exporter for landing, &c.

island, for the due landing the said articles at the port or ports for which entered, and for producing a certificate thereof within twelve months from the date of such bond, under the hand and seal of the British Consul or Vice Consul resident at the port or place where the said articles shall have been landed; but in case there shall not be any such Consul or Vice Consul there resident, such certificate to be under the hand and seal of the chief magistrate, or under the hand and seal of two known British merchants residing at such port or place; but such bond may be discharged by proof, on oath, by credible persons that the said articles were taken by enemies or perished in the seas: *Provided always*, That nothing herein contained shall be construed to permit or allow the exportation of any arms or naval stores, unless a license shall have been obtained for that purpose from his Majesty's Secretary of State; and in case any such articles shall be shipped or waterborne for the purpose of being exported contrary to this act, the same shall be forfeited, and shall and may be seized and prosecuted as hereinafter directed.

No exportation of arms or naval stores without license.

Proviso for foreign vessels, though not of the build of the country.

V. *Provided always, and be it further enacted*, That, for ten years after the passing of this act, nothing in this act contained shall extend, or be construed to extend, to exclude from the trade allowed by this act any foreign ship or vessel which, previous to the passing of this act, may have been engaged in lawful trade with his Majesty's said colonies, islands, or plantations, on account of such ship or vessel not being of the build of the country to which such ship or vessel may belong.

Proof of legal importation before goods exported.

VI. *And be it further enacted*, That in case any doubt shall arise whether any goods, wares, or merchandise, intended to be exported in any foreign ship or vessel under the authority of this act, had been legally imported into such port, the legality of such importation shall be made to appear to the satisfaction of the Collector and Comptroller, or other principal officer of the customs of such port, before such goods, wares, and merchandise shall be suffered to be shipped for exportation.

On importation of articles into ports in schedule A, certain duties in schedule C to be paid for use of colonies.

VII. *And be it further enacted*, That from and after the passing of this act there shall be raised, levied, or collected, and paid unto his Majesty, his heirs and successors, upon the several articles enumerated or described in the said schedule marked C, imported or brought into any of the ports enumerated in the schedule marked A, from any such foreign island, State, or country, under the authority of this act, the several duties of customs, as the same are respectively inserted or described and set forth in figures in the said schedule annexed to this act, marked C, and the same shall be under the management of the Commissioners of the Customs in England, and shall be raised, levied, collected, paid, and recovered in such and the like manner and form, and by such and the like rules, ways, means, and methods, respectively, and under such penalities and forfeitures, as any other duties now payable to his Majesty on goods imported into any of the islands, plantations, colonies or territories belonging to or under the dominion of his Majesty in America or the West Indies, are or may be raised, levied, collected, paid, and recovered, by any act or acts of Parliament now in force, as fully and effectually, to all intents and purposes, as if the several clauses, powers, directions, penalities, and forfeitures relating thereto were particularly repeated and again enacted in the body of this act; and the produce of such duties shall be paid by the Collector of the Customs to the Treasurer or Receiver General of the colony, province, or plantation, in which the same shall be respectively levied, to be applied to such uses and purposes as may be directed by the authority of the respective general courts or general assemblies of such colonies, provinces, or plantations.

How recovered.

How duties applied in colonies having no general courts or assemblies.

VIII. *And be it further enacted*, That, in case there shall be no general courts or general assemblies in the colony, province, or plantation in which the said duties shall have been levied and collected under the authority of this act, the net proceeds of such duties shall then be applied and appropriated in such and the like manner, and to such uses as any other duties levied and collected in any of his Majesty's colonies, provinces, or plantations in America or the West Indies not having general courts or general assemblies, may now, by any act or acts of Parliament, passed in Great Britain or the United Kingdom of Great Britain and Ireland, or by any order of his Majesty in council, or by any proclamation issued in his Majesty's name, be appropriated and applied.

How value of articles subject to ad valorem duty ascertained.

IX. *And be it further enacted*, That in all cases where, by the schedule marked C, the duties imposed upon the importation of articles into his Majesty's colonies, plantations, or islands, in America or the West Indies, are charged, not according to the weight, gauge, or measure, but according to the value thereof, and such value shall be ascertained by the declaration of the importer or proprietor of such articles, or his known agent or factor, in manner and form following, that is to say:

"I, A. B., do hereby declare that the articles mentioned in the entry, and contained in the packages, [*here specifying the several packages, and describing the several marks and numbers as the case may be,*] are of the value of ———.

"Witness my hand, the —— day of ———.

"A. B.

"The above declaration, signed the —— day of ———, in the presence of ———.

"C. D.,

"*Collector, or other Principal Officer.*"

Which declaration shall be written on the warrant of entry of such articles, and shall be subscribed with the hand of the importer or proprietor thereof, or his known agent or factor in the presence of the Collector or other principal officer of the customs at the port of importation: *Provided*, That if, upon view and examination of such articles by the proper officer of the customs, it shall appear to him that the said articles are not valued according to the true price or value thereof, and according to the true intent and meaning of this act, then, and in such case, the importer or proprietor, or his known agent or factor, shall be required to declare, on oath, before the Collector or chief officer of the customs at the port of importation, (which oath he is hereby authorized and required to administer,) what is the invoiced price of such articles; and that he verily believes such invoice price is the current value of the articles at the place from whence the said articles were im-

Proviso where articles not duly valued.

What taken to be the value declared by importer.

ported; and such invoice price, with the addition of ten pounds per centum thereon, shall be deemed and taken to be the value of the articles in such colony, plantation, or island, as aforesaid, in lieu of the value so declared by the importer or proprietor, or his known agent or factor, and upon which the duties specified in the said schedule shall be charged and paid: *Provided also*, That if it shall appear to the Collector or other chief officer of the customs that such articles have been invoiced below the real and true value thereof at the place from whence the same were imported, or if the invoice price is not known, the articles shall, in such case, be examined by two competent persons, to be nominated and appointed by the Governor or Commander-in-chief of the colony, plantation, or island into which the said articles are imported; and such person shall declare, on oath, before the Collector or chief officer of the customs, what is the true and real value of such articles in such colony, plantation, or island; and the value so declared on the oaths of such persons shall be deemed to be the true and real value of such articles, and upon which the duties specified in the said schedule marked C shall be charged and paid. [*The value of goods subject to* ad valorem *duty ascertained as by this section.—See Cap.* 119, § 5, *post.*

Proviso where value or invoice price not known.

What deemed the true value.

X. *And be it further enacted*, That if the importer or proprietor of such articles shall refuse to pay the duties hereby imposed thereon, it shall and may be lawful for the Collector or other chief officer of the customs where such articles shall be imported, and he is hereby respectively required, to take and secure the same, with the casks or other package thereof, and to cause the same to be publicly sold, within the space of twenty days, at the most, after such refusal made, and at such time and place as such officer shall, by four or more days' public notice, appoint for that purpose, which articles shall be sold to the best bidder; and the money arising by the sale thereof shall be applied, in the first place, in payment of the said duties, together with the charges that shall have been occasioned by the said sale; and the overplus, if any, shall be paid to such importer or proprietor, or any other person authorized to receive the same.

Importer refusing to pay duties, articles to be sold, &c.

Application of produce.

XI. *And be it further enacted*, That whenever any foreign article is liable to duty by this act, on the importation thereof into any of his Majesty's colonies, plantations, or islands in America or the West Indies, under the provisions of this act, the like duty shall be payable upon any such foreign article† when imported into any such colonies, plantations, or islands direct from any part of the United Kingdom of Great Britain and Ireland; and such duty shall be raised, levied, collected, and paid, in such and the like manner, and be appropriated and applied to such and the like uses, as the duty payable upon the like article imported from any other place under the provisions of this act is by this act directed to be raised and applied.

Foreign articles charged with duty on importation from place of growth, to pay as on importation direct from United Kingdom.

†*Sic.*

Duties not payable if articles liable to equal colonial duty.

XII. *Provided always, and be it further enacted*, That if, upon the importation of any article charged with duty by this act, the said article shall also be liable to the payment of duty under the authority of any colonial law equal to, or exceeding in amount, the duty charged by this act, then, and in such case, the duty charged upon such article by this act shall not be demanded or paid upon the importation of such article: *Provided, also*, That if the duty payable under such colonial law shall be less in amount than the duty payable by this act, then, and in such case, the difference only in the amount of the duty payable by this act, and the duty payable under the authority of such colonial law, shall be deemed to be the duty payable by this act; and the same shall be collected and paid in such and the like manner, and appropriated and applied to such and the like uses, as the duties specified in the said schedule annexed to this act, marked C, are directed to be collected, paid, appropriated, and applied.

If colonial duty less, difference only paid.

XIII. *And be it further enacted*, That all sums of money granted and imposed by this act as duties shall be deemed, and are hereby declared to be, sterling money of Great Britain, and shall be collected, recovered, and paid, to the amount of the value which such nominal sums bear in Great Britain; and that such moneys may be received and taken according to the proportion and value of five shillings and sixpence the ounce in silver.

Duties to be sterling money at a certain rate.

XIV. *And be it further enacted*, That any article enumerated in the schedule B, legally imported as aforesaid under the authority of this act, shall be allowed to be exported in any British ship or vessel, owned and navigated according to law, to any other British island, colony, or plantation in America or the West Indies, provided that, upon the importation thereof into any such other British island, colony, or plantation, proof shall be produced that the said duties, due to his Majesty, have been first paid in the colony or plantation into which the said articles shall have been first imported; and any article so imported in any ship or vessel as aforesaid shall be allowed to be exported to any part of the United Kingdom of Great Britain and Ireland, under the rules, regulations restrictions, securities, penalties, and forfeitures, particularly mentioned and provided in an act of Parliament, made in the twelfth year of the reign of King Charles II, entitled "An act for the encouraging and increasing of shipping and navigation;" and in another act of Parliament, made in the twenty-second and twenty-third years of the reign of King Charles II, entitled "An act to prevent the planting of tobacco in England, and for regulating the plantation trade;" and in another act of Parliament, made in the twentieth year of his late Majesty's reign, entitled "An act to allow the trade between Ireland and the British colonies in America and the West Indies, and the British settlements on the coast of Africa, to be carried on in like manner as it is now carried on between Great Britain and the said colonies and settlements," or in any of the said acts with respect to the goods, wares, or merchandise therein enumerated or described.

Articles in schedule B may be exported to any other British colony, or to United Kingdom.

12 Car. 2, c. 18.

22 and 23 Car. 2, c. 26.

20 G. 3, c. 10.

"XV. And whereas it is the intention and meaning of this act that the privileges hereby granted to foreign ships and vessels shall be confined to the ships and vessels of such countries only as give the like privileges to British ships and vessels in their ports in America and the West Indies:" *Be it therefore enacted*, That it shall be lawful for his Majesty, his heirs and successors, by order in council, from time to time, when and as often as the same shall be judged expedient, to prohibit trade and intercourse, under the authority of this act, with any country or island in America or the West Indies, if it

His Majesty may prohibit intercourse with any country where it shall appear that the

privileges granted by this act to foreign vessels are not allowed to British vessels trading with such country, &c.

shall appear to his Majesty that the privileges granted by this act to foreign ships and vessels are not allowed to British ships and vessels trading to and from any such country or island under the provisions of this act; and in case such order of his Majesty in council shall be issued, then, during the time that such order in council shall be in force, none of the provisions of this act, either as respects the laws herein repealed or to any other provisions of this act, shall apply or be taken to apply to any country or State, the trade with which, under the provisions of this act, shall be prohibited by any such order of his Majesty in council; and if any goods whatever shall be imported from, or shipped for the purpose of being exported to, any such country or island in America or the West Indies in any foreign ship or vessel, after trade and intercourse therewith shall have been prohibited by any such order of his Majesty in council issued under the authority of this act, all such goods, together with the ship or vessel in which the same shall have been imported, or in which the same shall have been shipped for the purpose of being exported as aforesaid, shall be forfeited, with all her guns, furniture, ammunition, tackle, and apparel; and in every such case the same shall and may be seized by any officer of his Majesty's customs or Navy authorized or empowered to make seizures in cases of forfeiture, and shall and may be prosecuted in manner as hereinafter directed.

Seizure made, in what case.

His Majesty may extend this act to other ports than those enumerated in schedules.

XVI. *And be it further enacted,* That if his Majesty shall deem it expedient to extend the provisions of this act to any port or ports not enumerated in the schedule marked A, it shall be lawful for his Majesty, by order in council, to extend the provisions of this act to such port or ports; and from and after the day mentioned in such order in council all the privileges and advantages of this act, and all the provisions, penalties, and forfeitures therein contained shall extend, and be deemed and construed to extend, to any such port or ports, respectively, as fully as if the same had been inserted and enumerated in the said schedule at the time of passing this act.

No articles except such as are in schedule B to be imported.

Penalty.

XVII. *And be it further enacted,* That no articles, except such as are enumerated in the schedule marked B, shall be imported in any such British built ship or vessel, or in any such foreign ship or vessel, or in any British built ship or vessel so sold as aforesaid, from any foreign country or State on the continent of America or island in the West Indies, into any of the ports enumerated in the schedule marked A, or into any port which may be added to the schedule marked A, by virtue of any order in council as aforesaid, on any pretence whatever, on pain of forfeiting such articles, together with the ship or vessel in which the same shall have been imported, and the guns, tackle, apparel, and furniture of such ship or vessel; and in every such case the same shall and may be seized by any officer or officers of his Majesty's customs or Navy who are or shall be authorized and empowered to make seizures in cases of forfeiture, and shall and may be prosecuted in such manner as hereinafter directed.

No articles to be imported or exported, except from or to ports mentioned in schedule A.

XVIII. *And be it further enacted,* That no articles whatever shall be imported or exported, either in a British built ship or vessel, or in any such foreign ship or vessel as aforesaid, from or to any foreign country on the continent of North or South America, or from or to any foreign island in the West Indies, into or from any port of any British colony, plantation, or island in America or the West Indies not enumerated in the schedule annexed to this act, marked A, on any pretence whatever, on forfeiture of such articles, as also the ship or vessel in which the same shall be imported, with all her guns, furniture, ammunition, tackle, and apparel.

Proviso for right of exporting in British ships produce of fisheries.

XIX. *Provided always, and be it further enacted,* That nothing in this act contained shall affect, or be construed to affect, the right which British subjects or others may enjoy under any law in force at the passing of this act, of exporting in British ships, from ports not enumerated in the said schedule marked A, the produce of the fisheries carried on from any of his Majesty's said colonies, plantations, or islands.

How penalties and forfeitures recovered.

XX. *And be it further enacted,* That all penalties and forfeitures imposed by this act shall and may be respectively prosecuted, sued for, and recovered, and divided in Great Britain, Guernsey, Jersey, or the Isle of Man, or in any of his Majesty's colonies or islands in America, in the same manner and form, and by the same rules and regulations, in all respects, in so far as the same are applicable, as any other penalties and forfeitures imposed by any act or acts of Parliament made for the security of the revenue of the customs, or for the regulation or improvement thereof, or for the regulation of trade or navigation, and which were in force immediately before the passing of this act, may be respectively prosecuted, sued for, recovered, and divided in Great Britain, Guernsey, Jersey, or the Isle of Man, or in any of his Majesty's colonies or islands in America.

SCHEDULES TO WHICH THIS ACT REFERS.

Schedule A.—List of Free ports.

Kingston, Savannah Le Mar, Montego Bay, Santa Lucia, Antonio, St. Ann, Falmouth, Maria, Morant Bay, Jamaica.
Saint George, Grenada.
Roseau, Dominica.
Saint John's, Antigua.
San Josef, Trinidad.
Scarborough, Tobago.
Road Harbor, Tortola.
Nassau, New Providence.
Pitt's Town, Crooked Island.
Kingston, Saint Vincent.
Port St. George and Port Hamilton, Bermuda.
Any port where there is custom-house, Bahamas.
Bridgetown, Barbadoes.
St. John's, St. Andrew's, New Brunswick.
Halifax, Nova Scotia.
Quebec, Canada.
St. John's, Newfoundland.
George Town, Demarara.
New Amsterdam, Berbice.
Castries, St. Lucia.
Basseterre, St. Kitts.
Charles Town, Nevis.
Plymouth, Montserrat.

Schedule B.

Asses,	Flax,	Indian corn meal,	Rye,
Barley,	Fruit and vegetables,	Indigo,	Rice,
Beans,	Fostick, and all sorts	Live stock of any sort,	Staves,
Biscuit,	of wood for dyers'	Lumber,	Skins,
Bread,	use,	Logwood,	Shingles,
Beaver, and all sorts	Flour,	Mahogany and other	Sheep,
of fur,	Grain of any sort,	wood for cabinet	Tar,
Bowsprits,	Garden seeds,	wares,	Tallow,
Calavances,	Hay,	Masts,	Tobacco,
Cocoa,	Hemp,	Mules,	Turpentine,
Cattle,	Heading boards,	Neat cattle,	Timber,
Cochineal,	Horses,	Oats,	Tortoise-shell,
Coin and bullion,	Hogs,	Pease,	Wool,
Cotton wool,	Hides,	Potatoes,	Wheat,
Drugs of all sorts,	Hoops,	Poultry,	Yards.
Diamonds and precious	Hardwood or mill tim-	Pitch,	
stones,	ber,		

Schedule C.

A schedule of duties payable on articles imported into his Majesty's possessions in America and the West Indies from other places in America and the West Indies, the duties following, that is to say:

	£	*s.*	*d.*
Barrel of wheat flour, not weighing more than 196 lbs. net weight	0	5	0
Barrel of biscuit, not weighing more than 196 lbs. net weight	0	2	6
For every cwt. of biscuit	0	1	6
For every 100 lbs. of bread, made from wheat or other grain, imported in bags or packages	0	2	6
For every barrel of flour, not weighing more than 196 lbs., made from rye, pease, or beans	0	2	6
For every bushel of pease, beans, rye or calavances	0	0	7
Rice, for every 100 lbs. net weight	0	2	6
For every 1,000 shingles, called Boston chips, not more than 12 inches in length	0	7	0
For every 1,000 shingles, being more than 12 inches in length	0	14	0
For every 1,000 red oak staves	1	1	0
For every 1,000 white oak staves or headings	0	15	0
For every 1,000 feet of white or yellow pine lumber, of one inch thick	1	1	0
For every 1,000 feet of pitch pine lumber	1	1	0
Other kinds of wood and lumber, per 1,000 feet	1	8	0
For every 1,000 wood hoops	0	5	3
Horses, for every £100 of the value thereof	10	0	0
Neat cattle, for every £100 of the value thereof	10	0	0
All other live stock, for every £100 of the value thereof	10	0	0

CHAPTER LXXIII.

AN ACT for further regulating the trade of his Majesty's possessions in America and the West Indies, and for the warehousing of goods therein.—*June* 27, 1825.

Whereas an act was passed in the third year of the reign of his present Majesty, entitled "*An act to regulate the trade between his Majesty's possessions in America and other places in America and the West Indies,*" whereby it is enacted that it shall be lawful to import into any of the ports in his Majesty's said possessions enumerated in a schedule to the said act annexed, (marked A,) and therein denominated "free ports," from any foreign country on the continent of North or South America, or from any foreign island in the West Indies, the articles enumerated in another schedule to the said act annexed, (marked B,) subject, nevertheless, to the several duties of customs set forth in another schedule to the said act annexed, (marked C,) and that it shall be lawful so to import the same in certain foreign ships or vessels therein mentioned, as well as in British ships or vessels; and whereas another act was passed in the said third year of the reign of his present Majesty, entitled "An act to regulate the trade between his Majesty's possessions in America and the West Indies, and other parts of the world," whereby it is enacted that it shall be lawful to import in any British ship or vessel owned and navigated according to law, from any port in Europe or Africa, or from Gibraltar, the island of Malta, or the dependencies thereof, or the islands of Guernsey, Jersey, Alderney, or Sark, into any of his Majesty's colonies, plantations, or islands in America or the West Indies, the articles enumerated or described in a schedule thereunto annexed, (marked A,) subject, nevertheless, on importation, to certain duties of customs set forth in another schedule thereunto annexed, (marked B;) and whereas it is expedient to permit all goods (except as hereinafter excepted) to be imported from any of the said places into any of the said free ports, and to charge the same with the like duties from whichever of the said places the same may be imported, and also to permit any of such goods to be so

3 G. 4, c. 44. Intercourse with America.

3 G. 4, c. 45. Intercourse with Europe.

imported in ships of the country of which the goods are the produce, as well as in British ships, but to confine all such importations to the said free ports:

Certain schedules of goods and of duties imposed by recited acts, or by 4 G. 4, c. 2, repealed;

Be it therefore enacted, by the King's most excellent Majesty, by and with the advice of the Lords spiritual and temporal, and Commons, in his present Parliament assembled, and by the authority of the same, That the several schedules (marked B and C respectively) to the first recited act annexed, and the several schedules (marked A and B respectively) to the second recited act annexed, and also that all duties imposed by either of the said acts, or by an act passed in the fourth year of his said Majesty's reign, entitled "An act to amend an act of the last session of Parliament for regulating the trade between his Majesty's possessions in America and the West Indies and other parts of the world," shall, from and after the fifth day of January, one thousand eight hundred and twenty-six, be repealed, and the same are hereby repealed accordingly, except so far as the same relate in any way to the island of Newfoundland.

except as to Newfoundland.

All goods may be imported from America, Europe, or Africa, &c.;

II. *And be it further enacted,* That from and after the fifth day of January, one thousand eight hundred and twenty-six, it shall be lawful to import into any of the said free ports, except in Newfoundland, any goods (except as hereinafter excepted) from any foreign place in America, or in Europe, or in Asia, within the Mediterranean Sea, and from any place in Africa, and from Gibraltar, and from the islands of Malta, Guernsey, Jersey, Alderney, and Sark, provided such importations be made in British ships, or in ships of the country of which the goods are the produce, subject, nevertheless, to the powers given to his Majesty by an act passed in the fourth year of his reign, entitled "An act to authorize his Majesty, under certain circumstances, to regulate the duties and drawbacks on goods imported or exported in foreign vessels, and to exempt certain foreign vessels from pilotage;" and by another act passed in the fifth year of his reign to amend the same: *Provided always,* That nothing in this act contained shall extend to permit the importation of gunpowder, arms, ammunition, or utensils of war, dried or salted fish, salted beef, pork, or bacon, whale oil, blubber or fins, books which are prohibited to be imported into the United Kingdom, base or counterfeit coin, or any goods the produce or manufacture of any place within the limits of the East India Company's charter, into any of his Majesty's possessions in America or the West Indies, nor coffee, cocoa-nuts, sugar, molasses, or rum of foreign production, into any of the said possessions in South America or the West Indies, or into Newfoundland.

subject to powers in acts 4 G. 4, c. 77, and 5 G. 4, c. 50.

Articles prohibited.

Foreign coffee, &c., may be imported into North America.

III. *And be it further enacted,* That it shall be lawful to import any coffee, cocoa-nuts, sugar, molasses, and rum of foreign production, into any of the British possessions in North America, except Newfoundland, anything in any act or acts to the contrary notwithstanding: *Provided always,* That all coffee, cocoa-nuts, sugar, molasses, and rum, (although the same may be of the British plantations,) having been imported into any of the British possessions in North America, except Newfoundland, shall, upon subsequent importation from thence into any of the British possessions in South America or the West Indies, or into Newfoundland, or into the United Kingdom, be deemed to be of foreign production, and shall be liable on such importations, respectively, to the same duties or the same forfeitures as articles of the like description, being of foreign production, would be liable to, unless the same shall have been warehoused under the provisions of this act, and exported from the warehouse direct to such other British possession, or to Newfoundland, or to the United Kingdom, as the case may be.

New duties according to the schedule.

IV. *And be it further enacted,* That, from and after the fifth day of January, one thousand eight hundred and twenty-six, in lieu of the duties hereby made to cease and determine, there shall be raised, levied, collected, and paid unto his Majesty, his heirs and successors, upon importation of the several articles enumerated or described in the schedule of duties to this act annexed, into any of the said possessions in America or the West Indies, except Newfoundland, from any foreign place in America, or from Europe, or from Asia, within the Mediterranean Sea, or from any place in Africa, the several duties of customs as the same are respectively set forth in figures in the said schedule:

Abating the amount of any previous duties.

Provided always, That no greater proportion of such duties shall be charged upon any article subject also to duty under any other act heretofore and still in force, or under any colonial law, than the amount, if any, by which the duty charged by this act shall exceed such other duty or duties.

Duties to be levied under powers of former acts.

V. *And be it further enacted,* That the duties imposed by this act shall be levied, raised, applied, and abated, under the same management, and in the same manner, and by the same powers and means, and under the like penalties and forfeitures, as the duties imposed by the two acts hereinbefore first mentioned would be levied, raised, applied, and abated under the provisions of those acts, respectively, except so far as the same may be altered by this act.

Exportation to Europe, &c., in ships of the place of destination.

VI. *And be it further enacted,* That it shall be lawful to export from any of the said free ports, except in Newfoundland, to any foreign country in Europe or Africa, or in Asia, within the Mediterranean Sea, in any ship belonging to such country, any goods, being of the growth, production, or manufacture of such possessions, and any goods which have been legally imported into the same.

Power to prohibit trade with countries not granting similar privileges.

VII. *And be it further enacted,* That it shall be lawful for his Majesty, his heirs and successors, by order in council, from time to time, when and as often as it shall be judged expedient, to prohibit the trade and intercourse authorized by this act with any country in Europe having possessions in America or the West Indies, if it shall appear that the privileges granted by this act to foreign ships or vessels are not allowed by such country to British ships or vessels in trade or intercourse with the possessions of such country in America or the West Indies.

4 G. 4, c. 24, as relates to goods in schedule B, warehoused and exported to British possessions in America, repealed.

VIII. *And be it further enacted,* That so much of an act passed in the fourth year of the reign of his present Majesty, entitled "An act to make more effectual provision for permitting goods imported to be secured in warehouses or other places without payment of duty on the first entry thereof," as enacts that certain goods and merchandise, men-

tioned in a schedule (marked B) to that act annexed, warehoused under the provisions of that act, shall not be exported from the warehouse to any British colony, plantation, territory, or dominion in America or the West Indies, nor be imported into any such British colony or plantation, unless, and until all duties as well of customs as excise, payable in Great Britain or Ireland respectively, on such goods and merchandise, for home consumption, shall have been paid, shall be repealed, and the same is hereby repealed accordingly.

Kingston, Halifax, and Quebec, &c., to be free warehousing ports; and such other ports as his Majesty shall appoint.

IX. And whereas it is expedient to constitute and appoint some of the free ports in America and the West Indies to be free warehousing ports for all goods which may be legally imported into the said ports respectively; and it is also expedient to empower his Majesty to constitute and appoint, from time to time, any other ports in any of the said British possessions in America or the West Indies, to be, in like manner, free warehousing ports for such goods as may be legally imported into such ports respectively; and it is therefore necessary to make regulations for the appointing of proper warehouses at such ports, and for the lodging and securing of goods therein: *Be it therefore enacted*, That the several ports hereinafter mentioned, (that is to say,) Kingston, in the island of Jamaica, Halifax, in Nova Scotia, Quebec, in Canada, Saint John's, in New Brunswick, and Bridge Town, in the island of Barbadoes, shall be free warehousing ports for the purposes of this act; and that it shall be lawful for the several Collectors and Controllers of the said ports, respectively, by notice in writing under their hands, to appoint, from time to time, such warehouses at such ports, respectively, as shall be approved of by them, for the free warehousing and securing of goods therein for the purposes of this act, and also in such notice to declare what sorts of goods may be so warehoused, and, also, by like notice, to revoke or alter any such appointment or declaration: *Provided always*, That every such notice shall be transmitted to the Governor of the place, and shall be published in such manner as he shall direct.

Collectors and controllers to appoint warehouses.

Goods may be warehoused without payment of duty.

X. *And be it further enacted*, That it shall be lawful for the importer of any such goods into the said ports to warehouse the same in the warehouses so appointed, without payment of any duty on the first entry thereof, subject, nevertheless, to the rules, regulations, restrictions, and conditions hereinafter contained.

Stowage of goods in warehouse.

Locking and opening warehouse.

Carrying goods to and from warehouse.

XI. *And be it further enacted*, That all goods so warehoused shall be stowed in such parts or divisions of the warehouse, and in such manner as the Collector and Controller shall direct; and that the warehouse shall be locked and secured in such manner, and shall be opened and visited only at such times, and in the presence of such officers, and under such rules and regulations, as the Collector and Controller shall direct; and that all such goods shall, after being landed upon importation, be carried to the warehouse, or shall, after being taken out of the warehouse for exportation, be carried to be shipped, under such rules and regulations as the Collector and Controller shall direct.

Bond upon entry of goods to be warehoused.

XII. *And be it further enacted*, That, upon the entry of any goods to be warehoused, the importer of such goods, instead of paying down the duties due thereon, shall give bond, with two sufficient sureties to be approved of by the Collector or Controller, in treble the duties payable on such goods, with condition for the safe depositing of such goods in the warehouse mentioned in such entry, and for the payment of all duties due upon such goods, or for the exportation thereof, according to the first account taken of such goods upon the landing of the same; and with further condition that no part thereof shall be taken out of such warehouse until cleared from thence, upon due entry and payment of duty, or upon due entry for exportation; and with further condition that the whole of such goods shall be so cleared from such warehouse, and the duties upon any deficiency of the quantity, according to such first accounts, shall be paid within two years from the date of the first entry thereof; and if, after such bond shall have been given, the goods, or any part thereof, shall be sold or disposed of, so that the original bonder shall be no longer interested in or have control over the same, it shall be lawful for the Collector and Controller to admit fresh security to be given by the bond of the new proprietor, or other person having control over such goods with his sufficient sureties, and to cancel the bond given by the original bonder of such goods, or to exonerate him to the extent of the fresh security so given.

Purchaser of goods may give bond in lieu of original bond.

Goods entered to be warehoused and not deposited, &c., to be forfeited.

XIII. *And be it further enacted*, That if any goods which have been entered to be warehoused shall not be duly carried and deposited in the warehouse, or shall afterwards be taken out of the warehouse without due entry and clearance, or, having been entered and cleared for exportation from the warehouse, shall not be duly carried and shipped, or shall afterwards be relanded, except with permission of the proper officer of the customs, such goods shall be forfeited.

Account of goods to be taken on landing.

No goods to be taken out of warehouse except on entry, &c.

XIV. *And be it further enacted*, That, upon the entry and landing of any goods to be warehoused, the proper officer of the customs shall take a particular account of the same, and shall mark the contents on each package, and shall enter the same in a book to be kept for that purpose; and no goods which have been so warehoused shall be taken or delivered from the warehouse, except upon due entry, and under care of the proper officers for exportation, or upon due entry and payment of duty for home use; and whenever the whole of the goods warehoused under any entry shall be cleared from the warehouse, or whenever further time shall be granted for any such goods to remain warehoused, an account shall be made out of the quantity upon which the duties have been paid, and of the quantity exported, and of the quantity (to be then ascertained) of the goods still remaining in the warehouse, as the case may be, deducting from the whole the quantity contained in any whole packages (if any) which may have been abandoned for the duties; and if upon such account there shall, in either case, appear to be any deficiency of the original quantity, the duty payable upon the amount of such deficiency shall then be paid.

Duties to be paid upon deficiencies.

Samples may be taken.

XV. *And be it further enacted*, That it shall be lawful for the Collector and Controller, under such regulations as they shall see fit, to permit moderate samples to be taken of any goods so warehoused, without entry and without payment of duty, except as the same shall eventually become payable as on a deficiency of the orginal quantity.

Goods may be sorted and repacked.

XVI. *And be it further enacted,* That it shall be lawful for the Collector and Controller, under such regulations as they shall see fit, to permit the proprietor, or other person having control over any goods so warehoused, to sort, separate, and pack, and repack any such goods, and to make such lawful alterations therein, or arrangements and assortments thereof, as may be necessary for the preservation of such goods, or in order to the sale, shipment, or legal disposal of the same; and also to permit any parts of such goods so separated to be destroyed, but without prejudice to the claim for duty upon the whole original quantity of such goods: *Provided always,* That it shall be lawful for any person to abandon any whole packages to the officers of the customs for the duties without being liable for any duty upon the same.

Whole packages may be abandoned for duty.

All goods to be cleared within two years or sold.

XVII. *And be it further enacted,* That all goods which have been so warehoused shall be duly cleared either for exportation or for home consumption within two years from the day of the first entry thereof; and if any such goods be not so cleared, it shall be lawful for the Collector and Controller to cause the same to be sold, and the produce shall be applied, first to the payment of the duties, next of warehouse rent and other charges, and the overplus (if any) shall be paid to the proprietor: *Provided always,* That it shall be lawful for the Collector and Controller to grant further time for any such goods to remain warehoused, if they shall see fit so to do.

Further time may be granted.

Bond on entry for exportation.

XVIII. *And be it further enacted,* That upon the entry outwards of any goods to be exported from the warehouse, the person entering the same shall give security by bond in treble the duties of importation on the quantity of such goods, with two sufficient sureties, to be approved by the Collector or Controller, that the same shall be landed at the place for which they be entered outwards, or be otherwise accounted for to the satisfaction of the Collector and Controller.

Power to appoint other free ports.

XIX. *And be it further enacted,* That it shall be lawful for his Majesty in council, from time to time, to appoint any port in his Majesty's possessions in America or the West Indies to be a free warehousing port for the purposes of this act; and every such port, so appointed by his Majesty, shall be a free warehousing port under this act, as if appointed by the same, in as full and ample a manner, in all respects, as any of the ports hereinbefore mentioned are free warehousing ports appointed by this act.

Not to affect the trade or fisheries of Newfoundland.

XX. *And be it further enacted,* That nothing in this act shall extend to alter or affect in any manner the regulations of the trade or fisheries of Newfoundland, or the duties or drawbacks payable or allowable therein, under any acts or act in force at the time of the commencement of this act.

Act may be amended this session.

XXI. *And be it further enacted,* That this act may be amended, altered, or repealed by any act to be passed in the present session of Parliament.

SCHEDULE OF DUTIES.

A schedule of duties payable upon goods, wares, and merchandise, not being of the growth, production, or manufacture of the United Kingdom, or of any of the British possessions in America or the West Indies, or within the limits of the East India Company's charter, imported into any of the British possessions in America or the West Indies.

	£	*s.*	*d.*
Barrel of wheat flour, not weighing more than 196 pounds net weight	0	5	0
For every hundred weight of biscuit or bread	0	1	6
For every barrel of flour or meal, not weighing more than 196 pounds, not made from wheat	0	2	6
For every bushel of wheat	0	1	0
For every bushel of pease, beans, rye, calavances, oats, barley, or Indian corn	0	0	7
Rice, for every hundred pounds net weight	0	2	6
For every one thousand shingles, not more than twelve inches in length	0	7	0
For every one thousand shingles, being more than twelve inches in length	0	14	0
For every one thousand red oak staves	0	15	0
For every one thousand white oak staves or headings	0	12	6
For every one thousand feet of white, yellow, or pitch pine lumber, of one inch thick	1	1	0
Other kinds of wood and lumber, per one thousand feet	1	8	0
For every one thousand wood hoops	0	5	3
Horses, mules, asses, neat cattle, and all other live stock, for every one hundred pounds of the value	10	0	0
Spirits, viz: brandy, Geneva, or cordials, for every gallon	0	1	0
And further, the amount of any duty payable, for the time being, on spirits, the manufacture of the United Kingdom.			
Wine imported in bottles, the tun, containing 252 gallons	7	7	0
and further, for every £100 of the true and real value thereof	7	10	0
and for every dozen of foreign quart bottles in which such wine may be imported	0	1	0
not in bottles, for every £100 of the true and real value thereof	7	10	0
Coffee, cocoa, sugar, molasses, and rum, imported into any of the British possessions in North America, viz:			
Coffee, for every cwt.	0	5	0
Cocoa, for every cwt.	0	5	0
Sugar, for every cwt.	0	5	0
Molasses, for every cwt.	0	3	0
Rum, for every gallon	0	0	6

And further, the amount of any duty payable, for the time being, on coffee, cocoa, sugar, molasses, and rum, respectively, being the produce of any of the British possessions in South America or the West Indies.

		£	s.	d.
Alabaster	For every £100 of the true and real value thereof..	7	10	0
Anchovies	do do do	7	10	0
Argol	do do do	7	10	0
Anise seed	do do do	7	10	0
Amber	do do do	7	10	0
Almonds	do do do	7	10	0
Brimstone	do do do	7	10	0
Botargo	do do do	7	10	0
Boxwood	do do do	7	10	0
Currants	do do do	7	10	0
Capers	do do do	7	10	0
Cascasoo	do do do	7	10	0
Cantharides	do do do	7	10	0
Cummin seed	do do do	7	10	0
Coral	do do do	7	10	0
Cork	do do do	7	10	0
Cinnabar	do do do	7	10	0
Dates	do do do	7	10	0
Essence of bergamot	do do do	7	10	0
of lemon	do do do	7	10	0
of roses	do do do	7	10	0
of citron	do do do	7	10	0
of orange	do do do	7	10	0
of lavender	do do do	7	10	0
of rosemary	do do do	7	10	0
Emery stone	do do do	7	10	0
Flax	do do do	7	10	0
Fruit, viz:				
dry, preserved in sugar	do do do	7	10	0
wet, preserved in brandy	do do do	7	10	0
Figs	do do do	7	10	0
Gum Arabic	do do do	7	10	0
mastic	do do do	7	10	0
myrrh	do do do	7	10	0
Sicily	do do do	7	10	0
ammoniac	do do do	7	10	0
Hemp	do do do	7	10	0
Honey	do do do	7	10	0
Jalap	do do do	7	10	0
Juniper berries	do do do	7	10	0
Incense of frankincense	do do do	7	10	0
Lava and Malta stone for building	do do do	7	10	0
Lentils	do do do	7	10	0
Manna	do do do	7	10	0
Marble, rough and worked	do do do	7	10	0
Mosaic work	do do do	7	10	0
Medals	do do do	7	10	0
Musks	do do do	7	10	0
Maccaroni	do do do	7	10	0
Nuts of all kinds	do do do	7	10	0
Oil of olives	do do do	7	10	0
Oil of almonds	do do do	7	10	0
Opium	do do do	7	10	0
Orris root	do do do	7	10	0
Ostrich feathers	do do do	7	10	0
Ochres	do do do	7	10	0
Orange buds and peel	do do do	7	10	0
Olives	do do do	7	10	0
Pickles, in jars and bottles	do do do	7	10	0
Paintings	do do do	7	10	0
Pozzolana	do do do	7	10	0
Pitch	do do do	7	10	0
Pumice stone	do do do	7	10	0
Punk	do do do	7	10	0
Parmesan cheese	do do do	7	10	0
Pickles	do do do	7	10	0
Prints	do do do	7	10	0
Pearls	do do do	7	10	0
Precious stones, except diamonds	do do do	7	10	0
Quicksilver	do do do	7	10	0
Raisins	do do do	7	10	0
Rhubarb	do do do	7	10	0
Rice	do do do	7	10	0
Sausages	do do do	7	10	0
Senna	do do do	7	10	0

		£	s.	d.
Scammony	For every £100 of the true and real value thereof.	7	10	0
Sarsaparilla	do do do	7	10	0
Saffron	do do do	7	10	0
Safflower	do do do	7	10	0
Sponges	do do do	7	10	0
Tar	do do do	7	10	0
Turpentine	do do do	7	10	0
Vermillion	do do do	7	10	0
Vermicelli	do do do	7	10	0
Whetstones	do do do	7	10	0
Clocks and watches	do do do	30	0	0
Leather manufactures	do do do	30	0	0
Linens	do do do	30	0	0
Musical instruments	do do do	30	0	0
Wires of all sorts	do do do	30	0	0
Books and papers	do do do	30	0	0
Glass manufactures	do do do	20	0	0
Soap	do do do	20	0	0
Refined sugar	do do do	20	0	0
Sugar candy	do do do	20	0	0
Tobacco, manufactured	do do do	20	0	0
Coin and bullion; diamonds; salt; fruit and vegetables, fresh; herrings taken and caught by the inhabitants of the Isle of Man, and imported direct from thence; any sort of craft, food, and victuals, except spirits, and any sort of clothing and implements, or materials fit and necessary for the British fisheries in America, imported into the place at or from which such fishery is carried on direct from the islands of Guernsey, Jersey, Alderney, Sark, or Man, being the produce or manufacture of such islands or of the United Kingdom; rice and Indian corn and lumber, the produce of any British possession on the west coast of Africa, and imported direct from thence		Duty free.		
Goods, wares, or merchandise, not being enumerated or described, nor otherwise charged with duty by this act, for every £100 of the true and real value thereof		15	0	0

And if any of the goods hereinbefore mentioned shall be imported through the United Kingdom, (having been warehoused therein, and exported from the warehouse, or the duties thereon, if there paid, having been drawn back,) one-tenth of the duties herein imposed shall be remitted in respect of such goods.

And if any of the goods hereinbefore mentioned shall be imported through the United Kingdom, (not from the warehouse,) but after all duties of importation for home use therein shall have been paid thereon in the said United Kingdom, and not drawn back, such goods shall be free of all duties herein imposed.

CHAPTER CXIV.

AN ACT to regulate the trade of the British possessions abroad.—*July* 5, 1825.

6 Geo. 4, c. 105.

Whereas an act was passed in the present session of Parliament, entitled "An act to repeal the several laws relating to the customs," in which it is declared that the laws of the customs have become intricate by reason of the great number of acts relating thereto which have been passed through a long series of years; and it is therefore highly expedient, for the interests of commerce and the ends of justice, and also for affording convenience and facility to all persons who may be subject to the operation of those laws, or who may be authorized to act in the execution thereof, that all the statutes now in force relating to the customs should be repealed, and that the purposes for which they have, from time to time, been made should be secured by new enactments, exhibiting more perspicuously and compendiously the various provisions contained in them; and whereas by the said act all the laws of the customs relating to the trade of the British possessions abroad will be repealed; and it is expedient to make provisions for the future regulation of the trade of those possessions after such repeal shall have effect:

Commencement of this act.

Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the fifth day of January, one thousand eight hundred and twenty-six, this act shall come into and be and continue in full force and operation, for the regulating of the trade of the British possessions abroad.

Importation and exportation of goods confined to free ports.

II. *And be it further enacted,* That no goods shall be imported into, nor shall any goods, except the produce of the fisheries in British ships, be exported from any of the British possessions in America by sea, from or to any place other than the United Kingdom, or some other of such possessions, except into or from the several ports in such possessions, called "free ports," enumerated or described in the table following, that is to say:

Table of free ports.

Kingston, Savannah Le Mar, Montego Bay, Santa Lucia, Antonio, St. Ann, Falmouth, Maria, Morant Bay, Annotto Bay,	Jamaica.
Saint George, Grenada.	
Roseau, Dominica.	
Saint John's, Antigua.	
San Josef, Trinidad.	
Scarborough, Tobaga.	
Road Harbor, Tortola.	
Nassau, New Providence.	
Pitt's Town, Crooked island.	
Kingston, Saint Vincent.	
Port St. George and Port Hamilton, Bermuda.	
Any port where there is a custom-house, Bahamas.	
Bridgetown, Barbadoes.	
Saint John's, St. Andrew's, New Brunswick.	
Halifax, Nova Scotia.	
Quebec, Canada.	
Saint John's, Newfoundland.	
George Town, Demarara.	
New Amsterdam, Berbice.	
Castries, Saint Lucia.	
Basseterre, Saint Kitts.	
Charles Town, Nevis.	
Plymouth, Montserrat.	

His Majesty may extend the privileges of this act to other ports not herein emumerated.

III. *Provided always,* That, if his Majesty shall deem it expedient to extend the provisions of this act to any port or ports not enumerated in the said table, it shall be lawful for his Majesty, by order in council, to extend the provisions of this act to such port or ports; and from and after the day mentioned in such order in council, all the privileges and advantages of this act, and all the provisions, penalties, and forfeitures therein contained, shall extend, and be deemed and construed to extend, to any such port or ports, respectively, as fully as if the same had been inserted and enumerated in the said table at the time of passing this act: *Provided, also,* That nothing hereinbefore contained shall extend to prohibit the exportation of the produce of the fisheries from any ports or places in any of the said possessions in British ships, nor to prohibit the importation or exportation of goods into or from any ports or places in Newfoundland or Labrador in British ships.

Privileges granted to foreign ships limited to the ships of those countries which, having colonial possessions, shall grant the like privileges to British ships, &c.

IV. And whereas, by the law of navigation, foreign ships are permitted to import into any of the British possessions abroad, from the countries to which they belong, goods the produce of those countries, and to export goods from such possessions, to be carried to any foreign country whatever; and whereas it is expedient that such permission should be subject to certain conditions: *Be it therefore enacted,* That the privileges thereby granted to foreign ships shall be limited to the ships of those countries which, having colonial possessions, shall grant the like privileges of trading with those possessions to British ships, or which, not having colonial possessions, shall place the commerce and navigation of this country, and of its possessions abroad, upon the footing of the most favored nation, unless his Majesty, by his order in council, shall, in any case, deem it expedient to grant the whole or any of such privileges to the ships of any foreign country, although the conditions aforesaid shall not, in all respects, be fulfilled by such foreign country.

This act not to affect 4 G. 4, c. 77, and 5 G. 4, c. 50.

V. *And be it further enacted,* That nothing contained in this act, or any other act passed in the present session of Parliament, shall extend to repeal or in any way alter or affect an act passed in the fourth year of the reign of his present Majesty, entitled "An act to authorize his Majesty, under certain circumstances, to regulate the duties and drawbacks on goods imported or exported in foreign vessels, and to exempt certain foreign vessels from pilotage; nor to repeal or in any way alter or affect an act passed in the fifth year of the reign of his present Majesty, among other things, to amend the last mentioned act, and that all trade and intercourse between the British possessions and all foreign countries shall be subject to the powers granted to his Majesty by those acts."

Foreign ships trading between British possessions and other places in America to be deemed ships of the place to which they belong until June 24, 1832.

VI. *Provided always, and be it further enacted,* That, until the expiration of ten years, to be computed from the twenty-fourth day of June, one thousand eight hundred and twenty-two, every foreign ship which, previous to that day, had been engaged in trade between any of the British possessions in America and other places in America, shall, for the purposes of this act, be deemed to be a ship of the country or place to which she had then belonged, if still belonging thereto, anything in the law of navigation to the contrary notwithstanding.

Goods prohibited or restricted to be imported into colonies.

VII. *And be it further enacted,* That the several sorts of goods enumerated or described in the table following, denominated "a table of prohibitions and restrictions," are hereby prohibited to be imported or brought, either by sea, or by inland carriage, or navigation, into the British possessions in America, or into the island of Mauritius, or shall be so imported or brought only under the restrictions mentioned in such table, according as the several sorts of such goods are set forth therein, that is to say:

A table of prohibitions and restrictions.

Gunpowder, arms, ammunitions or utensils of war; beef, fresh or salted, except into Newfoundland; pork, except into Newfoundland; prohibited to be imported, except from the United Kingdom, or from some other British possession.

Tea, prohibited to be imported, except from the United Kingdom, or from some other British possession in America, unless by the East India Company, or with their license.

Fish, dried or salted; train oil, blubber, fins, or skins, the produce of creatures living in the sea, prohibited to be imported, except from the United Kingdom, or from some other British possession, or unless taken by British ships fitted out from the United Kingdom, or from some British possession, and brought in from the fishery, and except herrings from the Isle of Man, taken and cured by the inhabitants thereof.

Coffee, cocoa-nuts, sugar, molasses, rum, being of foreign production, or the production of any place within the limits of the East India Company's charter, except the island of Mauritius, prohibited to be imported into any of the British possessions on the

continent of South America, or in the West Indies, except the Bahama and Bermuda islands, or into the island of Mauritius, and may also be prohibited to be imported into the Bahama or the Bermuda islands, by his Majesty's order in council.

Base or counterfeit coin, books, such as are prohibited to be imported into the United Kingdom, prohibited to be imported.

Goods imported contrary hereto, forfeited.

And if any goods shall be imported or brought into any of the British possessions in America, or into the island of Mauritius, contrary to any of the prohibitions or restrictions mentioned in such table, in respect of such goods, the same shall be forfeited.

Coffee, &c., though British, deemed foreign in certain cases.

VII. *And be it further enacted*, That all coffee, cocoa-nuts, sugar, molasses, and rum, (although the same may be of the British plantations,) imported into any of the British possessions in America, into which the like goods of foreign production can be legally imported, shall, upon subsequent importation from thence into any of the British possessions in America, into which such goods, being of foreign production, cannot be legally imported, or into the island of Mauritius, or into the United Kingdom, be deemed to be of foreign production, and shall be liable, on such importation, respectively, to the same duties, or the same forfeitures, as articles of the like description, being of foreign production, would be liable to, unless the same shall have been warehoused under the provisions of this act, and exported from the warehouse direct to such other British possessions, or to the island of Mauritius, or to the United Kingdom, as the case may be.

Duties of importation in America.

IX. *And be it further enacted*, That there shall be raised, levied, collected, and paid unto his Majesty the several duties of customs, as the same are respectively set forth in figures in the table of duties hereinafter contained, upon goods, wares, and merchandise imported or brought into any of his Majesty's possessions in America, that is to say:

TABLE OF DUTIES.

Duties payable upon spirits, being the growth, production, or manufacture of the United Kingdom, or of any of the British possessions in America or the West Indies, imported into Newfoundland or Canada.

	£	s.	d.
Spirits imported into Newfoundland, viz:			
The produce of any of the British possessions in South America or the West Indies, viz:			
Imported from any of the British possessions in South America or the West Indies, the gallon	0	0	6
Imported from the United Kingdom, the gallon	0	1	6
Imported from any other place to be deemed foreign, and to be charged with duty as such.			
The produce of any British possession in North America, or of the United Kingdom, and imported from the United Kingdom or from any British possession in America or the West Indies, the gallon	0	1	6
Imported from any other place to be deemed foreign, and to be charged with duty as such.			
Spirits imported into Canada, viz:			
The produce of any British possession in South America or the West Indies, and imported from the United Kingdom, the gallon	0	0	6
Imported from any other place to be deemed foreign, and be charged with duty as such.			

Duties payable upon goods, wares, and merchandise, not being of the growth, production, or manufacture of the United Kingdom, or of any of the British possessions in America, or of the island of Mauritius, imported or brought into any of the British possessions in America, or the island of Mauritius, by sea or by inland carriage of navigation.

	£	s.	d.
For every barrel of wheat flour, not weighing more than 196 lbs. net weight	0	5	0
For every hundred weight of biscuit or bread	0	1	6
For every barrel of flour or meal, not weighing more than 196 lbs., not made from wheat	0	2	6
For every bushel of wheat	0	1	0
For every bushel of pease, beans, rye, calavances, oats, barley, or Indian corn.	0	0	7
Rice, for every 100 lbs. net weight	0	2	6
For every 1,000 shingles, not more than 12 inches in length	0	7	0
For every 1,000 shingles, being more than 12 inches in length	0	14	0
For every 1,000 red oak staves or headings	0	15	0
For every 1,000 white oak staves or headings	0	12	6
For every 1,000 feet of white, yellow, or pitch pine lumber, of one inch thick.	1	1	0
For every 1,000 feet of other kinds of wood and lumber	1	8	0
For every 1,000 wood hoops	0	5	3
Horses, mules, asses, neat cattle, and all other live stock, for every £100 of the value	10	0	0
Spirts, viz:			
Brandy, Geneva, or cordials, for every gallon	0	1	0
And further, the amount of any duty payable for the time being on spirits, the manufacture of the United Kingdom.			
Wine, imported in bottles, the tun, containing 252 gallons	7	7	0
and further, for every £100 of the true and real value thereof	7	10	0
and for every dozen of foreign quart bottles, in which such wine may be imported	0	1	0

	£	s.	d.
Wine, not in bottles, for every £100 of the true and real value thereof	7	10	0
Coffee, for every cwt	0	5	0
Cocoa, for every cwt	0	5	0
Sugar, for every cwt	0	5	0
Molasses, for every cwt	0	3	0
Rum, for every gallon	0	0	6
And further, the amount of any duty payable, for the time being, on coffee, cocoa, sugar, molasses, and rum, respectively, being the produce of any of the British possessions in South America or the West Indies.			
West Indies.....For every £100 of the true and real value thereof	7	10	0
Alabaster.....do.....do.....do	7	10	0
Anchovies.....do.....do.....do	7	10	0
Argol.....do.....do.....do	7	10	0
Anise seed.....do.....do.....do	7	10	0
Amber.....do.....do.....do	7	10	0
Almonds.....do.....do.....do	7	10	0
Brimstone.....do.....do.....do	7	10	0
Botargo.....do.....do.....do	7	10	0
Boxwood.....do.....do.....do	7	10	0
Currants.....do.....do.....do	7	10	0
Capers.....do.....do.....do	7	10	0
Cascasoo.....do.....do.....do	7	10	0
Cantharides.....do.....do.....do	7	10	0
Cummin seed.....do.....do.....do	7	10	0
Coral.....do.....do.....do	7	10	0
Cork.....do.....do.....do	7	10	0
Cinnabar.....do.....do.....do	7	10	0
Dates.....do.....do.....do	7	10	0
Essence of bergamot.....do.....do.....do	7	10	0
of lemon.....do.....do.....do	7	10	0
of roses.....do.....do.....do	7	10	0
of citron.....do.....do.....do	7	10	0
of oranges.....do.....do.....do	7	10	0
of lavander.....do.....do.....do	7	10	0
of rosemary.....do.....do.....do	7	10	0
Emery stone.....do.....do.....do	7	10	0
Flax.....do.....do.....do	7	10	0
Fruit, viz:			
dry, preserved in sugar....do.....do.....do	7	10	0
wet, preserved in brandy...do.....do.....do	7	10	0
Figs.....do.....do.....do	7	10	0
Gum Arabic.....do.....do.....do	7	10	0
mastic.....do.....do.....do	7	10	0
myrrh.....do.....do.....do	7	10	0
Sicily.....do.....do.....do	7	10	0
ammoniac.....do.....do.....do	7	10	0
Hemp.....do.....do.....do	7	10	0
Honey.....do.....do.....do	7	10	0
Jalap.....do.....do.....do	7	10	0
Iron in bars, unwrought, and pig iron.....do.....do	7	10	0
Juniper berries.....do.....do.....do	7	10	0
Incense of frankincense.....do.....do.....do	7	10	0
Lava and Malta stone for building.....do.....do	7	10	0
Lentils.....do.....do.....do	7	10	0
Manna.....do.....do.....do	7	10	0
Marble, rough or worked.....do.....do.....do	7	10	0
Mosaic work.....do.....do.....do	7	10	0
Medals.....do.....do.....do	7	10	0
Musk.....do.....do.....do	7	10	0
Maccaroni.....do.....do.....do	7	10	0
Nuts of all kinds.....do.....do.....do	7	10	0
Oil of olives.....do.....do.....do	7	10	0
almonds.....do.....do.....do	7	10	0
Opium.....do.....do.....do	7	10	0
Orris root.....do.....do.....do	7	10	0
Ostrich feathers.....do.....do.....do	7	10	0
Ochres.....do.....do.....do	7	10	0
Orange buds and peel.....do.....do.....do	7	10	0
Olives.....do.....do.....do	7	10	0
Pitch.....do.....do.....do	7	10	0
Pickles, in jars and bottles.....do.....do.....do	7	10	0
Paintings.....do.....do.....do	7	10	0
Pozzolana.....do.....do.....do	7	10	0
Pumice stone.....do.....do.....do	7	10	0
Punk.....do.....do.....do	7	10	0
Parmesan cheese.....do.....do.....do	7	10	0
Pickles.....do.....do.....do	7	10	0
Prints.....do.....do.....do	7	10	0

				£	s.	d.
Pearls	For every £100 of the true and real value thereof			7	10	0
Precious stones, except diamonds	do	do	do	7	10	0
Quicksilver	do	do	do	7	10	0
Raisins	do	do	do	7	10	0
Rhubarb	do	do	do	7	10	0
Sausages	do	do	do	7	10	0
Senna	do	do	do	7	10	0
Scammony	do	do	do	7	10	0
Sarsaparilla	do	do	do	7	10	0
Saffron	do	do	do	7	10	0
Safflower	do	do	do	7	10	0
Sponges	do	do	do	7	10	0
Tar	do	do	do	7	10	0
Tow	do	do	do	7	10	0
Turpentine	do	do	do	7	10	0
Vermillion	do	do	do	7	10	0
Vermicelli	do	do	do	7	10	0
Whetstones	do	do	do	7	10	0
Clocks and watches	do	do	do	30	0	0
Leather manufactures	do	do	do	30	0	0
Linen	do	do	do	30	0	0
Musical instruments	do	do	do	30	0	0
Wires of all sorts	do	do	do	30	0	0
Books and papers	do	do	do	30	0	0
Glass and manufactures	do	do	do	20	0	0
Soap	do	do	do	20	0	0
Refined sugar	do	do	do	20	0	0
Sugar candy	do	do	do	20	0	0
Tobacco manufactured	do	do	do	20	0	0
Hay and straw; coin and bullion; diamonds; salt; fruit and vegetables, fresh; cotton wool; goods the produce of places within the limits of the East India Company's charter; horses of persons travelling into or through the province of Upper Canada, and necessarily used in removing themselves, their families, and baggage; cord wood for fuel, and saw logs brought into Upper Canada; herrings taken and cured by the inhabitants of the Isle of Man, and imported direct from thence; any sort of craft, food, and victuals, except spirits, and any sort of clothing and implements, or materials fit and necessary for the British fisheries in America, imported into the place at or from whence such fishery is carried on in British ships; rice and Indian corn, and lumber, the produce of any British possession on the west coast of Africa, and imported direct from thence				Duty free.		
Goods, wares, or merchandise, not being enumerated or described, nor otherwise charged with duty by this act, for every £100 of the true and real value thereof				15	0	0

Abatement of duty and remission of duty in certain cases.

And if any of the goods hereinbefore mentioned shall be imported through the United Kingdom, (having been warehoused therein, and exported from the warehouse, or the duties thereon, if then paid, having been drawn back,) one-tenth part of the duties herein imposed shall be remitted in respect of such goods; and if any of the goods hereinbefore mentioned shall be imported through the United Kingdom, (not from the warehouse,) but after all duties of importation for home use thereon shall have been paid thereon in the said United Kingdom, and not drawn back, such goods shall be free of all duties herein imposed.

Not to repeal act of 18 G. 3, c. 12;

X. *And be it further enacted*, That nothing in this act, or in any other act passed in the present session of Parliament, shall extend to repeal or abrogate, or in any way to alter or affect, an act passed in the eighteenth year of the reign of his late Majesty King George the Third, entitled "An act for removing all doubts and apprehensions concerning taxation by the Parliament of Great Britain in any of the colonies, provinces, and plantations in North America and the West Indies, and for repealing so much of an act made in the seventh year of the reign of his present Majesty as imposes a duty on tea imported from Great Britain into any colony or plantation in America as relates thereto,"

nor to repeal duties granted prior to that act;

nor to repeal, or in any way alter or affect, any act now in force which was passed prior to the last mentioned act, and by which any duties in any of the British possessions in America were granted, and still continue payable to the Crown;

nor to repeal 31 G. 3, c. 31.

nor to repeal, or in any way alter or affect, an act passed in the thirty-first year of the reign of his late Majesty King George the Third, entitled "An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled 'An act for making more effectual provisions for the Government of the province of Quebec in North America, and to make further provisions for the Government of the said province.'"

Duties imposed by acts prior to act of 18 G. 3 to be applied to purposes of those acts.

XI. *And be it further enacted*, That the duties imposed by any of the acts hereinbefore mentioned or referred to, passed prior to the said act of the eighteenth year of his late Majesty's reign, shall be received, accounted for, and applied for the purposes of those acts: *Provided always*, That no greater proportion of the duties imposed by this act shall be charged upon any article which is subject also to duty, under any of the said acts, or subject also to duty under any colonial law, than the amount, if any, by which the duty charged by this act shall exceed such other duty or duties: *Provided, nevertheless*, That the full amount of the duties mentioned in this act, whether on account of such former acts, or on account of such colonial law, or on account of this act, shall be levied

and recovered and received under the regulations, and by the means and powers of this act.

Currency, weights, and measures.

XII. *And be it further enacted*, That all sums of money granted or imposed by this act, either as duties, penalties, or forfeitures, in the British possessions in America, shall be deemed and are hereby declared to be sterling money of Great Britain, and shall be collected, recovered, and paid to the amount of the value which such nominal sums bear in Great Britain; and that such moneys may be received and taken according to the proportion and value of five shillings and sixpence the ounce in silver; and that all duties shall be paid and received in every part of the British possessions in America, according to British weights and measures in use at the time of passing of this act, and that in all cases where such duties are imposed according to any specific quantity, or any specific value, the same shall be deemed to apply in the same proportion to any greater or less quantity or value; and that all such duties shall be under the management of the Commissioners of the Customs.

Duties paid by Collector of Customs to Treasurer of colony in which levied.

XIII. *And be it further enacted*, That the produce of the duties so received by the means and powers of this act, except such duties as are payable to his Majesty under any act passed prior to the eighteenth year of his late Majesty as aforesaid, shall be paid by the Collector of the Customs into the hands of the Treasurer or Receiver General of the colony, or other proper officer authorized to receive the same, in the colony in which the same shall be levied, to be applied to such uses as shall be directed by the local Legislatures of such colonies respectively; and that the produce of such duties so received as aforesaid in the colonies which have no local Legislature shall and may be applied in such manner as shall be directed by the Commissioners of his Majesty's Treasury.

Drawback on rum, &c., of British possessions, exported from Newfoundland to Canada, &c.

XIV. *And be it further enacted*, That there shall be allowed upon the exportation from Newfoundland to Canada of rum or other spirits, being the produce of the British possessions in South America or the West Indies, a drawback of the full duties of customs which shall have been paid upon the importation thereof from any of the said places into Newfoundland; provided proof, on oath, be made to the satisfaction of the Collector and Controller of the Customs, at the port from whence such rum or other spirits shall be so exported, that the full duties on the importation of such rum or other spirits at the said port had been paid, and that a certificate be produced under the hands and seals of the Collector and Controller of the Customs at Quebec that such rum or other spirits had been duly landed in Canada: *Provided always*, That no drawback shall be allowed upon any such rum or other spirits unless the same shall be shipped within one year from the day of the importation of the same, nor unless such drawback shall be duly claimed within one year from the day of such shipment.

Limitation as to drawback.

Ship and cargo to be reported on arrival.

XV. *And be it further enacted*, That the master of every ship arriving in any of the British possessions in America, or the island of Mauritius, or the islands of Guernsey, Jersey, Alderney, or Sark, whether laden or in ballast, shall come directly, and before bulk be broken, to the custom-house for the port or district where he arrives, and there make a report, upon oath, in writing, to the Collector or Controller, or other proper officer, of the arrival and voyage of such ship, stating her name, country, and tonnage; and if British, the port of registry, the name and country of the master, the country of the owners, the number of the crew, and how many are of the country of such ship, and whether she be laden or in ballast; and if laden, the marks, numbers, and contents of every package and parcel of goods on board, and where the same was laden, and where and to whom consigned, and where any and what goods, if any, had been unladen during the voyage, as far as any of such particulars can be known to him; and the master shall further answer, upon oath, all such questions concerning the ship and the cargo, and the crew, and the voyage, as shall be demanded of him by such officer; and if any goods be unladen from any ship before such report be made, or if the master fail to make such report, or make an untrue report, or do not truly answer the questions demanded of him, he shall forfeit the sum of one hundred pounds; and if any goods be not reported, such goods shall be forfeited.

Particulars of report.

Penalty for false report.

Entry outwards of ship for cargo.

XIV. *And be it further enacted*, That the master of every ship bound from any British possession in America, or the island of Mauritius, or the islands of Guernsey, Jersey, Alderney, or Sark, shall, before any goods be laden therein, deliver to the Collector or Controller, or other proper officer, an entry outwards, under his hand, of the destination of such ship, stating her name, country, and tonnage; and if British, the port of registry, the name and country of the master, the country of the owners, the number of the crew, and how many are of the country of such ship; and if any goods be laden on board any ship before such entry be made, the master of such ship shall forfeit the sum of fifty pounds; and, before such ship depart, the master shall bring and deliver to the Collector or Controller, or other proper officer, a content, in writing, under his hand, of the goods laden, and the names of the respective shippers and consignees of the goods, with the marks and numbers of the packages or parcels of the same, and shall make oath to the truth of such content as far as any of such particulars can be known to him; and the master of every ship bound from any British possession in America, or from the island of Mauritius, or from the islands of Guernsey, Jersey, Alderney, or Sark, (whether in ballast or laden,) shall, before departure, come before the Collector or Controller, or other proper officer, and answer, upon oath, all such questions concerning the ship and the cargo, if any, and the crew, and the voyage, as shall be demanded of him by such officer; and thereupon the Collector and Controller, or other proper officer, if such ship be laden, shall make out and give to the master a certificate of the clearance of such ship for her intended voyage, containing an account of the total quantities of the several sorts of goods laden therein, or a certificate of her clearance in ballast, as the case may be; and if the ship shall depart without such clearance, or if the master shall deliver a false content, or shall not truly answer the questions demanded of him, he shall forfeit the sum of one hundred pounds.

Particulars of entry.

Penalty £50.

Content of the cargo to be delivered before departure.

Clearance of ship for the voyage.

Penalty for not clearing, £100.

Newfoundland fishing certificates in lieu of clearance during the fishing season.

XVII. *Provided always, and be it further enacted,* That whenever any ship shall be cleared out from any port in Newfoundland, or in any other part of his Majesty's dominions, for the fisheries on the banks or coasts of Newfoundland or Labrador, or dependencies thereof, without having on board any article of traffic, (except only such provisions, nets, tackle, and other things, as are usually employed in and about the said fishery, and for the conduct and carrying on of the same,) the master of any such ship shall be entitled to demand from the Collector, or other principal officer of the customs at such port, a certificate, under his hand, that such ship hath been specially cleared out for the Newfoundland fishery; and such certificate shall be in force for the fishing season of the year in which the same may be granted, and no longer; and upon the first arrival in any port in the said colony of Newfoundland or its dependencies of any ship having on board any such certificate as aforesaid, a report thereof shall be made by the master of such ship to the principal officer of the customs at such port; and all ships having such certificate, which has been so reported, and being actually engaged in the said fishery, or in carrying coastwise, to be landed or put on board any other ships engaged in the said fishery, any fish, oil, salt, provisions, or other necessaries, for the use and purposes thereof, shall be exempt from all obligation to make any entry at, or obtain any clearance from, any custom-house at Newfoundland upon arrival at, or departure from, any of the ports or harbors of the said colony or its dependencies during the continuance of the fishing season for which such certificate may have been granted; and previously to obtaining a clearance at the end of such season for any other voyage at any of such ports, the master of such ship shall deliver up the before mentioned certificate to the principal officer of the customs of such port: *Provided always,* That in case any such ship shall have on board, during the time the same may be engaged in the said fishery, any goods or merchandises whatsoever, other than fish, seals, oil made of fish or seals, salt, provisions, and other things, being the produce of or usually employed in the said fishery, such ship shall forfeit the said fishing certificate, and shall thenceforth become and be subject and liable to all such and the same rules, restrictions, and regulations, as ships in general are subject or liable to.

At the end of the season the certificate to be delivered up.

Ships trading to forfeit their certificate.

Entry of goods to be laden or unladen.

XVIII. *And be it further enacted,* That no goods shall be laden, or water-borne to be laden on board any ship, or unladen from any ship in any of the British possessions in America, or the island of Mauritius, or the islands of Guernsey, Jersey, Alderney, or Sark, until due entry shall have been made of such goods, and warrant granted for the lading or unlading of the same; and that no goods shall be so laden or water-borne, or so unladen, except at some place at which an officer of the customs is appointed to attend the lading and unlading of goods, or at some place at which a sufferance shall be granted by the Collector and Controller for the lading and unlading of such goods; and that no goods shall be so laden or unladen except in the presence or with the permission in writing of the proper officer: *Provided always,* That it shall be lawful for the Commissioners of his Majesty's Customs to make and appoint such other regulations for the carrying coastwise of any goods, or for the removing of any goods for shipment, as to them shall appear expedient; and that all goods laden, water-borne, or unladen, contrary to the regulations of this act, or contrary to any regulations so made and appointed, shall be forfeited.

Regulations inwards & outwards.

Regulations coastwise.

Forfeiture.

Particulars of entry of goods inwards and outwards.

XIX. *And be it further enacted,* That the persons entering any such goods shall deliver to the Collector or Controller, or other proper officer, a bill of the entry thereof, fairly written in words at length, containing the name of the exporter or importer, and of the ship, and of the master, and of the place to or from which bound, and of the place within the port where the goods are to be laden or unladen, and the particulars of the quality and quantity of the goods, and the packages containing the same, and the marks and numbers on the packages; and such persons shall, at the same time, pay down all duties due upon the goods, and the Collector and Controller, or other proper officers, shall thereupon grant their warrant for the lading or unlading of such goods.

Entry inwards by bill of sight.

XX. *And be it further enacted,* That if the importer of any goods shall declare upon oath before the Collector or Controller, or other proper officer, that he cannot, for want of full information, make perfect entry thereof, it shall be lawful for the Collector and Controller to receive an entry by bill of sight for the packages or parcels of such goods, by the best description which can be given, and to grant a warrant thereupon, in order that the same may be landed and secured to the satisfaction of the officer of the customs and at the expense of the importer, and may be seen and examined by such importer in the presence of the proper officers; and within three days after the goods shall have been so landed the importer shall make a perfect entry thereof, and pay down all duties due thereon; and in default of such entry, such goods shall be taken to the King's warehouse; and if the importer shall not, within one month after such landing, make perfect entry of such goods, and pay the duties due thereon, together with charges of removal and warehouse rent, such goods shall be sold for the payment thereof, and the overplus, if any, shall be paid to the proprietor of the goods.

Within three days after landing of goods entry to be made and duties paid.

Goods subject to ad valorem duty.

XXI. *And be it further enacted,* That in all cases where the duties imposed by this act upon the importation of articles into his Majesty's possessions in America or the island of Mauritius are charged, not according to the weight, tale, gauge, or measure, but according to the value thereof, such value shall be ascertained by the declaration of the importer of such articles, or his known agent, in manner and form following, that is to say:

Value to be declared on entry.

"I, A. B., do hereby declare that the articles mentioned in the entry and contained in the packages, [here specifying the several packages and describing the several marks and numbers, as the case may be,] are of the value of ——. Witness my hand, the —— day of ——.

"A. B.

"The above declaration signed the —— day of ——, in the presence of C. D., Collector, [or other principal officer."]

Which declaration shall be written on the bill of entry of such articles, and shall be

subscribed with the hand of the importer thereof, or his known agent, in the presence of the Collector or other principal officer of the customs at the port of importation: *Provided*, That if, upon view and examination of such articles by the proper officer of the customs, it shall appear to him that the said articles are not valued according to the true price or value thereof, and according to the true intent and meaning of this act, then, and in such case, the importer or his known agent shall be required to declare on oath, before the Collector or Controller, what is the invoice price of such articles, and that he verily believes such invoice price is the current value of the articles at the place from whence the said articles were imported; and such invoice price, with the addition of ten pounds per centum thereon, shall be deemed to be the value of the articles, in lieu of the value so declared by the importer or his known agent, and upon which the duties imposed by this act shall be charged and paid: *Provided also*, That if it shall appear to the Collector and Controller, or other proper officer, that such articles have been invoiced below the real and true value thereof at the place from whence the same were imported, or if the invoice price is not known, the articles shall, in such case, be examined by two competent persons, to be nominated and appointed by the Governor or Commander-in-chief of the colony, plantation, or island, into which the said articles are imported, and such persons shall declare on oath, before the Collector or Controller, or other proper officer, what is the true and real value of such articles in such colony, plantation, or island; and the value so declared on the oaths of such persons shall be deemed to be the true and real value of such articles, and upon which the duties imposed by this act shall be charged and paid.

Mode of proceeding if goods be undervalued.

Proof of invoice price.

If necessary two persons may be nominated to fix the price.

XXII. *And be it further enacted*, That if the importer of such articles shall refuse to pay the duties hereby imposed thereon, it shall and may be lawful for the Collector or other chief officer of the customs where such articles shall be imported, and he is hereby respectively required to take and secure the same, with the casks, or other package thereof, and to cause the same to be publicly sold, within the space of twenty days at the most, after such refusal made, and at such time and place as such officer shall, by four or more days' public notice, appoint for that purpose, which articles shall be sold to the best bidder; and the money arising from the sale thereof shall be applied, in the first place, in payment of the said duties, together with the charges that shall have been occasioned by the said sale, and the overplus, if any, shall be paid to such importer or proprietor, or any other person authorized to receive the same.

If importer refuse to pay such duty, the goods may be sold.

XXIII. *And be it further enacted*, That every importer of any goods shall, within twenty days after the arrival of the importing ship, make due entry inwards of such goods, and land the same; and, in default of such entry and landing, it shall be lawful for the officers of the customs to convey such goods to the King's warehouse; and if the duties due upon such goods be not paid within three months after such twenty days shall have expired, together with all charges of removal and warehouse rent, the same shall be sold, and the produce thereof shall be applied, first, to the payment of freight and charges; next, of duties; and the overplus, if any, shall be paid to the proprietor of the goods.

If goods be not entered in twenty days, the officer may land and secure them.

If duties be not paid within three months, goods to be sold.

XXIV. *And be it further enacted*, That no goods shall be imported into any British possession as being imported from the United Kingdom, or from any other British possession, (if any advantage attach to such distinction,) unless such goods appear upon the cockets, or other proper documents, for the same to have been duly cleared outwards, at the port of exportation in the United Kingdom, or in such other British possession, nor unless the ground upon which such advantage be claimed be stated in such cocket or document.

Goods imported from United Kingdom or British possessions must appear in cocket, &c.

XXV. *And be it further enacted*, That no entry, nor any warrant for the landing of any goods, or for the taking of any goods out of any warehouse, shall be deemed valid, unless the particulars of the goods and packages in such entry shall correspond with the particulars of the goods and packages purporting to be the same in the report of the ship, or in the certificate or other document, where any is required, by which the importation or entry of such goods is authorized, nor unless the goods shall have been properly described in such entry by the denominations, and with the characters and circumstances according to which such goods are charged with duty, or may be imported; and any goods taken or delivered out of any ship, or out of any warehouse, by virtue of any entry or warrant, not corresponding or agreeing in all such respects, or not properly describing the same, shall be deemed to be goods landed or taken without due entry thereof, and shall be forfeited.

Entry not to be valid if goods be not properly described in it.

XXVI. *And be it further enacted*, That, before any sugar, coffee, cocoa-nuts, spirits, or mahogany, shall be shipped for exportation in any British possession in America, or in the island of Mauritius, as being the produce of such possession, or of such island, the proprietor of the estate on which such goods were produced, or his known agent, shall make and sign an affidavit, in writing, before the Collector or Controller at the port of exportation, or before one of his Majesty's Justices of the Peace, or other officer, duly authorized to administer such oath, residing in or near the place where such estate is situated, declaring that such goods are the produce of such estate, and such affidavit shall set forth the name of the estate, and the description and quantity of the goods, and the packages containing the same, with the marks and numbers thereon, and the name of the person to whose charge, at the place of shipment, they are to be sent; and if any Justice of the Peace, or other officer aforesaid, shall subscribe his name to any writing purporting to be such affidavit, unless the person purporting to make such affidavit shall actually appear before him, and be sworn to the truth of the same, such Justice of the Peace, or officer aforesaid, shall forfeit and pay, for any such offence, the sum of fifty pounds; and the person entering and shipping such goods shall deliver such affidavit to the Collector or Controller, or other proper officer, and shall make oath before him that the goods which are to be shipped by virtue of such entry are the same that are mentioned in such affidavit; and the master of the ship in which such goods shall be laden shall, before clearance, make oath before the Collector or Controller that the goods shipped by

Certificate of production for sugar, coffee, cocoa-nuts, spirits, or mahogany.

Oath of the grower.

Oath of exporter.

Oath of the master.

virtue of such entry are the same as are mentioned and intended on such affidavit, to the best of his knowledge and belief; and thereupon the Collector and Controller, or other proper officer, shall sign and give to the master a certificate of production, stating that proof has been made, in manner required by law, that such goods, (describing the same,) are the produce of such British possession, or of such island, and setting forth in such certificate the name of the exporter, and of the exporting ship, and of the master thereof, and the destination of the goods; and if any sugar, coffee, cocoa-nuts, or spirits, be imported into any British possession in America, or into the island of Mauritius, as being the produce of some other such possession, or of such island, without such certificate of production, the same shall be forfeited; and if any mahogany be so imported, the same shall be deemed to be of foreign production.

Certificate of production on re-exportation from another colony.

XXVII. *And be it further enacted*, That before any sugar, coffee, cocoa-nuts, spirits, or mahogany, shall be shipped for exportation in any British possession in America as being the produce of some other such possession, or of the island of Mauritius, or shall be so shipped in the said island as being the produce of some British possession in America, the person exporting the same shall, in the entry outwards, state the place of the production, and refer to the entry inwards and landing of such goods, and shall make oath before the Collector or Controller to the identity of the same; and thereupon, if such goods shall have been duly imported, with a certificate of production, within twelve months prior to the shipping for exportation, the Collector and Controller shall sign and give to the master a certificate of production, founded upon and referring to the certificate of production under which such goods had been so imported, and containing the like particulars, together with the date of such importation.

Goods brought overland, or by inland navigation.

XXVIII. And whereas it is expedient to make regulations respecting the inland trade of the British possessions in America: *Be it therefore enacted*, That it shall be lawful to bring or import by land, or by inland navigation, into any of the British possessions in America, from any adjoining foreign country, any goods which might be lawfully imported by sea into such possessions from such country, and so to bring or import such goods in the vessels, boats, or carriages of such country, as well as in British vessels, boats or carriages.

What vessels shall be deemed British on the lakes in America.

XXIX. *And be it further enacted*, That no vessel or boat shall be admitted to be a British vessel or boat, on any of the inland waters or lakes in America, except such as shall have been built at some place within the British dominions, and shall be wholly owned by British subjects, and shall not have been repaired at any foreign place to a greater extent than in the proportion of ten shillings for every ton of such vessel or boat at any one time: *Provided always*, That nothing hereinbefore contained shall extend to prevent the employment of any vessel or boat, as a British vessel or boat, on such inland waters or lakes, which shall have wholly belonged to British subjects before the passing of this act, and which shall not be repaired, as aforesaid, in any foreign place after the passing of this act.

Goods must be brought to a place where there is a custom-house.

XXX. *Provided always, and be it further enacted*, That it shall not be lawful so to bring or import any goods, except into some port or place of entry at which a custom-house now is or hereafter may be lawfully established: *Provided also*, That it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government of any of the said possessions, respectively, by and with the advice and consent of the Executive Council thereof, for the time being, if any Executive Council be there established, from time to time to diminish or increase, by proclamation, the number of ports or places of entry which are, or hereafter may be, appointed in such province for the entry of goods brought or imported as aforesaid.

Governor may appoint custom-houses.

Duties to be collected in same manner as on goods imported by sea.

XXXI. *And be it further enacted*, That the duties imposed by this act shall be ascertained, levied, and recovered, for and upon all goods so brought or imported, in the same manner, and by the same means, and under the same rules, regulations, restrictions, penalties, and forfeitures, as the duties on the like goods imported by sea may and can be ascertained, levied, or recovered, as far as the same are applicable; and if any goods shall be brought or imported contrary hereto, or if any goods so brought or imported shall be removed from the station or place appointed for the examination of such goods by the officers of the customs before all duties payable thereon shall have been paid or satisfied, such goods shall be forfeited, together with the vessel, boat, or carriage, and the horses or other cattle, in or by which such goods shall have been so imported or brought or so removed.

Duties in Canada on American boats, as in America on British boats.

XXXII. *And be it further enacted*, That the same tonnage duties shall be paid upon all vessels or boats of the United States of America importing any goods into either of the provinces of Upper or Lower Canada as are, or may be, for the time being, payable in the United States of America on British vessels or boats entering the harbors of the State from whence such goods shall have been imported.

Ports herein mentioned to be free warehousing ports.

XXXIII. And whereas it is expedient to constitute and appoint some of the free ports in America to be free warehousing ports for all goods which may be legally imported into the said ports, respectively; and it is also expedient to empower his Majesty to constitute and appoint, from time to time, any other ports in any of the said British possessions in America, to be, in like manner, free warehousing ports for such goods as may be legally imported into such ports respectively; and it is, therefore, necessary to make regulations for the appointing of proper warehouses at such ports, and for the lodging and securing of goods therein: *Be it therefore enacted*, That the several ports hereinafter mentioned, that is to say: Kingston, in the island of Jamaica; Halifax, in Nova Scotia; Quebec, in Canada; Saint John's, in New Brunswick; and Bridge Town, in the island of Barbadoes, shall be free warehousing ports for the purposes of this act; and that it shall be lawful for the several Collectors and Controllers of the said ports, respectively, by notice in writing, under their hand, to appoint, from time to time, such warehouses at such ports, respectively, as shall be approved of by them, for the free warehousing and securing of goods therein for the purposes of this act, and also in such

notice to declare what sorts of goods may be so warehoused; and also, by like notice, to revoke or alter any such appointment or declaration: *Provided always*, That every such notice shall be transmitted to the Governor of the place, and shall be published in such a manner as he shall direct.

Goods may be warehoused without payment of duty.

XXXIV. *And be it further enacted*, That it shall be lawful for the importer of any such goods into the said ports to warehouse the same in the warehouses so appointed without payment of any duty on the first entry thereof, subject, nevertheless, to the rules, regulations, restrictions, and conditions hereinafter contained.

Stowage of goods in warehouse.

Locking and opening warehouse.

XXXV. *And be it further enacted*, That all goods so warehoused shall be stowed in such parts or divisions of the warehouse, and in such manner, as the Collector and Controller shall direct; and that the warehouse shall be locked and secured in such manner, and shall be opened and visited only at such time, and in the presence of such officers, and under such rules and regulations, as the Collector and Controller shall direct; and that all such goods shall, after being landed upon importation, be carried to the warehouse, or shall, after being taken out of the warehouse for exportation, be carried to be shipped under such rules and regulations as the Collector and Controller shall direct.

Carrying goods to and from warehouse.

Bond upon entry of goods to be warehous'd.

XXXVI. *And be it further enacted*, That, upon the entry of any goods to be warehoused, the importer of such goods, instead of paying down the duties thereon, shall give bond, with two sufficient sureties, to be approved of by the Collector or Controller, in treble the duties payable on such goods, with condition for the safe depositing of such goods in the warehouse mentioned in such entry, and for the payment of all duties due upon such goods, or for the exportation thereof, according to the first account taken of such goods upon the landing of the same; and with further condition that no part thereof shall be taken out of such warehouse until cleared from thence upon due entry and payment of duty, or upon due entry for exportation; and with further condition that the whole of such goods shall be so cleared from such warehouse, and the duties upon any deficiency of the quantity according to such first account shall be paid within two years from the date of the first entry thereof; and if, after such bond shall have been given, the goods, or any part thereof, shall be sold or disposed of, so that the original bonder shall be no longer interested in or have control over the same, it shall be lawful for the Collector and Controller to admit fresh security to be given by the bond of the new proprietor, or other person having control over such goods, with his sufficient sureties, and to cancel the bond given by the original bonder of such goods, or to exonerate him to the extent of the fresh security so given.

Purchaser of goods may give bond in lieu of original bond.

Goods not duly warehoused, &c., to be forfeited.

XXXVII. *And be it further enacted*, That if any goods which have been entered to be warehoused shall not be duly carried and deposited in the warehouse, or shall afterwards be taken out of the warehouse without due entry and clearance, or having been entered and cleared for exportation from the warehouse, shall not be duly carried and shipped, or shall afterwards be relanded, except with permission from the proper officer of the customs, such goods shall be forfeited.

Account of goods to be taken on landing.

No goods to be taken out without entry.

Deficiencies to be ascertained.

Duties to be paid upon deficiencies.

XXXVIII. *And be it further enacted*, That, upon the entry and landing of any goods to be warehoused, the proper officer of the customs shall take a particular account of the same, and shall mark the contents on each package, and shall enter the same in a book to be kept for that purpose; and no goods which have been so warehoused shall be taken or delivered from the warehouse, except upon due entry and under care of the proper officers, for exportation, or upon due entry and payment of duty for home use; and whenever the whole of the goods warehoused under any entry shall be cleared from the warehouse, or whenever further time shall be granted for any such goods to remain warehoused, an account shall be made out of the quantity upon which the duties have been paid and of the quantity exported, and of the quantity (to be then ascertained) of the goods still remaining in the warehouse, as the case may be, deducting from the whole the quantity contained in any whole packages (if any) which may have been abandoned for the duties; and if upon such account there shall, in either case, appear to be any deficiency of the original quantity, the duty payable upon the amount of such deficiency shall then be paid.

Samples may be taken.

XXXIX. *And be it further enacted*, That it shall be lawful for the Collector and Controller, under such regulations as they shall see fit, to permit moderate samples to be taken of any goods so warehoused without entry and without payment of duty, except as the same shall eventually become payable, as on a deficiency of the original quantity.

Goods may be sorted and repacked.

Duty due on first quantity.

Whole packages may be abandoned for duty.

XL. *And be it further enacted*, That it shall be lawful for the Collector and Controller, under such regulations as they shall see fit, to permit the proprietor, or other person having control over any goods so warehoused, to sort, separate, and pack and repack any such goods, and to make such lawful alterations therein, or arrangements and assortments thereof, as may be necessary for the preservation of such goods, or in order to the sale, shipment, or legal disposal of the same; and also to permit any parts of such goods so separated to be destroyed, but without prejudice to the claim for duty upon the whole original quantity of such goods: *Provided always*, That it shall be lawful for any person to abandon any whole packages to the officers of the customs for the duties without being liable to any duty upon the same.

All goods to be cleared within two years or sold.

Further time may be granted.

XLI. *And be it further enacted*, That all goods which have been so warehoused shall be duly cleared, either for exportation or for home consumption, within two years from the day of the first entry thereof; and if any such goods be not so cleared, it shall be lawful for the Collector and Controller to cause the same to be sold, and the produce shall be applied, first, to the payment of the duties; next, of warehouse rent and other charges; and the overplus (if any) shall be paid to the proprietor: *Provided always*, That it shall be lawful for the Collector and Controller to grant further time for any such goods to remain warehoused if they shall see fit so to do.

Bond on entry for exportation.

XLII. *And be it further enacted*, That, upon the entry outwards of any goods to be exported from the warehouse, the person entering the same shall give security, by bond, in treble the duties of importation on the quantity of such goods, with two sufficient sureties, to be approved by the Collector or Controller, that the same shall be landed at

the place for which they be entered outwards, or be otherwise accounted for to the satisfaction of the Collector and Controller.

Power to appoint other ports.

XLIII. *And be it further enacted*, That it shall be lawful for his Majesty in council, from time to time, to appoint any port in his Majesty's possessions in America to be a free warehousing port for the purposes of this act; and every such port so appointed by his Majesty shall be a free warehousing port under this act, as if appointed by the same, in as full and ample a manner in all respects as any of the ports hereinbefore mentioned are free warehousing ports appointed by this act.

Goods from Mauritius liable to same duties and regulations as West India goods.

XLIV. And whereas it is expedient that all duties and regulations relating to importation and exportation into and from his Majesty's islands in the West Indies should be extended to the island of Mauritius: *Be it therefore enacted*, That all goods, wares, and merchandise, the growth, produce, or manufacture of the island of Mauritius, and all goods, wares, and merchandise which shall have been imported into the said island of Mauritius, and which shall be imported into any part of the United Kingdom of Great Britain and Ireland, or into any possessions of his Majesty, his heirs or successors, shall be liable, upon such importation into the United Kingdom, or into any such possessions respectively, to the payment of the same duties, and shall be subject to the same regulations as the like goods, wares, and merchandise, being of the growth, produce, or manufacture of his Majesty's islands in the West Indies, and imported into the said United Kingdom, or into any such possessions respectively, would, on such importation, be liable to the payment of, or would be subject unto; and that upon the exportation of any goods, wares, or merchandise from the United Kingdom to the island of Mauritius, such goods, wares, or merchandise shall be liable to the same duties, and shall be entitled to the like drawbacks, respectively, as would or ought by law to be charged or allowed upon the like goods exported from the United Kingdom to any of his Majesty's islands in the West Indies; and that all goods, wares, and merchandise which shall be imported into or exported from the said island of Mauritius from or to any place whatever, other than the United Kingdom of Great Britain and Ireland, shall, upon such importation or exportation respectively, be liable to the payment of the same duties, and shall be subject to the same regulations, so far as any such regulations can or may be applied, as the like goods, wares, and merchandise would be liable to the payment of, or would be subject to, upon importation or exportation into or from any of his Majesty's islands in the West Indies; and that all ships and vessels whatever which shall arrive at or depart from the said island of Mauritius shall be liable to the payment of the same duties, and shall be subject to the same regulations as such ships or vessels would be liable to the payment of, or would be subject to, if arriving at or departing from any of his Majesty's islands in the West Indies.

Dutch proprietors in Demarara, Essequibo, and Berbice, may supply their estates from Holland.

XLV. *And be it further enacted*, That it shall be lawful for any of the subjects of the King of the Netherlands, being Dutch proprietors in the colonies of Demarara, and Essequibo, and of Berbice, to import in Dutch ships, from the Netherlands, into the said colonies, all the usual articles of supply for their estates therein; and also wine imported for the purposes of medicine only, and which shall be liable to a duty of ten shillings per tun, and no more; and in case seizure be made of any articles so imported upon the ground that they are not such supplies, or are for the purpose of trade, the proof to the contrary shall lie on the Dutch proprietor importing the same, and not on the seizing officer: *Provided always*, That if sufficient security by bond be given in court to abide the decision of the Commissioners of Customs upon such seizure, the goods so seized shall be admitted to entry and released.

Dutch proprietors may not export to United Kingdom or colonies.

XLVI. *And be it further enacted*, That it shall not be lawful for such Dutch proprietors to export the produce of their estates to the United Kingdom, or to any of his Majesty's sugar colonies in America.

What person shall be deemed Dutch proprietors.

XLVII. *And be it further enacted*, That all subjects of his Majesty the King of the Netherlands, resident in his said Majesty's European dominions, who were, at the date of the signature of the convention between his late Majesty King George the Third and the King of the Netherlands, dated the twelfth of August, one thousand eight hundred and fifteen, proprietors of estates in the said colonies; and all subjects of his said Majesty

Proprietors of estates.

who may hereafter become possessed of estates then belonging to Dutch proprietors therein; and all such proprietors as, being then resident in the said colonies, and being natives of his Majesty's dominions in the Netherlands, may have declared, within three months after the publication of the aforesaid convention in the said colonies, that they wish to continue to be considered as such; and all subjects of his said Majesty the King

Holders of mortgages.

of the Netherlands who may be the holders of mortgages of estates in the said colonies, made prior to the date of the convention, and who may, under their mortgage deeds, have the right of exporting from the said colonies to the Netherlands the produce of such estates, shall be deemed Dutch proprietors under the provisions of this act; provided that, where both Dutch and British subjects have mortgages upon the same property in the said colonies, the produce to be consigned to the different mortgages shall be in proportion to the debts respectively due to them.

No ship to sail from Jamaica to St. Domingo, or from St. Domingo to Jamaica.

XLVIII. *And be it further enacted*, That no British merchant ship or vessel shall sail from any place in the island of Jamaica to any place in the island of Saint Domingo, nor from any place in the island of Saint Domingo to any place in the island of Jamaica, under the penalty of the forfeiture of such ship or vessel, together with her cargo; and that no foreign ship or vessel which shall have come from, or shall, in the course of her voyage, have touched at any such place in the island of Saint Domingo, shall come into any port or harbor in the island of Jamaica; and if any such ship or vessel, having come into any such port or harbor, shall continue there for forty-eight hours after notice shall have been given by the officer of the customs to depart therefrom, such ship or vessel shall be forfeited; and if any person shall be landed in the island of Jamaica from on board any ship or vessel which shall have come from, or touched at, the island of Saint Domingo, except in case of urgent necessity, or unless license shall have been given by

the Governor of Jamaica to land such person, such ship shall be forfeited, together with her cargo.

Colonial laws repugnant to any act of Parliament to be null and void.

XLIX. *And be it further enacted*, That all laws, by-laws, usages, or customs, at this time, or which hereafter shall be in practice, or endeavored or pretended to be in force or practice, in any of the British possessions in America, which are in anywise repugnant to this act, or to any act of Parliament made, or hereafter to be made, in the United Kingdom, so far as such act shall relate to and mention the said possessions, are, and shall be, null and void to all intents and purposes whatsoever.

Officers may board ships hovering on the coast.

L. *And be it further enacted*, That it shall be lawful for the officers of customs to go on board any ship in any port in any British possession in America, and to rummage and search all parts of such ship for prohibited and uncustomed goods, and also to go on board any ship hovering within one league of any of the coasts thereof, and, in either case, freely to stay on board such ship so long as she shall remain in such port, or within such distance; and if any such ship be bound elsewhere, and shall continue so hovering for the space of twenty-four hours after the master shall have been required to depart, it shall be lawful for the officer of the customs to bring such ship into port and to search and examine her cargo, and to examine the master, upon oath, touching the cargo and voyage, and, if there be any goods on board prohibited to be imported into such possession, such ship and her cargo shall be forfeited; and if the master shall not truly answer the questions which shall be demanded of him in such examination, he shall forfeit the sum of one hundred pounds.

Forfeiture of vessels, carriages, &c., removing goods, liable to forfeiture.

LI. *And be it further enacted*, That all vessels, boats, and carriages, and all cattle made use of in the removal of any goods liable to forfeiture under this act, shall be forfeited; and every person who shall assist or be otherwise concerned in the unshipping, landing, or removal, or in the harboring of such goods, or into whose hands or possession the same shall knowingly come, shall forfeit the treble value thereof, or the penalty of one hundred pounds, at the election of the officers of the customs; and the averment in any information or libel to be exhibited for the recovery of such penalty, that the officer proceeding has elected to sue for the sum mentioned in the information, shall be deemed sufficient proof of such election, without any other or further evidence of such fact.

Goods, vessels, &c., liable to forfeiture, may be seized by officers.

LII. *And be it further enacted*, That all goods, and all ships, vessels, and boats, and all carriages, and all cattle liable to forfeiture under this act, shall and may be seized and secured by any officer of the customs or Navy, or by any person employed for that purpose, by or with the concurrence of the Commissioners of his Majesty's Customs; and every person who shall, in any way, hinder, oppose, molest, or obstruct any officer of the customs or Navy, or any person so employed as aforesaid in the exercise of his office, or any person acting in his aid or assistance, shall, for every such offence, forfeit the sum of two hundred pounds.

Writ of assistance to search for and seize goods liable to forfeiture.

LIII. *And be it further enacted*, That, under authority of a writ of assistance granted by the Superior or Supreme Court of Justice, or court of vice admiralty having jurisdiction in the place, (who are hereby authorized and required to grant such writ of assistance upon application made to them for that purpose by the principal officers of his Majesty's customs,) it shall be lawful for any officer of the customs, taking with him a peace officer, to enter any building or other place in the day time, and to search for and seize, and secure, any goods liable to forfeiture under this act; and, in case of necessity, to break open any doors, and any chests or other packages, for that purpose; and such a writ of assistance, when issued, shall be deemed to be in force during the whole of the reign in which the same shall have been granted, and for twelve months from the conclusion of such reign.

Obstruction of officers by force.

LIV. *And be it further enacted*, That if any person shall, by force or violence, assault, resist, oppose, molest, hinder, or obstruct any officer of the customs or Navy, or other persons employed as aforesaid in the exercise of his office, or any person acting in his aid or assistance, such person, being thereof convicted, shall be adjudged a felon, and shall be proceeded against as such, and punished at the discretion of the court before whom such person shall be tried.

Goods seized to be secured at next custom-house.

LV. *And be it further enacted*, That all things which shall be seized as being liable to forfeiture under this act shall be taken forthwith and delivered into the custody of the Collector and Controller of the Customs at the custom-house next to the place where the same were seized, who shall secure the same by such means and in such manner as shall be provided and directed by the Commissioners of his Majesty's Customs.

Goods seized to be sold by auction.

LVI. *And be it further enacted*, That all things which shall have been condemned as forfeited under this act shall, under the direction of the Collector and Controller, or other principal officer of the customs at the port where such seizure shall have been secured, be sold by public auction to the best bidder: *Provided always*, That it shall be lawful for the Commissioners of the Customs to direct in what manner the produce of such sale shall be applied, or, in lieu of such sale, to direct that any of such things shall be destroyed, or shall be reserved for the public service.

Jurisdiction for prosecution of seizures and penalties.

LVII. *And be it further enacted*, That all penalties and forfeitures which may have been heretofore or may be hereafter incurred shall and may be prosecuted, sued for and recovered, in any court of record or of vice admiralty having jurisdiction in the colony or plantation where the cause of prosecution arises; and in cases where there shall happen to be no such courts, then in any court of record or of vice admiralty having jurisdiction in some British colony or plantation near to that where the cause of prosecution arises; provided that, in cases where a seizure is made in any other colony than that where the forfeiture accrues, such seizure may be prosecuted in any court of record or of vice admiralty having jurisdiction either in the colony or plantation where the forfeiture accrues, or in the colony or plantation where the seizure is made, at the election of the seizer or prosecutor; and in cases where there shall happen to be no such courts in either of the last mentioned colonies or plantations, then in the court of record or of vice admiralty having jurisdiction in some British colony or plantation near to that where the

forfeiture accrues, or to that where the seizure is made, at the election of the seizer or prosecutor.

Bail may be given for goods or ships seized.

LVIII. *And be it further enacted*, That if any goods or any ship or vessel shall be seized as forfeited under this act, or any act hereafter to be made, and detained in any of the British possessions in America, it shall be lawful for the Judge or Judges of any court having jurisdiction to try and determine such seizures, with the consent of the Collector and Controller of the Customs to order the delivery thereof on security by bond, with two sufficient sureties, to be first approved by such Collector and Controller, to answer double the value of the same in case of condemnation; and such bond shall be taken to the use of his Majesty in the name of the Collector of the Customs in whose custody the goods or the ship or vessel may be lodged, and such bond shall be delivered and kept in the joint custody of such Collector and his Controller; and in case the goods or the ship or vessel shall be condemned, the value thereof shall be paid into the hands of such Collector, who shall thereupon, with the consent or privity of his Controller, cancel such bond.

Suits to be commenced in name of officers of customs, &c.

LIX. *And be it further enacted*, That no suit shall be commenced for the recovery of any penalty or forfeiture under this act, except in the name of some superior officer of the customs or Navy, or other person employed as hereinbefore mentioned, or of his Majesty's advocate or Attorney General for the place where such suit shall be commenced; and if a question shall arise whether any person is an officer of the customs or Navy, or such other person as aforesaid, viva voce evidence may be given of such fact, and shall be deemed legal and sufficient evidence.

Onus probandi to lie on party.

LX. *And be it further enacted*, That if any goods shall be seized for non-payment of duties or any other cause of forfeiture, and any dispute shall arise whether the duties have been paid for the same, or the same have been lawfully imported, or lawfully laden or exported, the proof thereof shall lie on the owner or claimer of such goods, and not on the officer who shall seize and stop the same.

Claim to thing seized to be entered in name of the owner.

LXI. *And be it further enacted*, That no claim to anything seized under this act, and returned into any of his Majesty's courts for adjudication, shall be admitted, unless such claim be entered in the name of the owner, with his residence and occupation, nor unless oath to the property in such thing be made by the owner, or by his attorney or agent by whom such claim shall be entered, to the best of his knowledge and belief; and every person making a false oath thereto shall de deemed guilty of a misdemeanor, and shall be liable to the pains and penalities to which persons are liable for a misdemeanor.

No person admitted to enter claim for anything seized, unless security first given.

LXII. *And be it further enacted*, That no person shall be admitted to enter a claim to anything seized in pursuance of this act, and prosecuted in any of the British possessions in America, until sufficient security shall have been given in the court where such seizure is prosecuted, in a penalty not exceeding sixty pounds, to answer and pay the costs occasioned by such claim; and in default of giving such security, such things shall be adjudged to be forfeited and shall be condemned.

A month's notice of action to be given to officers.

LXIII. *And be it further enacted*, That no writ shall be sued out against, nor a copy of any process served upon any officer of the customs or Navy, or other person as aforesaid, for anything done in the exercise of his office, until one calendar month after notice in writing shall have been delivered to him, or left at his usual place of abode, by the attorney or agent to the party who intends to sue out such writ or process; in which notice shall be clearly and explicitly contained the cause of the action, the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent; and no evidence of the cause of such action shall be produced, except of such as shall be contained in such notice, and no verdict shall be given for the plaintiff, unless he shall prove on the trial that such notice was given; and in default of such proof the defendant shall receive in such action a verdict and costs.

Actions to be brought within three months of the cause of them.

LXIV. *And be it further enacted*, That every such action shall be brought within three calendar months after the cause thereof, and shall be laid and tried in the place or district where the facts were committed, and the defendant may plead the general issue, and give the special matter in evidence; and if the plaintiff shall become non-suited, or shall discontinue the action, or if, upon a verdict or demurrer, judgment shall be given against the plaintiff, the defendant shall receive treble costs, and have such remedy for the same as any defendant can have in other cases where costs are given by law.

Judge may certify probable cause of seizure.

LXV. *And be it further enacted*, That in case any information or suit shall be brought to trial on account of any seizure made under this act, and a verdict shall be found for the claimant thereof, and the Judge or court before whom the cause shall have been tried shall certify on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action, indictment, or other suit or prosecution on account of such seizure; and if any action, indictment, or other suit or prosecution, shall be brought to trial against any person on account of such seizure, wherein a verdict shall be given against the defendant, the plaintiff, besides the thing seized, or the value thereof, shall not be entitled to more than two pence damages, nor to any costs of suit, nor shall the defendant in such prosecution be fined more than one shilling.

Officer may tender amends.

LXVI. *And be it further enacted*, That it shall be lawful for such officer, within one calendar month after such notice, to tender amends to the party complaining, or his agent, and to plead such tender in bar to any action, together with other pleas, and if the jury shall find the amends sufficient, they shall give a verdict for the defendant; and in such case, or in case the plaintiff shall become non-suited, or shall discontinue his action, or judgment shall be given for the defendant upon demurrer, then such defendant shall be entitled to the like costs as he would have been entitled to in case he had pleaded the general issue only: *Provided always*, That it shall be lawful for such defendant, by leave of the court where such action shall be brought, at any time before issue joined, to pay money into court as in other actions.

Judge may certify probable cause of action.

LXVII. *And be it further enacted*, That in any such action, if the Judge or court before whom such action shall be tried shall certify upon the record that the defendant or defendants in such action acted upon probable cause, then the plaintiff in such action shall not be entitled to more than two pence damages, nor to any costs of suit.

Recovery and application of penalties.

LXVIII. *And be it further enacted*, That all penalties and forfeitures recovered in any of the British possessions in America under this act shall be divided, paid, and applied as follows, that is to say: after deducting the charges of prosecution from the produce thereof, one-third part of the net produce shall be paid into the hands of the Collector of his Majesty's Customs at the port or place where such penalties or forfeitures shall be recovered for the use of his Majesty; one-third part to the Governor or Commander-in-chief of the said colony or plantation, and the other third part to the person who shall seize, inform, and sue for the same; excepting such seizures as shall be made at sea by the commanders or officers of his Majesty's ships-of-war, duly authorized to make seizures, one moiety of which seizures and of the penalties and forfeitures recovered thereon, first deducting the charges of prosecution from the gross produce thereof, shall be paid as aforesaid to the Collector of his Majesty's Customs, to and for the use of his Majesty, and the other moiety to him or them who shall seize, inform, and sue for the same, any law, custom, or usage, to the contrary nothwithstanding; subject, nevertheless, to such distribution of the produce of the seizures so made at sea, as well with regard to the moiety hereinbefore granted to his Majesty, as with regard to the other moiety given to the seizer or prosecutor, as his Majesty shall think fit to order and direct by any order or orders of council, or by any proclamation or proclamations to be made for that purpose.

Limitation of suits.

LXIX. *And be it further enacted*, That all actions or suits for the recovery of any of the penalities or forfeitures imposed by this act may be commenced or prosecuted at any time within three years after the offence committed, by reason whereof such penalty or forfeiture shall be incurred, any law, usage, or custom to the contrary notwithstanding.

Limitation of appeals.

LXX. *And be it further enacted*, That no appeal shall be prosecuted from any decree or sentence of any of his Majesty's courts in America, touching any penality or forfeiture imposed by this act, unless the inhibition shall be applied for and decreed within twelve months from the time when such decree or sentence was pronounced.

Persons authorized to make seizures under 5 G. 4, c. 113, to have the benefit of this act.

LXXI. *And be it further enacted*, That all persons authorized to make seizures under an act passed in the fifth year of the reign of his present Majesty, entitled "An act to amend and consolidate the laws relating to the abolition of the slave trade," shall, in making and prosecuting any such seizures, have the benefit of all the provisions granted to persons authorized to make seizures under this act.

Application of penalties under 5 G. 4, c. 113.

LXXII. *And be it further enacted*, That all penalities and forfeitures created by the said act passed in the fifth year of his present Majesty, whether pecuniary or specific, shall (except in cases specially provided for by the said act) go and belong to such persons as are authorized by that act to make seizures, in such shares, and shall and may be sued for and prosecuted, tried, recovered, distributed, and applied in such and the like manner, and by the same ways and means, and subject to the same rules and directions, as any penalties and forfeitures incurred in Great Britain and in the British possessions in America, respectively, now go and belong to, and may be sued, prosecuted, tried, recovered, and distributed, respectively, in Great Britain, or in the said possessions, under and by virtue of this act.

The King may regulate the trade of the Cape of Good Hope, &c.

LXXIII. *And be it further enacted*, That it shall be lawful for his Majesty, by and with the advice of his Privy Council, by any order or orders in council, to be issued from time to time, to give such directions and make such regulations touching the trade and commerce to and from any British possessions on or near the continent of Europe, or within the Mediterranean Sea, or in Africa, or within the limits of the East India Company's charter, (excepting the possessions of the said company,) as to his Majesty in council shall appear most expedient and salutary; and if any goods shall be imported or exported in any manner contrary to any such order of his Majesty in council, the same shall be forfeited, together with the ship importing or exporting the same.

East India Company may carry goods from India to colonies.

LXXIV. *And be it further enacted*, That it shall be lawful for the East India Company to trade in and export from any place within the limits of their charter any goods for the purpose of being carried to some of his Majesty's possessions in America, and so to carry and to import the same into any of such possessions; and also to carry return cargoes from such possessions to any place within the limits of their charter or to the United Kingdom; and that it shall be lawful for any of his Majesty's subjects, with license, in writing, granted by or under the authority of the said company, to lade in and export from any of the dominions of the Emperor of China any goods, and to lade in and export from any place within the limits of the said company's charter any tea, for the purpose of being carried to some of his Majesty's possessions in America, and, also, so to carry and import the same into any of such possessions.

Private persons may trade to China or in tea, having license from the company, but limited to the supply of the colonies.

Certificate of production of East India sugar.

LXXV. *And be it further enacted*, That it shall be lawful for any person, being the shipper of any sugar the produce of some British possession within the limits of the East India Company's charter, to be exported from any place in such possession, to go before the Collector or Controller, or other chief officer of the customs at such place, or, if there be no such officer of the customs, to go before the principal officer of such place, or the Judge or commercial resident of the district, and make and sign an affidavit before him that such sugar was really and *bona fide* the produce of such British possession, to the best of his knowledge and belief, and such officer, Judge, or resident, is hereby authorized and required to administer such affidavit, and to grant a certificate thereof, setting forth in such certificate the name of the ship in which the sugar is to be exported, and the destination of the same.

Not to repeal or alter the act 37 G. 3, c. 117.

LXXVI. *And be it further enacted*, That nothing in this act, or in any other act passed in this present session of Parliament, shall extend to repeal, or in any way alter or affect, an act passed in the thirty-seventh year of the reign of his late Majesty

King George III, entitled "An act for regulating the trade to be carried on with the British possessions in India by the ships of nations in amity with his Majesty;" nor to revoke, alter, or affect any regulations formed under the authority of that act, and which were in force at the time of the commencement of this act.

Ships built prior to January 1, 1816, deemed British ships within certain limits.

LXXVII. *And be it further enacted*, That all ships built at any place within the limits of the East India Company's charter prior to the first of January, one thousand eight hundred and sixteen, and which then were and have continued ever since to be solely the property of his Majesty's subjects, shall be deemed to be British ships, for all the purposes of trade within the said limits, including the Cape of Good Hope, anything in this act, or in any other act or acts passed in this present session of Parliament, to the contrary notwithstanding.

Certificate of production of Cape wine.

LXXVIII. *And be it further enacted*, That it shall be lawful for the shipper of any wine the produce of the Cape of Good Hope, or of its dependencies, which is to be exported from thence, to go before the chief officer of the customs and make and sign an affidavit before him that such wine was really and *bona fide* the produce of the Cape of Good Hope, or of its dependencies; and such officer is hereby authorized and required to administer such affidavit, and to grant a certificate thereof, setting forth in such certificate the name of the ship in which the wine is to be exported, and the destination of the same.

Certificate of production of goods in Guernsey, &c.

LXXIX. *And be it further enacted*, That it shall be lawful for any person who is about to export from any of the islands of Guernsey, Jersey, Alderney, or Sark, to the United Kingdom, or to any of the British possessions in America, any goods of the growth or produce of any of those islands, or any goods manufactured from materials which were the growth or produce thereof, or of the United Kingdom, to go before any magistrate of the island from which the goods are to be exported, and make and sign before him an affidavit that such goods, describing the same, are of such growth or produce, or of such manufacture, and such magistrate shall administer and sign such affidavit; and thereupon the Governor, Lieutenant Governor, or Commander-in-chief of the island from which the goods are to be exported, shall, upon the delivery to him of such affidavit, grant a certificate under his hand of the proof contained in such affidavit, stating the ship in which, and the port to which, in the United Kingdom or in any such possession, the goods are to be exported; and such certificate shall be the proper document to be produced at such ports, respectively, in proof that the goods mentioned therein are of the growth, produce, or manufacture of such islands respectively.

Tea and tobacco may not be imported into Guernsey, &c., except from United Kingdom.

LXXX. *And be it further enacted*, That it shall not be lawful to import into any of the islands of Guernsey, Jersey, Alderney, or Sark, any tea, nor any tobacco, except from the United Kingdom; and if any tea or any tobacco shall be brought into any of the said islands from any other place than from the United Kingdom, or not having been duly entered and cleared in the United Kingdom to be exported to such island, the same shall be forfeited.

Guernsey, &c., tonnage of ships and package of goods, viz: spirits, 100 tuns and 40 gallons.

LXXXI. *And be it further enacted*, That no brandy, Geneva, or other spirits, except rum, of the British plantation, shall be imported into or exported from the islands of Jersey, Guernsey, Alderney, or Sark, or either of them, or removed from any one to any other of the said islands, or coastwise from any one part to any other part of either of the said islands, or shall be shipped, in order to be so removed or carried, or shall be water-borne, for the purpose of being so shipped in any ship, vessel, or boat, of less burden than one hundred tons, nor in any cask or package of less size or content than forty gallons; nor any tobacco or snuff in any ship, vessel, or boat, of less burden than one hundred tons, nor in any cask or package containing less than four hundred and fifty pounds weight, (save and except any such spirits or loose tobacco as shall be for the use of the seamen belonging to and on board any such ship, vessel or boat, not exceeding two gallons of the former, and five pounds weight of the latter, for each seaman; and also except such manufactured tobacco or snuff as shall have been duly exported as merchandise from Great Britain or Ireland;) nor shall any wine be imported into or exported from the said islands of Guernsey, Jersey, Alderney, or Sark, or either of them, or carried from any one of the said islands to any other thereof, or coastwise from any one part to any other part of the said islands, or be shipped or water-borne, for the purpose of being shipped in any vessel or boat of less burden than sixty tons, or in any cask containing less than twenty gallons, or in any package containing less than three dozen reputed quart bottles, or six dozen reputed pint bottles, on pain of forfeiture of all such foreign brandy, Geneva, or other spirits, tobacco, snuff, or wine, respectively, together with the casks or packages containing the same; and also every such ship, vessel, or boat, together with all the guns, furniture, and ammunition, tackle, and apparel thereof.

Tobacco, 100 tons and 450 pounds.

Wine, 60 tuns and 29 gallons.

Not to extend to vessels of ten tons supplying island of Sark, having license so to do.

LXXXII. *Provided always, and be it further enacted*, That nothing herein contained shall extend, or be construed to extend, to subject to forfeiture or seizure, under any of the provisions of this act, any boat, not exceeding the burden of ten tons, for having on board at any one time any foreign spirits of the quantity of ten gallons or under, in casks or packages of less size or content than forty gallons, or any tobacco, snuff, or tea, not exceeding fifty pounds weight of each, for the supply of said island of Sark, such boat having a license from the proper officer of customs at either of the islands of Guernsey or Jersey, and for the purpose of being employed in carrying commodities for the supply of the said island of Sark; which license such officer of customs is hereby required to grant, without taking any fee or reward for the same: *Provided always*, That every such boat having on board at any one time any greater quantity of spirits than ten gallons, or any greater quantity of tobacco or snuff than fifty pounds weight of each of the said articles, unless such greater quantity of spirits, tobacco, or snuff, shall be in casks or packages of the size, content, or weight, hereinbefore required, or having on board at any one time any greater quantity of tea than fifty pounds weight, shall be forfeited.

Wine may be imported into Guernsey, &c., in casks, &c.

LXXXIII. *Provided also, and be it further enacted*, That nothing herein contained shall extend, or be construed to extend, to prevent the importation into or exportation

from the said islands of Guernsey, Jersey, Alderney, or Sark, or either of them, of any wine, in bottles, shipped in cases or casks only, each containing at least three dozen reputed quart bottles, or six dozen reputed pint bottles: *Provided always*, That before any such wine, in bottles, shall be shipped for exportation to or for Great Britain or Ireland, the master or other person having the charge or command of the ship, vessel, or boat, in or on board of which such wine shall be so intended to be exported, together with one other sufficient surety, shall give bond in the penalty of forty shillings per gallon that the wine so shipped shall (the danger of the seas and enemies excepted) be duly entered and landed at the port or place in Great Britain or Ireland to or for which the same shall be declared at the time of giving such bond, (which bond and declaration the proper officer of his Majesty's customs is hereby authorized and empowered to take;) and such officer is required to furnish the master, or other person having the charge or command of the ship, vessel, or boat, in which any such wine may be, with a certificate specifying the number of such packages as aforesaid, and the quantity of wine contained in each, the date of the bond, and the name of the port or place to or for which the same shall be so declared; and such bond so given as aforesaid shall not be delivered up or cancelled until a certificate, under the hand of the proper officer of the customs in Great Britain or Ireland, of the due landing of the wine mentioned therein, shall be produced to and left with the officer taking said bond within three months after the date of such bond.

On exportation of wine in bottles, bond to be given.

LXXXIV. *And be it further enacted*, That every person who shall be found or discovered to have been on board any vessel or boat liable to forfeiture under any act relating to the revenue of customs for being found within one league of the islands of Guernsey, Jersey, Alderney, or Sark, having on board, or in any manner attached or affixed thereto, or having had on board, or in any manner attached or affixed thereto, or conveying, or having conveyed, in any manner, such goods or other things as subject such vessel or boat to forfeiture, or who shall be found or discovered to have been on board any vessel or boat from which any part of the cargo shall have been thrown overboard during chase, or staved or destroyed, shall forfeit the sum of one hundred pounds.

Penalty on persons found on board vessels liable to forfeiture within one league of Guernsey, &c.

LXXXV. *And be it further enacted*, That it shall not be lawful for any person to re-export, from any of his Majesty's possessions abroad, to any foreign place, any coals the produce of the United Kingdom; and that no such coals shall be shipped at any of such possessions, to be exported to any British place, until the exporter, or the master of the exporting vessel, shall have given bond, with one sufficient surety, in double the value of the coals, that such coals shall not be landed at any foreign place.

British coals not to be re-exported from British possessions.

LXXXVI. *And be it further enacted*, That this act may be amended, altered, or repealed by any act to be passed in the present session of Parliament.

Act may be altered this session.

CHAPTER CIX.

AN ACT for the encouragement of British shipping and navigation.—*July* 5, 1825.

Whereas an act was passed in the present session of Parliament, entitled "An act to repeal the several laws relating to the customs," in which it is declared that the laws of the customs have become intricate by reason of the great number of acts relating thereto which have been passed through a long series of years; and that it is therefore highly expedient for the interest of commerce and the ends of justice, and also for affording convenience and facility to all persons who may be subject to the operation of those laws, or who may be authorized to act in the execution thereof, that all the statutes now in force relating to the customs should be repealed, and that the purposes for which they have from time to time been made should be secured by new enactments, exhibiting more perspicuously and compendiously the various provisions contained in them; and whereas the laws relating to the encouragement of British navigation will thereby be repealed, and it is expedient to make provisions in lieu thereof, for the due encouragement of British shipping and British seamen, after such repeal shall have effect:

6 G. 4, c. 105.

Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the fifth day of January, one thousand eight hundred and twenty-six, this act shall come into and be and continue in full force and operation, and shall constitute and be the law of navigation of the British empire.

Commencement of act.

II. *And be it further enacted*, That the several sorts of goods hereinafter enumerated, being the produce of Europe, that is to say: masts, timber, boards, salt, pitch, tar, tallow, rosin, hemp, flax, currants, raisins, figs, prunes, olive oil, corn or grain, pot ashes, wine, sugar, vinegar, brandy, and tobacco, shall not be imported into the United Kingdom, to be used therein, except in British ships, or in ships of the country of which the goods are the produce, or in ships of the country from which the goods are imported.

Europe, enumerated goods in British ships, or ships of place, or ships of produce.

III. *And be it further enacted*, That goods the produce of Asia, Africa, or America shall not be imported from Europe into the United Kingdom, to be used therein, except the goods hereinafter mentioned, that is to say:

Goods of Asia, Africa, or America may not be imported from Europe, except in certain cases.

Goods the produce of places in Asia or Africa within the Straits of Gibraltar, or of the dominions of the Emperor of Morocco, imported from places in Europe within the Straits of Gibraltar;

Goods the produce of places within the limits of the East India Company's charter, which (having been imported into Gibraltar or Malta in British ships) may be imported from Gibraltar or Malta;

Goods taken by way of reprisal by British ships;

Bullion, diamonds, pearls, rubies, emeralds, and other jewels or precious stones.

Goods of Asia, Africa, or America may not be imported in foreign ships, except in certain cases.

IV. *And be it further enacted*, That goods the produce of Asia, Africa, or America shall not be imported into the United Kingdom, to be used therein, in foreign ships, unless they be the ships of the country in Asia, Africa, or America, of which the goods are the produce, and from which they are imported, except the goods hereinafter mentioned, that is to say:

Goods the produce of the dominions of the Grand Seignor, in Asia or Africa, which may be imported from his dominions in Europe in ships of his dominions;

Raw silk and mohair yarn, the produce of Asia, which may be imported from the dominions of the Grand Seignor in the Levant seas, in ships of his dominions;

Bullion.

Manufacture deemed produce.

V. *Provided always, and be it further enacted*, That all manufactured goods shall be deemed to be the produce of the country of which they are the manufacture.

From Guernsey, &c.

VI. *And be it further enacted*, That no goods shall be imported into the United Kingdom from the islands of Guernsey, Jersey, Alderney, Sark, or Man, except in British ships.

Exports to Asia, &c., and to Guernsey, &c.

VII. *And be it further enacted*, That no goods shall be exported from the United Kingdom to any British possession in Asia, Africa, or America, nor to the islands of Guernsey, Jersey, Alderney, Sark, or Man, except in British ships.

Coastwise.

VIII. *And be it further enacted*, That no goods shall be carried coastwise from one part of the United Kingdom to another, except in British ships.

Between Guernsey, Jersey, &c.

IX. *And be it further enacted*, That no goods shall be carried from any of the islands of Guernsey, Jersey, Alderney, Sark, or Man, to any other of such islands, nor from one part of any such islands to another part of the same island, except in British ships.

Between British possessions in Asia, &c.

X. *And be it further enacted*, That no goods shall be carried from any British possession in Asia, Africa, or America, to any other of such possessions, nor from one part of any of such possessions to another part of the same, except in British ships.

Imports, British possessions in Asia, &c.

XI. *And be it further enacted*, That no goods shall be imported into any British possession in Asia, Africa, or America, in any foreign ships, unless they be ships of the country of which the goods are the produce, and from which the goods are imported.

No ship British unless registered and navigated as such:

XII. *And be it further enacted*, That no ship shall be admitted to be a British ship unless duly registered and navigated as such; and that every British registered ship (so long as the registry of such ship shall be in force, or the certificate of such registry retained for the use of such ship,) shall be navigated during the whole of every voyage, (whether with a cargo or in ballast,) in every part of the world, by a master who is a British subject, and by a crew whereof three-fourths, at least, are British seamen; and if such ship be employed in a coasting voyage from one part of the United Kingdom to another, or in a voyage between the United Kingdom and the islands of Guernsey, Jersey, Alderney, Sark, or Man, or from one of the said islands to another of them, or from one part of either of them to another of the same, or be employed in fishing on the coasts of the United Kingdom, or of any of the said islands, then the whole of the crew shall be British seamen.

But vessels under 15 tons burden, admitted in navigation upon rivers, &c., although not registered. Under 30 tons for Newfoundland fishery.

XIII. *Provided always, and be it further enacted*, That all British built boats or vessels under fifteen tons burden, wholly owned and navigated by British subjects, although not registered as British ships, shall be admitted to be British vessels in all navigation in the rivers and upon the coasts of the United Kingdom, or of the British possessions abroad, and not proceeding over sea, except within the limits of the respective colonial Governments within which the managing owners of such vessels respectively reside; and that all British built boats or vessels, wholly owned and navigated by British subjects, not exceeding the burden of thirty tons, and having a whole or fixed deck, and being employed solely in fishing on the banks and shores of Newfoundland, and of the parts adjacent, or on the banks and shores of the provinces of Canada, Nova Scotia, or New Brunswick, adjacent to the Gulf of St. Lawrence, or on the north of Cape Canso, or of the islands within the same, or in trading coastwise within the said limits, shall be admitted to be British boats or vessels, although not registered, so long as such boats or vessels shall be solely so employed.

Honduras ships to be as British, in trade with United Kingdom.

XIV. *Provided also, and be it further enacted*, That all ships built in the British settlements at Honduras, and owned and navigated as British ships, shall be entitled to the privileges of British registered ships in all direct trade between the United Kingdom and the said settlements; provided the master shall produce a certificate, under the hand of the superintendent of those settlements, that satisfactory proof has been made before him that such ship (describing the same) was built in the said settlements, and is wholly owned by British subjects; provided also, that the time of the clearance of such ship from the said settlements, for every voyage, shall be endorsed upon such certificate by such superintendent.

Ship of any foreign country to be of the build of, or prize to such country; or British built, and owned and navigated by subjects of the country.

XV. *And be it further enacted*, That no ship shall be admitted to be a ship of any particular country unless she be of the build of such country; or have been made prize of war to such country; or have been forfeited to such country under any law of the same, made for the prevention of the slave trade, and condemned as such prize or forfeiture by a competent court of such country; or be British built, (not having been a prize of war from British subjects to any other foreign country;) nor unless she be navigated by a master who is a subject of such foreign country, and by a crew of whom three-fourths, at least, are subjects of such country; nor unless she be wholly owned by subjects of such country usually residing therein, or under the dominion thereof: *Provided always*, That the country of every ship shall be deemed to include all places which are under the same dominion as the place to which such ship belongs.

Master and seamen not British, unless natural born, or naturalized, or denizens, or subjects

XVI. *And be it further enacted*, That no person shall be qualified to be a master of a British ship, or to be a British seaman within the meaning of this act, except the natural born subjects of his Majesty, or persons naturalized by any act of Parliament, or made

denizens by letters of denization; or except persons who have become British subjects by virtue of conquest or cession of some newly acquired country, and who shall have taken the oath of allegiance to his Majesty, or the oath of fidelity required by the treaty or capitulation by which such newly acquired country came into his Majesty's possessions; or persons who shall have served on board any of his Majesty's ships-of-war, in time of war, for the space of three years: *Provided always*, That the natives of the places within the limits of the East India Company's charter, although under British dominion, shall not, upon the ground of being such natives, be deemed to be British seamen: *Provided always*, That every ship, (except ships required to be wholly navigated by British seamen,) which shall be navigated by one British seaman, if a British ship, or one seaman of the country of such ship, if a foreign ship, for every twenty tons of the burden of such ship, shall be deemed to be duly navigated, although the number of other seamen shall exceed one-fourth of the whole crew.

by conquest or cession, or having served in his Majesty's ships-of-war.

One proper seaman to 20 tons sufficient.

XVII. *Provided always, and be it further enacted*, That it shall be lawful for his Majesty, by his royal proclamation during war, to declare that foreigners, having served two years on board any of his Majesty's ships-of-war, in time of such war, shall be British seamen within the meaning of this act.

Foreigners having served two years on board his Majesty's ships during war.

XVIII. *And be it further enacted*, That no British registered ship shall be suffered to depart any port in the United Kingdom, or any British possession in any part of the world, (whether with a cargo or in ballast,) unless duly navigated: *Provided always*, That any British ship, trading between places in America, may be navigated by British negroes; and that ships trading eastward of the Cape of Good Hope, within the limits of the East India Company's charter, may be navigated by Lascars, or other natives of countries within those limits.

British ship not to depart British port unless duly navigated, &c.

XIX. *And be it further enacted*, That if any British registered ship shall, at any time, have, as part of the crew in any part of the world, any foreign seaman not allowed by law, the master or owners of such ship shall, for every such foreign seaman, forfeit the sum of ten pounds: *Provided always*, That if a due proportion of British seamen cannot be procured in any foreign port, or in any place within the limits of the East India Company's charter, for the navigation of any British ship; or if such proportion be destroyed, during the voyage, by any unavoidable circumstance, and the master of such ship shall produce a certificate of such facts, under the hand of any British Consul, or of two known British merchants, if there be no Consul at the place where such facts can be ascertained, or from the British Governor of any place within the limits of the East India Company's charter; or, in the want of such certificate, shall make proof of the truth of such facts to the satisfaction of the Collector and Controller of the Customs of any British port, or of any person authorized in any other part of the world to inquire into the navigation of such ship, the same shall be deemed to be duly navigated.

If excess of foreign seamen, penalty £10 for each;

except British seamen cannot be procured in foreign ports, or in India, or proportion destroyed unavoidably, and certificate produced or proof made.

XX. *And be it further enacted*, That if his Majesty shall, at any time, by his royal proclamation, declare that the proportion of British seamen necessary to the due navigation of British ships shall be less than the proportion required by this act, every British ship navigated with the proportion of British seamen required by such proclamation shall be deemed to be duly navigated so long as such proclamation shall remain in force.

Proportion of seamen may be altered by proclamation.

XXI. *Provided always, and be it further enacted*, That goods of any sort, or the produce of any place, not otherwise prohibited than by the law of navigation hereinbefore contained, may be imported into the United Kingdom from any place in a British ship, and from any place not being a British possession in a foreign ship of any country, and however navigated, to be warehoused for exportation only, under the provisions of any law in force for the time being, made for the warehousing of goods without payment of duty upon the first entry thereof.

Goods prohibited only by navigation laws may be imported for exportation.

XXII. *And be it further enacted*, That if any goods be imported, exported, or carried coastwise, contrary to the law of navigation hereinbefore contained, all such goods shall be forfeited, and the master of such ship shall forfeit the sum of one hundred pounds.

Forfeiture and penalty.

XXIII. *And be it further enacted*, That this act may be altered, varied, or repealed by any act or acts to be passed in this present session of Parliament.

Act may be altered this session.

CHAPTER XLVIII.

AN ACT to alter and amend the several laws relating to the customs.—*May* 26, 1826.

Whereas several acts were passed in the last session of Parliament for consolidating the laws of the customs, and it has been found necessary to make certain alterations and amendments therein:

Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the fifth day of July, one thousand eight hundred and twenty six, the same shall come into and be and continue in full force and operation for all the purposes mentioned therein.

Commencement of act.

II. And whereas an act was passed in the last session of Parliament, entitled "An act for the management of the customs," and it is expedient to alter and amend the same in manner hereinafter provided: *Be it therefore enacted*, That every order, document, instrument, or writing, required by any law, at any time in force, to be under the hands and seals of the Commissioners of his Majesty's Customs, which shall be signed by two or more Commissioners or assistant Commissioners of the Customs, shall be deemed to be an

Signature of two Commissioners to be sufficient without seals.

order, document, instrument, or writing, under the hands and seals of the Commissioners of his Majesty's Customs, within the meaning of such law.

Duties of officers performed by persons and at places appointed by Commissioners.

III. *And be it further enacted*, That every act, matter, or thing, required by any law at any time in force to be done or performed by, to, or with any particular officer nominated in such law for such purpose, being done or performed by, to, or with any person appointed by the Commissioners of his Majesty's Customs to act for or in behalf of such particular officer, the same shall be deemed to be done or performed by, to, or with such particular officer; and that every act, matter, or thing, required by any law at any time in force to be done or performed at any particular place within any port, being done or performed at any place within such port appointed by the Commissioners of his Majesty's Customs for such purpose, the same shall be deemed to be done or performed at the particular place so required by law.

List of crews of ships from West Indies.

IV. And whereas another act was passed in the last session of Parliament, entitled "An act for the general regulation of the customs," and it is expedient to alter and amend the same in manner hereinafter provided: *Be it therefore enacted*, That so much of the said act as requires that the master of every British ship arriving at any port in the United Kingdom, on her return from any British possession in America, shall deliver upon oath to the Collecter or Controller a certain list of the crew of such ship, shall apply only to ships so arriving on their return from the West Indies.

Perfect entry after bill of sight.

V. And whereas, by the said act for the general regulation of the customs, it is enacted that no goods shall be unladen from any ship arriving from parts beyond the seas before due entry of such goods shall have been made; and that no entry for the landing of any goods shall be valid unless made in manner therein directed; and that any goods taken or delivered out of any ship by virtue of any entry not so made shall be deemed to be goods landed without due entry thereof, and shall be forfeited; and whereas provision is nevertheless made for the landing of goods in certain cases by bill of sight, for examination by the importer, in presence of the proper officers, prior to his making a perfect entry for the same: *Be it therefore enacted*, That such goods, although landed by bill of sight, shall not be deemed to be landed, or to be delivered out of the ship within the meaning of the said act, except in virtue of such perfect entry when the same shall have been made; and that if such perfect entry be not made in manner required by the said act for the landing of goods as hereinbefore mentioned, such goods shall then be deemed to be goods landed without due entry thereof, and shall be forfeited.

Restrictions on certain articles repealed.

VI. *And be it further enacted*, That so much of the said act made for the general regulation of the customs as prohibits the importation of any spirits on account of the strength thereof, and also so much of the said act as prohibits the importation of beef, pork, or bacon, to be warehoused for exportation only, shall be, and the same is hereby, repealed; and also so much of the said act as restricts in any way the importation of bonnets, hats, or platting of bast or straw, chip, cane, or horse hair, and also of cambrics or lawns, and also of coffee, and also of Or-molu, and also of Chinaware or porcelain, not being the produce of places within the limits of the East India Company's charter, and also any tobacco made up in rolls, being the produce of and imported from the State of Columbia, and in packages containing at least three hundred and twenty pounds weight of such rolls of tobacco, shall be, and the same is hereby, repealed.

Gloves only to be imported into port of London till July 5, 1827.

VII. And whereas it is expedient to subject the importation of gloves to certain restrictions: *Be it therefore enacted*, That it shall not be lawful to import any leather gloves into any port, other than the port of London, until after the fifth day of July, one thousand eight hundred and twenty-seven, nor unless in packages, each of which shall contain one hundred pairs of such gloves at least, nor unless in ships of the burden of seventy tons or upwards; and that such restrictions shall be complied with and enforced in like manner as if the same were set forth in a table denominated "a table of prohibitions and restrictions inwards," contained in the said act for the regulation of the customs.

Stamps on bonds for plate exported.

VIII. *And be it further enacted*, That all bonds given to prevent the relanding of plate, in respect of which any drawback shall be allowed upon the exportation thereof, shall be liable only to the same duties of stamps as any bonds given for or in respect of the duties of customs, or for preventing frauds or evasions thereof, are or shall be liable to under any act for the time being in force for granting duties of stamps.

Power to fix rate of rent in the King's warehouse.

IX. *And be it further enacted*, That it shall and may be lawful for the Commissioners of his Majesty's Treasury of the United Kingdom of Great Britain and Ireland, or the Commissioners of his Majesty's Customs, by warrant or order under their hands respectively, to fix the amount of warehouse rent to be paid for any goods taken to and secured in any of the King's warehouses in the United Kingdom, or in the Isle of Man, for the security of the duties thereon, or to prevent the same from coming into home use.

Coast duty ad valorem.

X. *And be it further enacted*, That if any goods brought coastwise be subject to duty according to the value thereof, such value shall be ascertained in the same manner and under the same regulations and conditions as is and are directed in the said act in respect of goods imported from foreign parts.

Coffee imported into the Isle of Man.

XI. *And be it further enacted*, That it shall be lawful to export from the United Kingdom to the Isle of Man, and to import into the Isle of Man direct from the United Kingdom, without the license of the Commissioners of the Customs, any quantity of coffee of the British plantations upon which the duty payable in the United Kingdom shall have been paid; and that a drawback of four pence for every pound of such coffee shall be allowed upon the exportation thereof.

Licenses, for what vessels required.

XII. And whereas another act was passed in the last session of Parliament, entitled "An act for the prevention of smuggling," and it is expedient to alter and amend the same in manner hereinafter provided: *Be it therefore enacted*, That no license (except a license for arming) shall be required under the said act for any ship or vessel which is of the burden of two hundred tons or upwards, nor for any square-rigged ship or vessel,

License bond.

or any ship, vessel, or boat, propelled by steam, which is not of greater length than in the proportion of three feet six inches to one foot of breadth; and that no greater or

other security shall be required on account of any license to be issued under the said act than in the sum of one thousand pounds, or in the single value of the vessel or boat for which such license is to be issued, if such value be less than one thousand pounds, and by the sole bond of such owner or owners of such vessel or boat: *Provided always*, That if any such bond shall be taken of the owner of any boat who shall not have attained the age of twenty-one years, such bond shall, nevertheless, be valid and effectual to all intents and purposes, anything in any act, or in any law, custom, or usage, to the contrary notwithstanding.

Minors being owners of boats.

XIII. *And be it further enacted*, That no bond given on account of the license of any vessel or boat under the said act for the prevention of smuggling shall be cancelled until the space of twelve months after the license for which such bond had been entered into shall have been delivered up to the proper officer of the customs; and such bond shall remain in full force and effect for the time of twelve months after the delivering of the license as aforesaid, unless fresh security shall be given for such vessel or boat.

License bond not to be cancelled for twelve months.

XIV. *And be it further enacted*, That in case any vessel shall, on account of any goods, become liable to forfeiture under the said act for the prevention of smuggling, the goods creating such forfeiture shall also be forfeited.

Goods forfeited with vessel.

XV. And whereas, by the said act for the prevention of smuggling, it is enacted that if any foreign vessel shall, in certain cases therein described, be found within one league of the coast of the United Kingdom, such vessel shall be forfeited: *Be it therefore enacted*, That the like forfeiture shall, in similar cases, attach equally to any foreign boat as fully and effectually as if in the said act such forfeiture had been made to attach to any foreign vessel or boat.

Foreign boat within one league forfeited as foreign vessel would be.

XVI. *And be it further enacted*, That if any vessel or boat whatever shall arrive or shall be found or discovered to have been within any port, harbor, river, or creek, of the United Kingdom, not being driven therein by stress of weather or other unavoidable accident, having on board or in any manner attached or affixed thereto, or having had on board or in any manner attached or affixed thereto, or conveying or having conveyed in any manner, within any such port, harbor, river, or creek, any brandy or other spirits, except rum, in any cask or package of less size or content than forty gallons, except only for the use of the seamen then belonging to and on board such vessel or boat, not exceeding two gallons for each seaman, or any tobacco or snuff in any cask or package in which such tobacco or snuff could not be legally imported into the United Kingdom in such vessel, (except loose tobacco for the use of the seamen, not exceeding five pounds weight for each seaman,) every such vessel or boat, together with such spirits or tobacco, shall be forfeited; and every person found or discovered to have been on board such vessel or boat at the time of her becoming so liable to forfeiture, and knowing such spirits or tobacco to be or to have been on board or attached to such vessel or boat, shall forfeit the sum of one hundred pounds, and shall be liable to detention and prosecution, and to be dealt with in the manner directed by the said act for the prevention of smuggling, in cases of persons found or discovered to have been on board vessels liable to forfeiture under that act: *Provided always*, That if it shall be made to appear by proof on oath, to the satisfaction of the Commissioners of his Majesty's Customs, that the said spirits or tobacco were on board without the knowledge or privity of the owner or master of such vessel or boat, and without any wilful neglect or want of reasonable care on their or either of their behalfs, that then, and in such case, the vessel or boat shall not be liable to forfeiture, although the persons concerned in placing the said spirits or tobacco on board, or knowing thereof, shall be liable to detention and prosecution as aforesaid.

Vessels or boats arriving in port with spirits or tobacco in small packages forfeited, and persons found on board knowing thereof to forfeit £100.

XVII. *And be it further enacted*, That no writ of certiorari shall issue from his Majesty's Court of King's Bench, to remove any proceedings before any Justice or Justices of the Peace, under any act for the prevention of smuggling, or relating to the revenue of the customs; nor shall any writ of habeas corpus issue, to bring up the body of any person who shall have been convicted before any Justice or Justices of the Peace under any such act, unless the party against whom such proceedings shall have been directed, or who shall have been so convicted, or his attorney or agent, shall state in an affidavit in writing, to be duly sworn, the grounds of objection to such proceedings or conviction; and that upon the return to such writ of certiorari or habeas corpus, no objection shall be taken or considered, other than such as shall have been stated in such affidavit; and that it shall be lawful for any Justice or Justices of the Peace, and they are hereby required, to amend any information, conviction, or warrant of commitment, for any offence under any such act.

Writ of certiorari and habeas corpus not to be granted unless objection to proceedings be stated.

XVIII. *And be it further enacted*, That it shall not be lawful for the jailer or keeper of any prison, in virtue of any authority to him given by the said act for the prevention of smuggling, to discharge any person who shall have been committed to such prison for non-payment of any penalty or penalties, if such penalty or penalties shall amount to or exceed the sum of one hundred pounds, anything in the said act to the contrary notwithstanding.

Jailer not to discharge persons confined for £100.

XIX. *And be it further enacted*, That every intimation to any smuggling vessel or boat, in whatever manner given, shall be deemed to be a signal within the meaning of the said act for the prevention of smuggling, and shall subject the person giving such information to be detained and proceeded against as directed by the said act.

Signals to smuggling vessels.

XX. *And be it further enacted*, That upon the trial of any issue, or upon any judicial hearing or investigation, touching any penalty or forfeiture under any law or laws relating to the revenue of the customs or excise, or to the law of navigation, where it may be necessary to give proof of any order issued by the Commissioners of his Majesty's Treasury, or by the Commissioners of his Majesty's Customs or Excise, respectively, the letter or instructions which shall have been officially received by the officer of customs or excise at the place or district where such penalty or forfeiture shall have been incurred, or shall be alleged to have been incurred, for his Government, and in which such order is mentioned or referred to, and under which said instructions he shall have acted as such

Proof on trial of Treasury order.

officer, shall be admitted and taken as sufficient evidence and proof of such order, to all intents and purposes whatsoever.

Goods of Asia or Africa within Straits of Gibraltar.

XXI. And whereas another act was passed in the last session of Parliament, entitled "An act for the encouragement of British shipping and navigation," and it is expedient to amend the same in manner hereinafter provided: *Be it therefore enacted*, That all goods, the produce of places in the interior of Asia or Africa, which shall be brought to any place in Europe within the Straits of Gibraltar, through places in Asia or Africa which are within those straits, shall be deemed to be the produce of such last mentioned places within the meaning of the said act.

Lascars and foreigners navigating East India ships. 4 G. 4, c. 80, § 21, 22.

XXII. And whereas, by an act passed in the fourth year of the reign of his present Majesty for consolidating and amending the laws then in force with respect to trade from and to places within the limits of the charter of the East India Company, particular provisions is made with respect to the number and country of the seamen by whom British ships engaged in such trade may, in certain cases, be navigated: *Be it therefore enacted*, That any British ship, navigated in the manner permitted by the said act, in any of the cases therein mentioned, shall be deemed to be duly navigated as British ships, anything in the before mentioned act for the encouragement of British shipping and navigation to the contrary notwithstanding.

Foreigners navigating ships in southern whale fishery.

XXIII. And whereas, by an act passed in the thirty-fifth year of the reign of his late Majesty King George the Third, entitled "An act for further encouraging and regulating the southern whale fisheries," certain foreigners were permitted to be employed as masters or seamen in navigating ships employed in such fisheries; and whereas the said act will, from and after the fifth day of July next, be repealed, and it is expedient to continue such privilege to persons who have been actually so employed: *Be it therefore enacted*, That it shall be lawful for any person who shall have been actually so employed, under the authority of the said act, to go before the Collector and Controller of the Customs, at the port from whence the ship in which he last so served shall have cleared out for the voyage on which he was employed in the same, and make proof of such service to the satisfaction of such Collector and Controller, and thereupon such Collector and Controller shall enrol the name of such person, and shall give to him a certificate of such proof; and such person producing such certificate shall, at all times thereafter, be deemed to hold the qualification of a British seaman, for the purpose of navigating any ship employed in the southern whale fisheries, anything in the law of navigation to the contrary notwithstanding.

Jurisdiction under act 6 G. 4, c. 108, extended to navigation law.

XXIV. *And be it further enacted*, That all penalties and forfeitures incurred under the said act for the encouragement of British shipping and navigation shall be sued for, prosecuted, recovered, and disposed of, or shall be mitigated or restored, in like manner as any penalty or forfeiture can be sued for, prosecuted, recovered, and disposed of, or may be mitigated or restored, under the before mentioned act passed in the last session of Parliament for the prevention of smuggling.

Ships built in colonies for owners in the United Kingdom to have certificate to navigate for two years.

XXV. And whereas another act was passed at the last session of Parliament, entitled "An act for the registering of British vessels," and it is expedient to alter and amend the same in manner hereinafter provided; and whereas by the said act it is provided that if any ship be built in Asia, Africa, or America, for owners residing in the United Kingdom, a certificate therein mentioned shall be given for the navigation of such ship to the United Kingdom, whether by a direct or circuitous voyage, and that such certificate shall, for such voyage, have all the force and virtue of a certificate of registry under that act: *Be it therefore enacted*, That such certificate shall be in like force for the navigation of such ship, for any voyages whatever, during the term of two years from the date of such certificate, if such ship shall not sooner arrive at some place in the United Kingdom.

Entry of bill of sale in book of intended registry.

XXVI. And whereas, by the said act for registering British ships, provision is made for the entering of any bill of sale of any ship or vessel, or any share thereof, in the book of registry at the port where such ship or vessel is registered, or in the book of intended registry, at any other port at which she is about to be registered *de novo: Be it enacted*, That such entry in the book of intended registry shall not be made until all the requisites of law for the immediate registry of the ship or vessel in such book have been complied with; nor shall such entry be valid or certified on the bill of sale until the registry *de novo* of the ship or vessel shall have been duly made, and the certificate thereof granted.

Levant Company.

XXVII. And whereas the company of merchants of England trading to the Levant seas has been dissolved: *Be it therefore enacted*, That it shall be lawful for any person who was a member of the said company at the time of its dissolution, and who was a resident at any of the factories of the said company, to continue to own any share or shares in any British registered ship of which, at the time of such residence, he was an owner or part owner, although such person shall continue to reside at any of the places where such factories had existed prior to the dissolution of the said company.

Goods the produce of and imported from particular places.

XXVIII. And whereas another act was passed in the last session of Parliament, entitled "An act for granting duties of customs," and it is expedient to alter and amend the same in manner hereinafter provided: *Be it therefore enacted*, That whenever lower duties are charged upon the importation of any of the goods hereinafter mentioned, as being the produce of particular places, such goods shall not be deemed to be the produce of such places, unless they be also imported from such places, that is to say: almonds, arrow root or powder, bark, cocus wood, copper, fustic, ginger, granilla, hemp, hides, honey, indigo, logwood, marmalade, cashew-nuts, cocoa-nuts, pimento, rhubarb, rosin, sarsaparilla, sponge, succades, sugar, tamarinds, tar, tortoise-shell, and turmeric.

Cambrics and other linens not rated according to the number of threads.

XXIX. And whereas, in the "table of duties of customs inwards," to the said act for granting duties of customs annexed, certain rated duties are imposed upon the several sorts of linen therein mentioned, some of which are to be ascertained according to the number of threads to the inch of warp of such linen, and an option is given to the

importer to pay a duty of forty pounds for every one hundred pounds of the value of the linen, instead of any of the rated duties so imposed: *Be it therefore enacted and declared*, That from and after the tenth day of October, one thousand eight hundred and twenty-six, such option shall not be deemed to extend to cambrics, or to any sort of linen, the rated duties of which are not to be ascertained according to the number of threads in the same.

Ad valorem duty outwards.

XXX. And whereas, by the said act, a duty of ten shillings for every one hundred pounds of the value of certain goods is charged upon the exportation thereof: *Be it therefore enacted*, That such duty shall not be charged upon any goods which are subject to any other export duty.

Sweetened rum, how charged with duty.

XXXI. And whereas it is expedient to make further provisions for charging suitable duties on rum which shall have been sweetened by the coloring matter necessarily mixed with the same: *Be it therefore enacted*, That rum, the produce of the British possessions in America, shall not be liable to the duty charged on sweetened spirits, unless the actual strength thereof shall exceed the strength denoted by Sykes' hydrometer by more than ten degrees per centum; and that, in lieu of such duty, there shall be charged upon every degree per centum more than three degrees, and not more than ten degrees, by which the actual strength of any such rum shall exceed the strength denoted by Sykes' hydrometer, a duty of nine shillings and six pence: *Provided always*, That if the importer of any such rum cannot make a perfect entry thereof for payment of the proper duty on the actual strength of the same, it shall be lawful for such importer to demand, in writing, upon the entry, that trial be made of the actual strength of such rum, (he paying the expense of such trial,) instead of entering such rum for the payment of duty upon any stated number of such excessive degrees of strength: *Provided, also*, That all trials of the actual strength of rum shall be made by some skilful person appointed by the Commissioners of the Customs for such purpose.

East India Company's stores.

XXXII. *And be it further enacted*, That the East India Company shall be allowed to export stores, provisions, utensils of war, and necessaries for maintaining their garrisons and settlements, free of all duties; so as the duties hereby remitted, if they had been to be paid, would not have exceeded or do not exceed, in any one year, the sum of three hundred pounds.

Duty on small coals.

XXXIII. And whereas, in a table to the said act for granting duties of Customs annexed, denominated "a table of duties coastwise," a duty of one shilling the chaldron is imposed upon certain small coals shipped to be sent coastwise from the ports of Newcastle or Sunderland to any port in England or Wales, and such coals are not subject to the duty imposed in the said table upon coals brought coastwise: *Be it therefore enacted*, That the said duty of one shilling shall also be imposed upon the like sorts of small coals when shipped to be so sent from the ports of Liverpool, Bristol, Bridgewater, Gloucester, Chepstow, Cardiff, Newport, Swansea, Llanelly, Cardigan, Aberystwith, Whitehaven, Lancaster, Preston, Beaumaris, Milford, or Stockton, in like manner as when shipped to be sent from either of the said ports of Newcastle or Sunderland; and such coals shall also be free of duty when brought to any port in England or Wales, in like manner as if so brought from either of the said ports of Newcastle or Sunderland.

Duty on coals brought coastwise to any port in Wales.

XXXIV. *And be it further enacted*, That in lieu and instead of any duty on coals, except small coals hereinbefore mentioned, brought coastwise into any port in Wales, payable under the said act of the last session of Parliament, for granting duties of customs according to a table of duties thereunto annexed, denominated "a table of duties coastwise," there shall be paid upon all coals, except small coals as aforesaid, whether usually sold by weight or by measure, when brought coastwise from any port in the United Kingdom into any port in Wales, a duty of one shilling and eight pence for every ton weight of such coals; and such duty shall be raised, levied, collected, and paid unto his Majesty in like manner as if the same had been imposed by the said act, and set forth in the said table thereunto annexed.

Table of new duties.

XXXV. *And be it further enacted*, That instead of the duties and drawbacks imposed and allowed by the said act of the last session of Parliament for granting duties of customs, and set forth in a table thereunto annexed, denominated "table of duties of customs inwards," the several duties and drawbacks set forth in figures in the table hereinafter contained, and denominated "table of new duties," shall, in respect of such goods as are mentioned therein, be raised, levied, collected, and paid unto his Majesty, and be allowed, in like manner, as if such duties and drawbacks had been imposed and allowed in and by the said act, and had been set forth in the said table thereunto annexed, that is to say:

Table of New Duties.

	£	s.	d.
Aloes, the produce of the Cape of Good Hope, and imported direct from thence.....the pound..	0	0	3
Annatto, or Rocou flag.....do.....	0	0	2
Ashes, viz: weed ashes.....the cwt..	0	1	8
Bark, Peruvian or Jesuit's bark.....the pound..	0	0	1
Quercitron bark.....the cwt..	0	1	0
Boxwood.....the ton..	5	0	0
the produce of and imported from any British possession.....do....	1	0	0
Capers, including the pickle.....the pound..	0	0	6
Camphor, unrefined.....do.....	0	0	1
Cedar wood, not being the produce of and imported from any British possession.....the ton..	2	10	0
Cinnamon, imported from any British possession within the limits of the East India Company's charter.....the pound..	0	2	6

		Duty. £	s.	d.
Cloves, imported from any British possession within the limits of the East India Company's charter	the pound	0	2	0
Cocoa-nuts	do	0	1	3
the produce of and imported from any British possession in America	do	0	0	6
imported from any British possession within the limits of the East India Company's charter	do	0	0	9
imported from any other place within the limits of the East India Company's charter	do	0	1	0
Cochineal	do	0	0	6
dust	do	0	0	2
the produce of and imported from any British possession	do	0	0	2
dust	do	0	0	1
Coffee	do	0	1	3
the produce of and imported from any British possession in America	do	0	0	6
the produce of and imported from Sierra Leone	do	0	0	9
imported from any British possession within the limits of the East India Company's charter	do	0	0	9
imported from any other place within the limits of the East India Company's charter	do	0	1	0
Cotton, viz: articles of manufactures of cotton, wholly or in part made up, not otherwise charged with duty, for every £100 of the value		20	0	0
Ebony	the ton	10	0	0
the produce of and imported from any British possession	do	0	15	0
Furrier's waste, for every £100 of the value		10	0	0
Galls	the cwt	0	5	0
Hair or goats' wool, viz:				
articles of manufactures of hair or goats' wool, or of hair or goats' wool and any other material wholly or in part made up, not otherwise charged with duty, for every £100 of the value		30	0	0
cow, ox, bull, or elk hair	the cwt	0	2	6
Hemp, rough or undressed, or any other vegetable substance of the nature and quality of undressed hemp, and applicable to the same purposes, the produce of, and imported from New Zealand, until the 1st January, 1833		free.		
Lignum vitæ	the ton	2	0	0
the produce of, and imported from any British possession	do	0	0	10
Linen, viz: articles of manufactures of linen, or of linen mixed with cotton or with wool, wholly or in part made up, not otherwise charged with duty, for every £100 of the value		40	0	0
Mace, imported from any British possession within the limits of the East India Company's charter	the pound	0	3	6
Mahogany	the ton	7	10	0
of the growth of Bermuda or any of the Bahama islands, and imported direct from thence, respectively; and mahogany imported direct from the Bay of Honduras in a British ship cleared out from the port of Belize	do	2	10	0
of the growth of the island of Jamaica, and imported direct from thence	do	4	0	0
Marble blocks	the solid foot	0	1	0
Nutmegs, imported from any British posession within the limits of the East India Company's charter	the pound	0	2	6
Oil seed cakes of all sorts	the cwt	0	0	2
Oil of castor, imported from any British possession within the limits of the East India Company's charter	the pound	0	0	9
Oranges and lemons, viz:				
the chest or box, not exceeding the capacity of 5,000 cubic inches		0	2	6
the chest or box, exceeding the capacity of 5,000 cubic inches, and not exceeding 7,300 cubic inches		0	3	9
the chest or box, exceeding the capacity of 7,300 cubic inches, and not exceeding 14,000 cubic inches		0	7	6
for every 1,000 cubic inches exceeding the above rate of 14,000 cubic inches, and so in proportion for any greater or less excess		0	0	7½
loose	the 1,000	0	15	0
or, and at the option of the importer, for every £100 of the value		75	0	0
Orchal, orchelia, or archelia	the cwt	0	3	0
Otto or attar, or oil of roses	the ounce	0	2	0
Pepper of all sorts, imported from any British possession within the limits of the East India Company's charter	the pound	0	1	0

		£	s.	d.
Pepper imported from any other place within the limits of the East India Company's charter	the pound	0	1	2
Pictures	each	0	1	0
and further	the square foot	0	1	0
Quinine, sulphate of	the ounce	0	0	1
Rhubarb, imported from any British possession within the limits of the East India Company's charter	the pound	0	2	6
Rosewood	the ton	10	0	0
Saffron	the pound	0	1	0
Safflower	the cwt	0	2	6
Sago, common	do	0	5	0
Seed, viz: linseed	the quarter	0	1	0
Skins, viz:				
kid skins, dressed, and dyed or colored	the 100 skins	0	15	0
lamb skins, tanned or tawed, and dyed or colored	do	0	15	0
calf skins and kip skins in the hair, not tanned, tawed, curried, or in any way dressed, the produce of and imported from any British possession, viz:				
dry	the cwt	0	2	4
wet	do	0	1	2
Spirits, viz:				
rum shrub, however sweetened, the produce of and imported from any British possession in America	the gallon	0	8	6
Sugar, until the 5th of July, 1827, and no longer, viz:				
brown or Muscovado, or clayed, not being refined	the cwt	3	3	0
the produce of and imported from any British possessions in America	do	1	7	0
the produce of and imported from any British possession within the limits of the East India Company's charter	do	1	17	0
Tapioca or tapioca powder	do	0	10	0
Tobacco, unmanufactured	the pound	0	3	0
the produce of and imported from any British possession in America, unmanufactured	do	0	2	9
manufactured, or cigars	do	0	9	0
manufactured in the United Kingdom, at or within two miles of any port into which tobacco may be imported, made into shag, roll, or carrot tobacco, drawback on exportation, the pound, 2*s.* 7½*d.*				
Turmeric	the cwt	0	10	0
the produce of any British possession in America or on the west coast of Africa	do	0	3	0
Wax, viz: beeswax, unmanufactured, imported from any British possession within the limits of the East India Company's charter	do	2	6	6
Wood, viz:				
battens, above 45 feet in length, or above 2¾ inches in thickness, (not being timber 8 inches square,) the load containing 50 cubic feet		2	10	0
and further	the 120	6	0	0
beech planks of all sorts, of the growth and produce of any British possession in America, and imported direct from thence	do	0	8	4
deal ends of the growth and produce of any British possession in America, and imported direct from thence into Great Britain, above seven inches in width, being under six feet in length, and exceeding 3¼ inches in thickness	do	1	10	0
ufers of the growth of any British possession in America, and imported direct from thence, under five inches square, and under twenty-four feet in length	do	3	5	0
Wool, viz: cotton wool, or waste of cotton wool, the produce of and imported from Malta		free.		
Wolens, viz: articles of manufactures of wool, (not being goats' wool,) or of wool mixed with cotton, wholly or in part made up, not otherwise charged with duty, for every £100 of the value		20	0	0
Yarn, viz: camel or mohair yarn	the pound	0	0	1
Zebra wood	the ton	2	0	0

Tobacco to be charged on delivery weight.

XXXVI. And whereas another act was passed in the last session of Parliament, entitled "An act for the warehousing of goods," and it is expedient to alter and amend the same in manner hereinafter provided: *Be it therefore enacted*, That whenever any tobacco shall be taken out of the warehouse for home use, the same shall be re-weighed, and the duty shall be charged according to the weight then ascertained, although such tobacco may have increased or decreased in weight since the weight thereof had been before ascertained.

Pepper may be abandoned for the duty.

XXXVII. *And be it further enacted*, That within one month after any pepper shall have been warehoused it shall be lawful for the importer or proprietor to abandon any part thereof for the duty; and the quantity of such pepper not so abandoned, being there-

upon ascertained, shall be deemed to be the quantity imported: *Provided always*, That

No abatement for damage.

no abatement of duty shall be made on account of any damage received by any pepper during the voyage.

Tobacco may be exported to Guernsey, &c., without license.

XXXVIII. *And be it further enacted*, That so much of the said act for the warehousing of goods as extends to prevent the exportation of tobacco from the warehouse to the islands of Guernsey, Jersey, Alderney, or Sark, without the license of the Commissioners of his Majesty's Customs, or to limit the quantity of tobacco which may be so exported to those islands, shall be, and the same is hereby, repealed.

Allowance of duties on coals used in works in Devon and Cornwall in smelting, &c.

XXXIX. And whereas another act was passed in the last session of Parliament, entitled "An act to grant certain bounties and allowances of Customs," and it is expedient to alter and amend the same in manner hereinafter provided: *Be it therefore enacted*, That the drawback of the duties upon coals allowed by the said act upon all coals used in works of the mines of tin, lead, or copper, in the counties of Devon and Cornwall, in roasting, calcining, smelting, or refining the said metals, or any of them, being the produce of such mines, shall be allowed in like manner upon coals so used in any works in those counties, although the same be not the works of such mines.

Allowance of duty on barilla for bleaching.

XL. *And be it further enacted*, That for any barilla used in the process of bleaching of linen before the fifth day of January, one thousand eight hundred and thirty, a repayment of the duties which had been paid on the importation of such barilla shall be made to the person so using the same, provided that the person claiming such repayment shall, within three calendar months next after the fifth day of January in each year, produce to the Commissioners of the Customs an account of the total quantity of barilla so used by him in the preceding year, showing when and where and by whom the duties on the same had been paid, and where the same had been used; and shall also prove, to the satisfaction of the said Commissioners, that the barilla mentioned in such account had within such year been actually used by him in the process of bleaching of linen; and thereupon a debenture shall issue for making such repayment at the port at or near to which such barilla shall have been so used.

Sail-cloth for bounty to be of certain weight.

XLI. *And be it further enacted*, That no bounty shall be allowed under the said act for granting bounties and allowances of customs upon the exportation of any sail-cloth, the weight of which shall be less than after the rate of forty-three pounds to thirty-eight square yards of the same, if the width be more than twenty inches, or after the rate of twenty-four pounds to thirty-eight running yards of the same, if the width be not more than twenty inches.

Bounty on sugar.

XLII. *And be it further enacted*, That nine-tenth parts of the several bounties granted by the last mentioned act upon the exportation of refined sugar until the fifth day of July, one thousand eight hundred and twenty-six, shall be, and the same are hereby, continued so long as the duties on the importation of sugar imposed by this act shall remain in force, or be further continued by any act hereafter to be made.

Free ports.

XLIII. And whereas another act was passed in the last session of Parliament, entitled "An act to regulate the trade of the British possessions abroad," and it is expedient to alter and amend the same in manner hereinafter provided; and whereas, by the said act certain goods are prohibited to be imported into any port or place in the British possessions in America, except into some of the ports into such possessions called free ports, and enumerated or described in a table contained in such act: *Be it therefore enacted*, That if any goods shall be imported into any port or place in the said possessions contrary to such prohibition, such goods shall be forfeited.

Rum from West Indies to Canada.

XLIV. *And be it further enacted*, That rum or other spirits the produce of any British possessions in South America or the West Indies, when imported from any British possession in America into Canada, shall not be deemed to be foreign, nor be charged with duty as such; and that the duty of six pence the gallon, imposed by the said act to regulate the trade of the British possessions abroad, upon such rum or other spirits when imported into Canada from the United Kingdom, shall be payable over and above any duty thereon there payable under any colonial law, anything in the said act, or this act, to the contrary notwithstanding.

Certain goods brought inland into Canada for exportation.

XLV. *And be it further enacted*, That all masts, timber, and ashes, brought by land or inland navigation into Canada, and duly shipped and exported from thence, shall, upon importation into the United Kingdom, be deemed to be, and be imported as, the produce of some British possession; and that it shall be lawful to bring into Canada, by land or inland navigation, any beef or pork, to be there warehoused for the purpose only of being exported to Newfoundland: *Provided always*, That security shall be given to the satisfaction of the Commissioners of his Majesty's Customs, upon the first entry of such beef and pork, that the same shall be duly conveyed to and warehoused in some warehousing port, to be from thence exported direct to Newfoundland.

Duty on wheat flour imported from a warehouse.

XLVI. *And be it further enacted*, That wheat flour which shall have been warehoused at any free warehousing port in the British possessions in North America, and which shall be imported direct from the warehouse at such port into any British possessions in the West Indies or in South America, shall, upon such importation, be liable only to a duty of one shilling for every barrel of such flour, instead of the duty of five shillings now payable on the same under the said act for regulating the trade of the British possessions abroad.

Goods not the produce of Mauritius imported from thence.

XLVII. *And be it further enacted*, That if any goods which had been imported into the island of Mauritus shall afterwards be imported from thence into any other British possession, or into the United Kingdom, the same shall be liable to the payment of the same duties, and shall be subject to the same regulations as the like goods would be liable to the payment of, or subject unto, if the same had been first imported into any of the British possessions in the West Indies, and afterwards imported from thence into such other British possession, or into the United Kingdom, respectively.

Tobacco imported into Guernsey &c. viz:

XLVIII. *And be it further enacted*, That so much of the said act for regulating the trade of the British possessions abroad as extends to prevent the importation of tobacco

into the islands of Guernsey, Jersey, Alderney, or Sark, except from the United Kingdom, shall be, and the same is hereby, repealed; and that so much also of the said act as extends to prevent the importation of brandy, Geneva, or other spirits, or of tobacco or snuff, into the said islands in any ship or vessel of less burden than one hundred tons shall, so far as the same extends to ships or vessels which are not of less burden than seventy tons, importing any of such goods from the United Kingdom, be, and the same is hereby, repealed. from foreign parts, from United Kingdom.

XLIX. *And be it further enacted*, That no low wines or spirits shall be made, extracted, or distilled in the Isle of Man from any materials whatever; and if any person shall make, extract, or distil, or cause or procure to be made, extracted, or distilled, any low wines or spirits from any material whatever, or shall use or mix, or cause or procure to be used or mixed, any materials whatever with any worts or wash, in order to the making, extracting, or distilling of low wines or spirits, or shall put or lay, or cause or procure to be put or laid, in any vessel or utensils, any materials whatever for the purpose of preparing any worts or wash, or for making, extracting, or distilling low wines or spirits in the Isle of Man, that then, and in each and every of the said cases, every such person, and also every person in whose custody or possession shall be found any vessel or utensil made use of contrary to the intention of this act, shall, respectively, for every such offence, forfeit and pay the sum of two hundred pounds; and all such materials, and such worts and wash, low wines and spirits, and such vessels or utensils so made use of, shall be forfeited, and shall and may be seized by an officer of the customs; and all such penalties and forfeitures shall be sued for and prosecuted as any penalty or forfeiture relating to the customs may be sued for and prosecuted under an act passed in the last session of Parliament, entitled "An act for the prevention of smuggling." Distillation of low wines and spirits in the Isle of Man prohibited.

L. And whereas another act was passed in the last session of Parliament, entitled "An act to repeal the several laws relating to the customs," and it is expedient to amend the same, in order that certain acts mentioned therein should not be repealed: *Be it therefore enacted*, That so much of the said act as extends to repeal an act passed in the fourth year of the reign of his present Majesty, entitled "An act for regulating the number of apprentices to be taken on board British merchant vessels, and for preventing the desertion of seamen therefrom;" and also to repeal an act passed in the forty-third year of the reign of his late Majesty, entitled "An act for the better securing the freedom of elections of members to serve in Parliament for any place in Ireland, by disabling certain officers employed in the collection and management of his Majesty's revenues in Ireland from giving their votes at such elections;" and also to repeal so much of an act passed in the sixth year of the reign of King George II, entitled "An act for the better securing and encouraging the trade of his Majesty's sugar colonies in America," as imposes any duty to be paid to his Majesty; and also to repeal so much of an act passed in the seventh year of the reign of King George III, entitled "An act for granting certain duties in the British colonies and plantations in America for allowing a drawback of the duties of customs upon the exportation from this Kingdom of coffee and cocoa-nuts of the produce of the said colonies or plantations, for discontinuing the drawbacks payable on China earthenware exported to America, and for more effectually preventing the running of goods in the said colonies and plantations," as imposes any duty to be paid to his Majesty; and also to repeal so much of an act passed in the fourth year of the reign of King George III, entitled "An act to regulate the importation and exportation of certain articles subject to duties of excise, and certain other articles the produce and manufacture of Great Britain and Ireland, respectively, into and from either country, from and to the other, as relates to the excise, and which were enumerated in the said act, shall be, and the same is hereby, repealed. Certain acts not to be repealed. 4 G. 4, c. 25. 43 G. 3, c. 25. 6 G. 2, c. 13. 7 G. 3, c. 46. 4 G. 3, c. 30.

LI. And whereas, by the said act passed in the last session of Parliament to repeal the several laws relating to the customs, the several acts and parts of acts therein particularly enumerated and referred to, passed prior to the last session of Parliament, are repealed, or will, from and after the fifth day of July, one thousand eight hundred and twenty-six, be repealed, and it is expedient to repeal also several acts passed in the last session of Parliament: *Be it therefore enacted*, That the several acts hereinafter mentioned, passed in the last session of Parliament, shall be, and the same are hereby, repealed; that is to say, an act entitled "An act to reduce the duties on wine, coffee, and hemp, imported into the United Kingdom;" and another act entitled "An act for further regulating the trade of his Majesty's possessions in America and the West Indies, and for the warehousing of goods therein;" and another act entitled "An act to extend to the island of Mauritius the duties and regulations which relate to the British islands in the West Indies;" and another act entitled "An act to repeal certain duties of customs, and to grant other duties in lieu thereof," to continue until the fifth day of July, one thousand eight hundred and twenty-six, the bounties on refined sugar, and to alter the bounty on cordage. Certain acts of last session to be repealed. 6 G. 4, c. 13. 6 G. 4, c. 73. 6 G. 4, c. 76. 6 G. 4, c. 104.

LII. And whereas, by the said act of the last session of Parliament for repealing the several laws relating to the customs, together with this act, all the laws relating to the customs, made prior to the said act, are repealed, or are intended to be repealed, save and except certain acts hereinafter mentioned or described, relating to some particular subjects, and which are not intended to be repealed; and whereas, in conjunction with the said act passed in the last session of Parliament to repeal the laws of the customs, several other acts were passed for consolidating the laws of the customs, in order, as therein stated, that the purposes for which the former laws so repealed had from time to time been made should be secured by new enactments, exhibiting more perspicuously and compendiously the various provisions contained in them, and which several acts came into force and operation on the sixth day of January in the present year; and whereas it is expedient that no doubt should remain whether any, or what, if any, former or other acts, relating in any way to the customs, continue to have any force: *Be it therefore enacted*, That all statutes and acts, and all parts of statutes and acts, made in the respective Parliaments of General repeal of the laws of the customs, except certain laws hereinafter described or enumerated to be saved.

England, of Great Britain, of Ireland, and of the United Kingdom, relating to the revenue of customs, to navigation, or to the prevention of smuggling in any part of the British dominions, which were in force on the said fifth day of January, one thousand eight hundred and twenty-six, besides the several acts and parts of acts expressly repealed by the said repealing acts of last session, as hereinbefore amended, and by this act shall be, and the same are hereby, repealed, save and except such acts and parts of acts as are hereinafter mentioned or described, and declared to be saved and excepted from the effect of this general repeal, that is to say: an act passed in the eighteenth year of the reign of his late Majesty King George the Third, entitled "An act for removing all doubts and apprehensions concerning taxation by the Parliament of Great Britain in any of the colonies, provinces, and plantations in North America and the West Indies, and for repealing so much of an act made in the seventh year of the reign of his late Majesty as imposes a duty on tea imported from Great Britain into any colony or plantation in America as relates thereto;" and also so much of any act, or the part of any act now in force, which was passed prior to the last mentioned act, and by which any duties in any of the British possessions in America were granted, and still continue payable to the Crown, as relates to the collection and appropriation of such duties; and also an act passed in the thirty-first year of the reign of his late Majesty King George the Third, entitled "An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled 'An act for making more effectual provisions for the government of the province of Quebec, in North America,' and to make further provisions for the government of the said province;" and also an act passed in the fifty-first year of the reign of his late Majesty King George the Third, entitled "An act for carrying into effect the provisions of a treaty of amity, commerce, and navigation, concluded between his Majesty and his Royal Highness the Prince Regent of Portugal;" and also an act passed in the fifty-ninth year of the reign of his late Majesty King George the Third, entitled "An act to carry into effect a convention of commerce, concluded between his Majesty and the United States of America, and a treaty with the Prince Regent of Portugal;" and also an act passed in the fifty-fifth year of the reign of his late Majesty, entitled "An act to amend the laws now in force for regulating the importation of corn;" and also another act passed in the first and second year of the reign of his present Majesty, entitled "An act to repeal certain acts passed in the thirty-first, thirty-third, forty-fourth, and forty-fifth years of his late Majesty King George the Third, for regulating the importation and exportation of corn, grain, meal, and flour, into and from Great Britain, and to make further provisions in lieu thereof;" and also an act passed in the third year of his present Majesty's reign, entitled "An act to amend the laws relating to the importation of corn;" and also an act passed in the sixth year of the reign of his present Majesty, entitled "An act to alter for one year, and until the end of the then next session of Parliament, the duty on wheat the produce of the British possessions in North America;" and also an act passed in the fifty-sixth year of the reign of his late Majesty King George the Third, entitled "An act to reduce the duty on the exportation from Great Britain of small coals of a certain description;" and also an act passed in the fifty-ninth year of the reign of his late Majesty King George the Third, entitled "An act to prevent the enlisting or engagement of his Majesty's subjects to serve in foreign service, and the fitting out or equipping, in his Majesty's dominions, vessels for warlike purposes without his Majesty's license;" and also an act passed in the fourth year of the reign of his present Majesty, entitled "An act to authorize his Majesty, under certain circumstances, to regulate the duties and drawbacks on goods imported or exported in foreign vessels, and to exempt certain foreign vessels from pilotage," as the said act is amended by an act passed in the fifth year of the reign of his present Majesty for that purpose; and also an act passed in the fourth year of the reign of his present Majesty, entitled "An act to consolidate and amend the several laws now in force with respect to trade from and to places within the limits of the charter of the East India Company, and to make further provisions with respect to such trade, and to amend an act of the present session of Parliament for the registering of vessels so far as relates to vessels registered in India;" and also an act passed in the fourth year of the reign of his present Majesty, entitled "An act for regulating vessels carrying passengers between Great Britain and Ireland;" and also an act passed in the fifty-fifth year of the reign of his late Majesty King George the Third, entitled "An act to repeal the provisions of former acts granting exclusive privileges of trade to the South Sea Company, and to indemnify the said company for the loss of such privileges;" and also another act passed in the said fifty-fifth year of the reign of King George the Third, made for amending the said last mentioned act; and also an act passed in the fifth year of the reign of his present Majesty, entitled "An act to amend the several acts for the encouragement and improvement of the British and Irish fisheries," and all other acts and parts of acts relating to the said fisheries which were in force upon the said fifth day of January, one thousand eight hundred and twenty-six; and also an act passed in the sixth and seventh years of the reign of King William the Third, and another act passed in the fifteenth year of the reign of his late Majesty King George the Third, and another act passed in the thirty-first year of the reign of his said Majesty, which several acts relate to certain keel boats and carriages, and for loading coals on board ships; and also an act passed in the sixth year of the reign of his present Majesty, entitled "An act to repeal the several laws relating to the performance of quarantine, and to make other provisions in lieu thereof;" and also an act passed in the forty-third year of his late Majesty, entitled "An act for the better securing the freedom of elections of members to serve in Parliament for any place in Ireland, by disabling certain officers employed in the collection or management of his Majesty's revenues in Ireland from giving their votes at such elections;" and also an act passed in the fourth year of the reign of his present Majesty, entitled "An act for regulating the number of apprentices to be taken on board British merchant vessels, and for preventing the desertion of seamen therefrom," and which act it is hereby declared and

Certain acts to be saved.

18 G. 3, c. 12.

31 G. 3, c. 31.

Acts to be saved.

51 G. 3, c. 47.

59 G. 3, c. 54.

55 G. 3, c. 26.

1 and 2 G. 4, c. 87.

3 G. 4, c. 60.

6 G. 4, c. 64.

56 G. 3, c. 127.

59 G. 3, c. 69.

4 G. 4, c. 77, amended by 5 G. 4, c. 1.

4 G. 4, c. 80.

4 G. 4, c. 88.

55 G. 3, c. 55, amended by 55 G. 3, c. 141.

Acts to be saved.

5 G. 4, c. 64.

6 and 7 W. 3, c. 10.

15 G. 3, c. 27.

31 G. 3, c. 36.

6 G. 4, c. 78.

43 G. 3, c. 25.

4 G. 4, c. 25.

enacted doth and shall extend to Ireland; and also an act made in the Parliament of Ireland in the twenty-first and twenty second years of the reign of his said late Majesty for the improvement of the city of Dublin, by making wide and convenient passages through the same, and for regulating the coal trade thereof, and any act or acts for amending or continuing the same; and also save and except all such acts and parts of acts as relate to the maintaining or improving of any harbors, havens, ports, rivers, piers, light-houses, docks, canals, basins, or warehouses; and also all acts and parts of acts which are of a local or personal nature, not being public general acts, although declared public; and also all acts and parts of acts whereby any duties are made applicable to any particular purpose, or for the use or benefit of any particular person or persons, or body or bodies, corporate or politic, or of any society or company; and also all acts whereby any drawback of duty is granted in respect of materials used in building of churches and chapels; and also all acts and parts of acts relating to the excise, so far only as the provisions of any of such acts might and are to be put in force by the Commissioners of the Excise or their officers in the United Kingdom, or by the Commissioners of Customs or their officers in Ireland; and also so much of any acts which create or regulate any jurisdiction for the trial of offences in Ireland, or in Newfoundland, against the laws of customs, navigation, or excise, as shall be in force immediately before the passing of this act: *Provided always*, That nothing herein contained, or in any other act or acts contained, relating to the excise, shall extend to prevent the exportation of tea from the warehouse in like manner as other goods warehoused upon the first entry thereof may be exported under the laws of the customs, anything in any law relating to the excise to the contrary notwithstanding; all which said several acts so saved and excepted shall continue in such force and effect, to all intents and purposes, as if this act had not been passed, anything in this act contained to the contrary notwithstanding.

21 and 22 G. 3, (I.)

Dublin coal acts.

Harbor and dock acts.

Local and personal acts.

Duties for particular purposes.

Churches.

Excise acts.

Jurisdiction in Ireland or Newfoundland.

Exportation of tea not to be prevented.

At the Court of St. James, the 27th of July, 1826—Present, the King's Most Excellent Majesty in Council.

Whereas, by an act passed in the sixth year of the reign of his present Majesty, entitled "An act to regulate the trade of the British possessions abroad," after reciting that, "by the law of navigation, foreign ships are permitted to import into any of the British possessions abroad, from the countries to which they belong, goods the produce of those countries, and to export goods from such possessions to be carried to any foreign country whatever;" and that "it is expedient that such permission should be subject to certain conditions," it is enacted "that the privileges thereby granted to foreign ships shall be limited to the ships of those countries which, having colonial possessions, shall grant the like privileges of trading with those possessions to British ships; or which not having colonial possessions, shall place the commerce and navigation of this country, and of its possessions abroad, upon the footing of the most favored nation, unless his Majesty, by his order in council, shall in any case deem it expedient to grant the whole or any of such privileges to the ships of any foreign country, although the conditions aforesaid shall not in all respects be fulfilled by such foreign country;" and whereas the conditions mentioned and referred to in the said act of Parliament have not in all respects been fulfilled by the Government of the United States of America, and therefore the privileges so granted as aforesaid by the law of navigation to foreign ships cannot lawfully be exercised or enjoyed by the ships of the United States aforesaid, unless his Majesty, by his order in council, shall grant the whole or any of such privileges to the ships of the United States aforesaid; and whereas his Majesty doth deem it expedient to grant to the ships of the said United States such of the said privileges as are hereinafter mentioned, his Majesty doth therefore, with the advice of his Privy Council, and in pursuance and exercise of the powers and authorities in him vested by the said act of Parliament, declare and grant that it is and shall be lawful for the ships of the United States aforesaid to import into any of the British possessions abroad, from the said United States, goods the produce of the United States aforesaid, and not enumerated in the table of prohibitions and restrictions in the said act contained, and to export goods from such British possessions abroad to be carried to any foreign country whatever: *Provided always*, That such goods, so imported, shall be subject and liable to the payment of the duties imposed and made payable under and by virtue of the said act of Parliament; provided also, and his Majesty doth further, with the advice aforesaid, declare that the privileges so granted as aforesaid to the ships of the United States, so far as respects the British possessions in the West Indies and on the continent of South America, and so far as respects the Bahama islands and the Bermuda or Somer islands, and so far as respects his Majesty's settlements in the island of Newfoundland, and the several islands belonging to and dependent on those settlements, shall absolutely cease and determine upon and from the first day of December, which will be in this present year one thousand eight hundred and twenty-six; provided also, and his Majesty doth further, with the advice aforesaid, declare that the privileges so granted as aforesaid to the ships of the said United States, so far as respects the British possessions on the western coast of Africa, shall absolutely cease and determine upon and from the said first day of December, one thousand eight hundred and twenty-six; provided also, and his Majesty, with the advice aforesaid, doth further declare that the privileges so granted as aforesaid to the ships of the said United States, so far as respects the colony of the Cape of Good Hope, and the islands, settlements and territories belonging thereto and dependent thereupon, and so far as it respect the island of Mauritius, and the several islands and territories belonging

thereto or dependent thereupon, and so far as respects the island of Ceylon, and the several islands and territories belonging thereto and dependent thereupon, shall absolutely cease and determine upon and from the first of March, which will be in the year one thousand eight hundred and twenty-seven; provided also, and his Majesty doth further, with the advice aforesaid, declare that the privileges so granted as aforesaid to the ships of the said United States, so far as respects his Majesty's settlements in the island of New Holland, and the several islands and territories belonging thereto and dependent thereupon, and so far as respects the island of Van Dieman's Land, and the several islands and territories belonging thereto and dependent thereupon, shall absolutely cease and determine upon and from the first day of May, which will be in the said year one thousand eight hundred and twenty-seven.

Provided also, That nothing in this present order contained extends, or shall be construed to extend, to infringe or interfere with the convention of commerce and navigation concluded between his late Majesty King George the Third and the United States of America, bearing date the third day of July, one thousand eight hundred and fifteen; or the further convention of commerce and navigation concluded between his said late Majesty and the United States of America, bearing date the twentieth day of October, one thousand eight hundred and eighteen; or to prevent ships of the said United States from importing into any of the British possessions in Europe, or from exporting from such British possessions in Europe any goods which, under or by virtue of the said conventions or either of them, or of the several acts of Parliament made for carrying such conventions into effect, can or may be lawfully imported into or exported from such British possessions in Europe in the ships of the said United States: and whereas by a certain act of Parliament passed in the fourth year of the reign of his present Majesty, entitled "An act to authorize his Majesty, under certain circumstances, to regulate the duties and drawbacks on goods imported or exported in foreign vessels, and to exempt certain foreign vessels from pilotage," it is, among other things, enacted "that it shall and may be lawful to and for his Majesty, by and with the advice of his Privy Council, or by his Majesty's order or orders in council, whenever it shall be deemed expedient, to levy and charge any additional duty or duties of customs, or to withhold the payment of any drawbacks, bounties, or allowances, upon any goods, wares or merchandise imported into or exported from the United Kingdom, or imported into or exported from any of his Majesty's dominions, in vessels belonging to any foreign country in which higher duties shall have been levied, or smaller drawbacks, bounties, or allowances granted upon goods, wares, or merchandise when imported into or exported from such foreign country in British vessels, than are levied or granted upon similar goods, wares and merchandise, when imported or exported in vessels of such country;" and it is thereby provided "that such additional or countervailing duties so to be imposed, and drawbacks, bounties, or allowances so to be withheld as aforesaid, shall not be of greater amount than may be deemed fairly to countervail the difference of duty, drawback, bounty, or allowance paid or granted on goods, wares, or merchandise imported into or exported from such foreign country in British vessels, more or less than the duties, drawbacks, bounties, or allowances there charged or granted upon similar goods, wares, or merchandise imported into or exported from such foreign country in vessels of such country."

And whereas, by an act of Parliament passed the fifth year of the reign of his present Majesty, entitled "An act to indemnify all persons concerned in advising, issuing, or acting under a certain order in council for regulating the tonnage duties on certain foreign vessels, and to amend an act of the last session of Paliament for authorizing his Majesty, under certain circumstances, to regulate the duties and drawbacks on goods imported or exported in any foreign vessels," it is, among other things, enacted "that it shall and may be lawful to and for his Majesty, by and with the advice of his Privy Council, or by his Majesty's order or orders in council, to be published from time to time in the London Gazette, (whenever it shall be deemed expedient,) to levy and charge any additional or countervailing duty or duties of tonnage upon or in respect of any vessels which shall enter any of the ports of the United Kingdom of Great Britain and Ireland, or in any of his Majesty's dominions, and which shall belong to any foreign country in which any duties of tonnage shall have been or shall be levied upon or in respect of British vessels entering the ports of such country, higher or greater than are levied or granted upon or in respect of the vessels of such country; and it is thereby provided, that such additional or countervailing tonnage duties, so to be levied and charged as aforesaid, shall not be of greater amount than may be deemed fairly to countervail the difference of duty paid in such foreign country upon or in respect of the tonnage of British vessels more than the duty there charged or granted upon or in respect of the vessels of such country:" and whereas British vessels entering the ports of the United States aforesaid from the ports of his Majesty's possessions in America or the West Indies with cargoes consisting of articles of the growth, produce, or manufacture of the said possessions, are charged with a duty of $1 per ton for tonnage duties and light money, and a discriminating duty of 10 per cent. is charged upon the cargoes of such vessels, to which vessels of the United States, and cargoes of the same description, entering the ports of the United States from the ports of his Majesty's said possessions, are not subject, his Majesty, by virtue of the powers vested in him by the said acts of Parliament, passed in the fourth and fifth years of his Majesty's reign, by and with the advice of his Privy Council, is pleased to order, and it is hereby ordered, that there shall be charged on all vessels of the United States which shall enter any of the ports of his Majesty's possession on the continent of North America with articles of the growth, production, or manufacture of the said States, or which, until the said 1st day of December, 1826, shall enter with any such articles any of the ports of his Majesty's possessions in the West Indies or South America, or in the Bahama islands, or in the Bermuda or Somer islands, a duty of 4*s*. 3*d*. sterling for each and every ton burden of such vessels, equal, as nearly as may be, to 94 cents of the money of the United States, and being the

difference between the tonnage duty payable by vessels of the United States and British vessels entering any of the ports of the said United States from any ports of his Majesty's dominions in America or the West Indies; and further, an addition of 10 per cent. upon the duties set forth in the said act of Parliament, passed as aforesaid in the sixth year of his Majesty's reign, on any of the articles therein enumerated, which may be imported into his Majesty's said possessions on the continent of North America in any vessel of the said United States, or which, until the said 1st day of December, 1826, may be imported into his Majesty's said possessions in the West Indies or South America, or into the Bahama islands, or into the Bermuda or Somer islands, in any such vessels of the said States; such duties to be levied, collected and applied in the same manner and to the same purposes as the duties levied under the authority of the said act of the sixth year of his Majesty's reign.

And the right honorable the Lords Commissioners of his Majesty's Treasury are to give the necessary directions herein accordingly.

C. C. GREVILLE.

ACTS OF CONGRESS IN RELATION TO COLONIAL TRADE.

AN ACT concerning navigation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the thirtieth of September next the ports of the United States shall be and remain closed against every vessel, owned wholly or in part by a subject or subjects of his Britannic Majesty, coming or arriving from any port or place in a colony or territory of his Britannic Majesty that is or shall be, by the ordinary laws of navigation and trade, closed against vessels owned by citizens of the United States; and such vessel that, in the course of the voyage, shall have touched at or cleared out from any port or place in a colony or territory of Great Britain which shall or may be, by the ordinary laws of navigation and trade aforesaid, open to vessels owned by citizens of the United States, shall, nevertheless, be deemed to have come from the port or place in the colony or territory of Great Britain closed, as aforesaid, against vessels owned by citizens of the United States, from which such vessel cleared out and sailed before touching at, and clearing out from, an intermediate and open port or place as aforesaid; and every such vessel, so excluded from the ports of the United States, that shall enter or attempt to enter the same, in violation of this act, shall, with her tackle, apparel, and furniture, together with the cargo on board such vessel, be forfeited to the United States.

The ports of the United States closed, after September 30, 1818, against vessels owned by British subjects arriving from a colony which, by the ordinary laws, is closed against vessels owned by citizens of the United States.

Touching at a port which, by the ordinary laws, is open to vessels owned by citizens of the United States, does not vary the restriction.

Vessels and cargoes entering in violation of this act forfeited to the United States.

Sec. 2. *And be it further enacted*, That from and after the aforesaid thirtieth of September next the owner, consignee, or agent of every vessel, owned wholly or in part by a subject or subjects of his Britannic Majesty, which shall have been duly entered in any port of the United States, and on board of which shall have been there laden for exportation any article or articles of the growth, produce, or manufacture of the United States, other than provisions and sea stores necessary for the voyage, shall, before such vessel shall have been cleared outward at the custom-house, give bond, in a sum double the value of such articles, with one or more sureties, to the satisfaction of the collector, that the article or articles so laden on board such vessel for exportation shall be landed in some port or place other than a port or place in a colony or territory of his Britannic Majesty, which, by the ordinary laws of navigation and trade, is closed against vessels owned by citizens of the United States; and any such vessel that shall sail, or attempt to sail, from any port of the United States, without having complied with the provision aforesaid, by giving bond as aforesaid, shall, with her tackle, apparel, and furniture, together with the article or articles aforesaid, laden on board the same as aforesaid, be forfeited to the United States: *Provided always*, That nothing in this act contained shall be so deemed or construed so as to violate any provision of the convention to regulate commerce between the territories of the United States and of his Britannic Majesty, signed the third day of July, one thousand eight hundred and fifteen.

After September 30, 1818, the owner, consignee, &c., of British vessels taking on board productions of the United States, in the ports thereof, except sea stores, &c., to give bond not to land them in a British colony or territory from which, by the ordinary laws, vessels of the United States are excluded.

Vessels sailing without bond, &c., and the articles on board, forfeited to the United States.

Proviso: nothing in this act to violate the commercial convention of July 3, 1815.

Sec. 3. *And be it further enacted*, That the form of the bond aforesaid shall be prescribed by the Secretary of the Department of the Treasury; and the same shall and may be discharged, and not otherwise, by producing, within one year after the date thereof, a like certificate to that requried by, and under the regulations contained in, the eighty-first section of the act "to regulate the collection of duties on imports," passed the second day of March, seventeen hundred and ninety-nine, that the articles of the growth, produce, and manufacture of the United States, laden as aforesaid, were unladen and landed conformably to the provisions of this act, or, in cases of loss by sea, by capture, or other unavoidable accident, by the production of such other proofs as the nature of the case will admit, according to the provisions of the said eighty-first section of the act aforesaid.

Form of the bond to be prescribed by the Secretary of the Treasury. The bond may be discharged by producing within a year a certificate like that required by the 81st section of the act to regulate the collection of duties, &c.

Sec. 4. *And be it further enacted*, That all penalties and forfeitures incurred by force of this act shall be sued for, recovered, distributed, and accounted for, and may be mitigated or remitted in the manner and according to the provisions of the revenue laws of the United States.

Penalties, &c., to be sued for, distributed, remitted, &c., according to the revenue laws.

[*Approved April* 18, 1818.]

AN ACT supplementary to an act entitled "An act concerning navigation."

After September 30, 1820, ports of the United States closed against British vessels coming from Lower Canada, New Brunswick, Nova Scotia, Newfoundland, St. John's, Cape Breton, Bermuda, Bahamas, or Caicos, &c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the thirtieth day of September next the ports of the United States shall be and remain closed against every vessel, owned wholly or in part by a subject or subjects of his Britannic Majesty, coming or arriving by sea from any port or place in the province of Lower Canada, or coming or arriving from any port or place in the province of New Brunswick, the province of Nova Scotia, the islands of Newfoundland, St. John's, or Cape Breton, or the dependencies of any of them, the islands of Bermuda, the Bahama islands, the islands called Caicos, or the dependencies of any of them, or from any other port or place in any island, colony, territory, or possession under the dominion of Great Britain, in the West Indies or on the continent of America, south of the southern boundary of the United States, and not included within the act to which this act is supplementary. And every such vessel, so excluded from the ports of the United States, that shall enter, or attempt to enter, the same, in violation of this act, shall, with her tackle, apparel, and furniture, together with the cargo on board such vessel, be forfeited to the United States.

Vessel and cargo forfeited on attempting to enter.

Bonds to be given by the owner, &c., of British vessels after September 30, 1820, laden with articles of the growth, &c., of the United States for exportation, not to land them in the prohibited places.

Sec. 2. *And be it further enacted*, That from and after the thirtieth day of September next the owner, consignee, or agent of every vessel, owned wholly or in part by a subject or subjects of his Britannic Majesty, which shall have been duly entered in any port of the United States, and on board of which shall have been there laden for exportation any article or articles of the growth, produce, or manufacture of the United States, other than provisions and sea stores necessary for the voyage, shall, before such vessel shall have been cleared outward at the custom-house, give bond, in a sum double the value of such article or articles, with one or more sureties, to the satisfaction of the Collector, that the article or articles so laden on board such vessel for exportation shall be landed in some port or place other than a port or place in any province, island, colony, territory, or possession belonging to his Britannic Majesty that is mentioned or described in this act, or in the act to which this act is supplementary. And every such vessel that shall sail, or attempt to sail, from any port of the United States, without having complied with the provisions aforesaid, by giving bond as aforesaid, shall, with her tackle, apparel, and furniture, together with the article or articles aforesaid, laden on board the same as aforesaid, be forfeited to the United States: *Provided*, That nothing herein contained shall be deemed or construed so as to violate any provision of the convention to regulate commerce between the territories of the United States and of his Britannic Majesty, signed the third day of July, one thousand eight hundred and fifteen.

Vessels and articles forfeited for attempting to sail before bond given.

Proviso: nothing herein to violate the commercial convention of July 4, 1815.

After September 30, 1820, no goods, wares, or merchandise to be imported from the prohibited places, except they are wholly of the growth, &c., of the colony where laden and whence directly imported.

Sec. 3. *And be it further enacted*, That from and after the thirtieth day of September next no goods, wares, or merchandise shall be imported into the United States of America from the province of Nova Scotia, the province of New Brunswick, the islands of Cape Breton, St. John's, Newfoundland, or their respective dependencies, from the Bermuda islands, the Bahama islands, the islands called Caicos, or either or any of the aforesaid possessions, islands, or places, or from any other province, possession, plantation, island, or place, under the dominion of Great Britain, in the West Indies or on the continent of America, south of the southern boundaries of the United States, except only such goods wares, and merchandise as are truly and wholly of the growth, produce, or manufacture, of the province, colony, plantation, island, possession, or place, aforesaid, where the same shall be laden, and from whence such goods, wares, or merchandise shall be directly imported into the United States; and all goods, wares, and merchandise imported, or attempted to be imported, into the United States of America, contrary to the provisions of this act, together with the vessel on board of which the same shall be laden, her tackle, apparel, and furniture, shall be forfeited to the United States.

Vessels and goods forfeited in case of importations contrary to this act.

This act to be carried into effect as act of April 18, 1818.

Sec. 4. *And be it further enacted*, That the form of the bond aforesaid shall be prescribed, and the same shall be discharged, and all penalties and forfeitures incurred under this act shall be sued for, recovered, distributed, and accounted for, and the same may be mitigated or remitted in the manner and according to the provisions of the act to which this act is supplementary.

[*Approved May* 15, 1820.]

AN ACT in addition to the act concerning navigation, and also to authorize the appointment of Deputy Collectors.

The President, being satisfied that the ports of the British West India islands or colonies are open to vessels of the United States, may issue his proclamation declaring the ports, &c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, on satisfactory evidence being given to the President of the United States that the ports in the islands or colonies in the West Indies, under the dominion of Great Britain, have been opened to the vessels of the United States, the President shall be, and hereby is, authorized to issue his proclamation, declaring that the ports of the United States shall thereafter be open to the vessels of Great Britain employed in the trade and intercourse between the United States and such islands or colonies, subject to such reciprocal rules and restrictions as the President of the United States may, by such proclamation, make and publish, anything in the laws entitled "An act concerning navigation," or an act entitled "An act supplementary to an act concerning navigation," to the contrary notwithstanding.

In the event of the signature of a treaty, &c., concerning the navigation or commerce

Sec. 2. *And be it further enacted*, That, in the event of the signature of any treaty or convention concerning the navigation or commerce between the United States and France, the President of the United States be, and is hereby, authorized, should he deem

the same expedient, by proclamation, to suspend, until the end of the next session of Congress, the operation of the act entitled "An act to impose a new tonnage duty on French ships and vessels, and for other purposes;" and also to suspend, as aforesaid, all other duties on French vessels, or the goods imported in the same, which may exceed the duties on American vessels, and on similar goods imported in the same.

between the United States and France, the President may, &c.

SEC. 3. *And be it further enacted*, That the aforesaid first and second sections of this act shall continue in force to the end of the next session of Congress, and no longer.

1st and 2d sections of this act in force until March 4, 1823.

SEC. 4. *And be it further enacted*, That the third, fourth, and seventh sections of the act passed the third day of March, one thousand eight hundred and seventeen, entitled "An act to continue in force an act further to provide for the collection of duties on imports and tonnage, passed the third day of March, one thousand eight hundred and fifteen, and for other purposes," be, and the same are hereby, revived and made perpetual.

3d, 4th, & 7th sections of the act of March, 1817, continuing in force, &c.

[*Approved May* 6, 1822.]

AN ACT to regulate the commercial intercourse between the United States and certain British colonial ports.

1st, 2d, and 3d sections of the act concerning navigation, and the act of May 15, 1820, suspended as to certain British colonial ports.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the third day of March next the first, second, and third sections of the "act concerning navigation," approved on the eighteenth of April, one thousand eight hundred and eighteen, and the "act supplementary to an act concerning navigation," approved on the fifteenth of May, one thousand eight hundred and twenty, shall be, and the same are hereby, suspended for and during the continuance of this act, so far as any of the restrictions or prohibitions therein contained limit or interdict the intercourse of navigation or commerce between the ports of the United States and the British colonial ports hereinafter mentioned, to wit:

Kingston, in Jamaica.
Savannah Le Mar, in Jamaica.
Montego Bay, in Jamaica.
Santa Lucia, in Jamaica.
Antonio, in Jamaica.
Saint Ann, in Jamaica.
Falmouth, in Jamaica.
Maria, in Jamaica.
Morant Bay and Antonio Bay, in Jamaica.
Saint George, in Grenada.
Roseau, in Dominica.
Saint John's, in Antigua.
San Josef, in Trinidad.
Scarborough, in Tobago.
Road Harbor, in Tortola.
Nassau, in New Providence.
Pitt's Town, in Crooked Island.
Kingston, in Saint Vincent.
Port Saint George and Port Hamilton, in Bermuda.
Any port where there is a custom-house, in Bahamas.
Bridge Town, in Barbadoes.
Saint John's and Saint Andrew's, in New Brunswick.
Halifax, in Nova Scotia.
Quebec, in Canada.
Saint John's, in Newfoundland.
George Town, in Demarara.
New Amsterdam, in Berbice.
Castries, in Saint Lucia.
Basseterre, in Saint Kitts.
Charles Town, in Nevis.
Plymouth, in Montserrat.

The ports of the United States to be open to British vessels directly from such ports.

SEC. 2. *And be it further enacted*, That from and after the said third day of March next the ports of the United States shall be open to any British vessel coming directly from any of the British colonial ports above enumerated; and it shall be lawful to import in the said vessels, being navigated by a master and three-fourths, at least, of the mariners, British subjects, any articles of the growth, produce, or manufacture of any of the British colonies, the importation of the like articles to which from elsewhere is not, nor shall not be, prohibited by law, and which may be exported from any of the said enumerated British ports to the United States, on equal terms, in vessels belonging to the said States.

The President may, by proclamation, declare no higher duty to be levied upon British vessels and goods from these ports than upon United States vessels, on certain conditions.

SEC. 3. *And be it further enacted*, That on proof being given to the President of the United States, satisfactory to him, that upon the vessels of the United States admitted into the above enumerated British colonial ports, and upon any goods, wares, or merchandise imported therein in the said vessels, no other or higher duties of tonnage or impost, and no other charges of any kind, are levied or exacted than upon British vessels, or upon the like goods, wares, and merchandise imported into the said colonial ports from elsewhere, it shall and may be lawful for the President of the United States to issue his proclamation, declaring that no other or higher duty of impost or tonnage, and no other or higher duty or charge of any kind upon any goods, wares, or merchandise imported from the above enumerated British colonial ports in British vessels, shall be levied or exacted in any of the ports of the United States, (excepting the ports in the Territory of Florida,) than upon the vessels of the United States, and upon the like goods, wares, or

Proviso.

merchandise imported into the ports of the United States in the same: *Provided always*, That until such proof shall be given, British vessels coming from the said British colonial ports, and the goods, wares, and merchandise imported in the same into the United States, shall continue to pay the foreign tonnage duty, and the additional duties upon goods, wares, and merchandise imported in foreign vessels, prescribed by the "act to regulate the duties on imports and tonnage," approved the twenty-seventh of April, one thousand eight hundred and sixteen.

Articles of the growth, produce, or manufacture of the British colonies only to be so imported in British vessels.

SEC. 4. *And be it further enacted*, That no articles whatsoever, specie and bullion excepted, other than articles of the growth, produce, or manufacture of the British colonies to which the said enumerated ports belong, shall be imported into the United States in British vessels coming from any of the said enumerated ports; and that no articles whatsoever, being of the growth, produce, or manufacture of the British colonies to which the said enumerated ports belong, shall be imported into the United States in any British vessel, other than a vessel coming directly from one of the said enumerated ports, on pain of forfeiting all such articles, together with the ship or vessel in which the same shall have been imported, and her guns, tackle, apparel, and furniture.

And said vessels to come directly from said ports.

Goods of the United States may be exported directly to any of the said ports in British vessels.

SEC. 5. *And be it further enacted*, That it shall be lawful to export from the United States directly to any of the above enumerated British colonial ports, in any vessel of the United States, or in any British vessel, navigated as by the second section of this act is prescribed, and having come directly from any of the above enumerated British colonial ports, any article of the growth, produce, or manufacture of the United States, or any other article legally imported therein, the exportation of which elsewhere shall not be prohibited by law: *Provided*, That when exported in any such British vessel, before the shipment of any such articles, security, by bond, shall be given to the United States in a penalty equal to half the value of the said articles; such bond to be taken of the owner, consignee, or agent, by the Collector of the port at which the said British vessel shall have entered, for the due landing of the said articles at the port or ports, being of the British colonial ports hereinabove enumerated, for which the said vessel shall clear out, and for producing a certificate thereof, within twelve months from the date of said bond, under the hand and seal of the Consul or Commercial Agent of the United States resident at the port where the said articles shall have been landed; or if there shall be no Consul or Commercial Agent of the United States residing there, such certificate to be under the hand and seal of the chief officer of the customs at such port, or under the hand and seal of two known and reputable merchants residing at such port; but such bond may be discharged by proof, on oath, by credible persons, that the said articles were taken by enemies, or perished in the seas. And it shall not be lawful to export from the United States any article whatsoever to any of the above enumerated British colonial ports in any British vessel other than such as shall have come directly from one of the said ports to the United States; nor shall it be lawful to export from the United States any article whatsoever in any British vessel having come from any of the said enumerated ports to any other port or place whatsoever than directly to one of the said ports. And in case any such articles shall be shipped or water-borne for the purpose of being exported contrary to this act, the same shall be forfeited, and shall and may be seized and prosecuted in like manner as for any other violation of the revenue laws of the United States.

Proviso.

This act to continue in force so long as the said ports are open to vessels of the United States.

SEC. 6. *And be it further enacted*, That this act, unless repealed, altered, or amended by Congress, shall be and continue in force so long as the above enumerated British colonial ports shall be open to the admission of vessels of the United States, conformably to the provisions of the British act of Parliament of the 24th of June last, being the forty-fourth chapter of the acts of the third year of George the Fourth. But if at any time the trade and intercourse between the United States and all or any of the above enumerated British colonial ports, authorized by the said act of Parliament, should be prohibited by a British order in council or by act of Parliament, then, from the day of the date of such order in council, or act of Parliament, or from the time that the same shall commence to be in force, proclamation to that effect having been made by the President of the United States, each and every provision of this act, so far as the same shall apply to the intercourse between the United States and the above enumerated British colonial ports in British vessels, shall cease to operate in their favor; and each and every provision of the "act concerning navigation," approved on the eighteenth of April, one thousand eight hundred and eighteen, and of the act supplementary thereto, approved on the fifteenth of May, one thousand eight hundred and twenty, shall revive and be in full force.

Any other British colonial port being opened to vessels of the United States shall have the benefit of this act.

SEC. 7. *And be it further enacted*, That if any British colonial port in the American hemisphere, other than those hereinabove enumerated, should, by virtue of a British order in council, be opened to vessels of the United States, conformably to the provisions of the said act of Parliament of the twenty-fourth of June last, each and every provision of this act shall extend to the same from the time that it shall be so opened to the vessels of the United States.

Bond to be prescribed by the Secretary of the Treasury.

SEC. 8. *And be it further enacted*, That the form of the bond aforesaid shall be prescribed by the Secretary of the Treasury; and all penalties and forfeitures incurred under this act shall be sued for, recovered, distributed, and accounted for, and the same may be mitigated or remitted in the manner and according to the provisions of the revenue laws of the United States.

[*Approved March* 1, 1823.]

19TH CONGRESS.] No. 441. [2D SESSION.

INDEMNITY FOR SLAVES CARRIED AWAY BY GREAT BRITAIN IN 1815.

COMMUNICATED TO THE SENATE IN EXECUTIVE SESSION DECEMBER 20, 1826.

Extract of Instructions from H. Clay to R. King, May 10, 1825.

"With respect to the other objects of the negotiation which was suspended on the 28th of July last, their great importance, and the new lights which are thrown upon them by subsequent events, and especially the effect on the colonial trade which is likely to be produced by the measures recently proposed in the British Parliament by Mr. Huskisson, the matured form of which has not yet reached us, require the most cautious and deliberate consideration. My recent entry upon the duties of the Department of State, and the great pressure of the mass of other business which called for immediate attention, have not allowed me yet to bestow on those objects the time which is indispensably necessary to the formation of a satisfactory adjustment. I am not, therefore, now ready to communicate to you the instructions of the President which they require. To detain you for them might have the effect of occasioning some injury to the current affairs of the legation, and to other interests demanding your presence at London. I have, therefore, the approbation of the President in requesting that, without waiting for them, you proceed on your voyage. As soon as I return from Kentucky, for which I expect in a few days to depart, I will commence the work of preparing them, and hope to be able to place them in your possession early in September. This delay is the less regretted, because, from the engagement of Mr. Huskisson in Parliament, who will probably be again associated in the negotiation, and from other obvious causes, it is not likely that it can be renewed before the approaching autumn, and no great intermediate mischief will probably accrue to any of the interests to which it relates. In the interval your time may be usefully dedicated to the object of a full and clear comprehension of the present state of the relations between the two countries; to the transaction, after your arrival in England, of occasional official business as it arises, and to an affair of much immediate practical consequence, to which I shall now proceed to direct your attention.

"You are aware that a convention between the United States and his Britannic Majesty was concluded and signed at St. Petersburg, under the mediation of the Emperor of all the Russias, on the 30th (12th) day of May, (June,) 1822, (see Appendix to the acts of the session of 1823,) for the purpose of carrying into effect the award of his Imperial Majesty, as arbitrator of the differences which had arisen between Great Britain and the United States out of the treaty of Ghent, in regard to slaves and other property carried away by the British forces in contravention to this treaty. By that convention a mixed commission was to be constituted to settle the just indemnification which his Imperial Majesty awarded to be due to the citizens of the United States for the slaves and property so deported. On the part of this Government Mr. Langdon Cheves was appointed, and on that of Great Britain, Mr. George Jackson. The Commissioners met at Washington on the 25th day of August, 1823, and, after various adjournments, their session continued until the 27th of April, 1825, when they adjourned to meet on the 8th of December following. The proceedings of the Board have been arrested by a most extraordinary refusal of Mr. Jackson to execute the fifth article of the convention, and it cannot be again made to move on to the accomplishment of the objects of its institution without the interposition of the British Government. Before I call your attention particularly to the exceptionable course which that Commissioner appears to have considered himself bound to adopt, I will make some observations upon the nature of the constitution of the Board. By the fifth article it is provided that, 'in the event of the two Commissioners not agreeing in *any particular case* under examination, or of their disagreement upon *any question* which may result from the stipulations of this convention, then, and in that case, they shall draw by lot the name of one of the two arbitrators, who, after having given due consideration to the matter contested, shall consult with the Commissioners, and a final decision shall be given conformably to the opinion of the majority of the two Commissioners and of the arbitrator so drawn by lot.' The whole practical inconvenience of such a general provision for submitting every question that might arise in every cause to arbitration, in the event of the non-concurrence of the Commissioners, was probably not foreseen at the conclusion of the convention. Experience has fully developed it. All interlocutory points, every preliminary question about the forms of trial, the authentication of evidence, its effects, and the rules of proceeding (and what a multitude of such points and questions may not occur?) are thus to be referred, in the contingency, but too often happening, of a disagreement between the Commissioners. If the settlement of one question settled the whole class to which it belonged in all analogous cases, the evil, which then would be still great, might be borne. But, unfortunately, the very same question (the sufficiency, for example, of the authentication of a deposition, or any other) may arise in different cases, and be determined according as the lot for the arbitrator may be cast. And thus it may, and most probably will, happen that the proof or the claim of one individual will be rejected under precisely the same circumstances of those of another which will be received and allowed.

"This malformation of the tribunal could have only been remedied by a spirit of mutual concession and accommodation between its component members. Such a spirit has, unfortunately, not been evinced in the course of its proceedings by Mr. Jackson. The protocol of the Commissioners, and so much of the correspondence between them as is necessary to put you in possession of what has been and of what has not been done accompany these instructions. From a perusal of those documents you will not fail to observe that he has manifested throughout the most impracticable disposition. I shall only advert to some of the instances of his course of conduct to sustain that remark.

"1. It became important, by some general rule, in the commencement of the proceedings of the Board, to notify claimants of the species of authentication of their depositions which would be required. The usual form of authenticating such acts is by the signature of the Justice who takes them, accompanied by the certificate and seal of the Governor of a State, Judge of a superior court, or Notary. This did not satisfy Mr. Jackson, who must also have the certifying officer to state that he *knew* the handwriting of the officiating Justice. Now, this extraordinary requisition (for by what tribunal, British or American, was it ever before made?) it is, in many cases, almost impossible to comply with. It may be asked, why did

the American Commissioner concur in the adoption of such a rule? Because it was better to have some known rule, even a bad one, than none, and because it did not bind him to exclude testimony which should be authenticated in the usual and established forms.

"2. In the case of Cowper a question arose which is applicable to all the cases, and that is, whether interest should be allowed upon the ascertained value of the property carried away, in violation of the treaty of Ghent, as a part of that just indemnification which his Imperial Majesty awarded. Mr. Cheves thought interest was equally due with the principal. Mr. Jackson rejected it as wholly inadmissible. The discussions on this point have been extended to a great length. You will find them in the voluminous correspondence between the Commissioners themselves, and in the papers of Mr. Tazewell and Mr. Livingston in behalf of the claimants. If I could add anything to what has been so ably urged in support of the demand it would be unnecessary. Mr. Jackson endeavors to sustain his argument by a literal criticism on the text of the convention, rejecting, as unworthy of material consideration, the contemporaneous imperial acts. Mr. Cheves maintains his side of the question from the text, also, of the convention, from the terms and the spirit of the imperial decision, from analogous cases, and from the reason of the thing. And surely there can be no adequate conception of a just indemnification for injuries, the redress of which has been so long delayed, which does not comprehend interest. What is, briefly, the case? Great Britain, by the most solemn of compacts, stipulates not to transport from the American territories the most productive description of property. Her faith is promptly and perseveringly invoked to fulfil her obligations and do justice to the injured American proprietors. She withholds it upon the plea that she was not bound to the surrender of the property. The two Governments appeal to the Emperor of Russia to decide this point of difference, and his Imperial Majesty determines that Great Britain was bound by the treaty of Ghent to surrender the property, and awards a just indemnification. The convention which was subsequently concluded is merely the means of giving effect to the imperial award. And the question is, whether the parties who, more than ten years ago, ought to have had their property, with all its intervening use and profits, will have been justly indemnified without interest for the very great and, as the imperial decision proves, unjust delay, which Mr. Jackson is increasing by the very course which he has felt himself authorized to adopt? But I have said that it is not necessary, nor do I mean to discuss the point of interest. Whether it be just or not is not material in considering the exceptionable resolution to which he has brought himself. That resolution is not even to refer the claim of interest to the arbitrament expressly provided for in the fifth article of the convention. That article declares that, in the event of the two Commissioners not agreeing *in any particular case under examination*, &c., it shall be referred to a tribunal composed of them and an arbitrator to be designated by lot. A particular case is under examination; the Commissioners disagree in it. The *casus fœderis* occurs, and Mr. Jackson refuses to execute the fifth article. And on what pretext is this extraordinary refusal attempted to be supported? Upon the allegation that interest is, in his judgment, clearly excluded from the convention. He, no doubt, thinks so; Mr. Cheves, with equal honesty of intention, thinks otherwise; and this difference between them is precisely one of those cases of non-concurrence which were foreseen, and all of which, without exception, when, unfortunately, they shall arise, are to be submitted to the arbitrator. If Mr. Jackson is justified in the refusal, in this particular, to constitute the triple tribunal, what is to prevent his declining the reference in every other case? Undoubtedly if an unjust claim be preferred, either as it regards the right or the sufficiency of the evidence by which it is attempted to be substantiated, it is not within the convention; and Mr. Jackson may therefore refuse the reference in all cases in which he shall decide against the claimant. If, as he supposes, the claim of interest is not comprehended in the convention, that will be a sufficient ground for the determination of the arbitrator against it. The refusal to bring it to the test of the convention implies some distrust of the correctness of his own judgment, or an unreasonable want of confidence in the rectitude of the umpire. It is evident that, if the Commissioner representing one party has the right to predicate his refusal to refer a subject to the arbitrator upon his separate notion that it is not embraced in the convention, the great object of that instrument is defeated; for that object undoubtedly was, that neither party should absolutely decide, but that a mixed tribunal, in which both were to be represented, should pronounce on all controverted questions in which both are interested. And neither in the spirit nor in the terms of the convention is any countenance to be found for the idea that one class of controverted cases more than any other is excepted from its operation. If it be urged, on the one hand, that the effect of this broad ground of reference might be to draw within the jurisdiction of the mixed tribunal claims upon Great Britain which were never designed to be included in the convention, the argument will be answered, on the other, by stating that the opposite ground might put without their jurisdiction claims to which it was evidently intended to extend. The true answer is the same to both, and that is, that they are extreme cases, against which the only security is to be found in the integrity, intelligence, and obligations of the Board.

"3. In the case of Jumonville de Villiers, a citizen of Louisiana, the claim of indemnity for twenty slaves, carried away from Dauphin island, in the Bay of Mobile, does not appear to have been questioned by Mr. Jackson, upon the ground either of the sufficiency of the proof by which it was established, or the time of the transportation of the slaves; but to the allowance of the claim he objected, upon the pretence that Dauphin island was no part of the territory of the United States, but belonged to West Florida. Mr. Cheves, declining to discuss our incontestable right to that island, derived from the cession of Louisiana, of which it constituted a part, offered to refer the difference between him and his associate, agreeably to the provisions of the fifth article of the convention; but Mr. Jackson, having erected himself into a judge of what belonged to us and what to Spain, decided that Dauphin island was not an appendage of Louisiana, but of West Florida, and therefore belonged to Spain at the period of the exchange of the ratifications of the treaty of Ghent, and refused to consent to the proposed reference. Dauphin island was, during the late war, reduced and occupied by the British arms as a part of the territory of the United States. Had it not been a part of their territory, the military occupation of it by Great Britain would have been an unprovoked act of war on her part against Spain, with whom she was then in peace. It was, on the return of peace, surrendered to the United States as a 'territory, place, or possession' (to use the language of the treaty of Ghent) taken from them during the war. Thus, in order to screen the British Government from the indemnity due to American citizens for one or two hundred negro slaves, Mr. Jackson would represent his nation as having committed an act of deliberate and wanton war upon the territories of a friendly and unoffending sovereign, and as having, after perpetrating that act of enormity, transferred the territory violently wrested from that sovereign to the United States, who had no right to it. The mere statement of the case, which truth compels me to make, must wound the sensibility of his Britannic Majesty's Government. If it were creditable to discuss the question of the right of the United States to

Dauphin island, it would be easy to show that the Province of Louisiana, which was ceded to them on the 30th of April, 1803, extended as far east as the Perdido, and, of course, included the Bay of Mobile; that, prior to the late war with Great Britain, the United States had actually taken possession of the whole Province up to that limit; that they had incorporated the Bay of Mobile, including Dauphin island, in one of their territories, and governed it by their laws; and that the treaty with Spain of the 22d day of February, 1819, did not operate as an original cession, but only as a confirmation of their previous title, acquired under that with France, to the country lying between the Perdido and the island of New Orleans. It would have been a more compendious mode of disposing of this claim, on the part of Mr. Jackson, to have drawn in question our title to any part of Louisiana, as was done during the conferences at Ghent. He would then have gotten rid of the territory, the claimant, and his slaves. But the conclusive answer to his plea is to be found in the terms of the first article of the treaty of Ghent. They stipulate that 'all territory, places, and possessions whatsoever taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery or other public property originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property.' Dauphin island was not one of those which were excepted from surrender. That article binds the high contracting parties to a mutual restoration of territory, places, and possessions, without regard to the consideration of title. The mere fact of possession prior to the war determined the duty of restoration on the return of peace. It was so intended, and well understood by both parties. Under that stipulation, as being one of the possessions taken from us during the war, the mouth of the Columbia has been restored, although our title to it was subsequently contested by Great Britain. And from none of the places or possessions thus to be restored was Great Britain to carry away any slave or other property. If this impeachment of our title to or possession of Dauphin island (for which, at an earlier period, Mr. Jackson might have been entitled to the grateful acknowledgments of Spain, but which, at this late day, will hardly be made) had been even colorable, the claim of D'Villiers might have presented a fit subject of reference to the arbitrator of the convention. Incontestable as both title and possession were, Mr. Cheves, in consideration of what belonged to the character and dignity of his Government, would not have been without justification if he had declined an arbitration of the question had it been offered by the other Commissioner. In tendering it himself, you cannot fail to perceive manifested by him the greatest moderation and the strongest disposition faithfully to execute the fifth article of the convention. Nor can you avoid contrasting the conduct of the two Commissioners in this respect. Whilst Mr. Jackson refuses to refer, to say the least of it, the debatable question of interest, Mr. Cheves is willing to refer a case in which our *clear* and *indisputable* right to Dauphin island was the only point to be collaterally adjudicated.

"4. By the third article of the convention his Britannic Majesty engaged 'to cause to be produced before the commission, as material towards ascertaining facts, all the evidence of which his Majesty's Government may be in possession, by returns from his Majesty's officers or otherwise, of the number of slaves carried away.' On the 25th of October last Mr. Rush requested of Mr. Canning the fulfilment of that undertaking. Mr. Canning, in a note to Mr. Rush, under date the 16th of February last, informed him that he lost 'no time in directing the necessary returns to be prepared. This has been done in as far as the records in the possession of his Majesty's Government could supply the information required, and the returns have been forwarded to Mr. Jackson at Washington for the use of the mixed British and American commission.' From the well known fairness and straightforwardness of Mr. Canning, there can be no doubt that Mr. Jackson was made the medium merely of communicating, unconditionally, the information thus collected to the Board. Instead of promptly performing that duty, keeping the documents in his own possession, he opened a negotiation with Mr. Cheves as to the uses which should be made of them after they came into the joint possession of the Board. He insisted, as one of the conditions upon which they should be delivered over to the commission, that all access to them should be denied to the claimants until the testimony was closed in their respective cases, and they were put down for final trial; and then that each claimant might be cautiously allowed to inspect so much of the returns as related to his particular case, and no more. The object of the stipulation undoubtedly was to supply all the testimony which might happen to be in the custody of the British Government respecting facts very difficult to prove. Its operation was in the nature of a discovery of evidence, which the ordinary tribunals of the two countries, in cases of individual litigation, would have enforced, but which, in national concerns, could only be provided for by treaty. The evidence thus discovered and produced might supply the defects of other proof, or might, itself, require the explanations which other testimony could render. But how were these explanations to be made if the returns were to be locked up from the view of the parties whose interests were to be affected? Mr. Jackson seems to have supposed that testimony which was to be furnished for the benefit of both parties ought to be employed exclusively for that of one of them as a check upon what might be produced by the other. The party was, according to him, to be indulged, at the last moment, as a gracious favor, with a view of that evidence which was possibly to defeat his just expectations, although a timely examination of it would have enabled him to have adduced the most conclusive explanatory proof. And where does Mr. Jackson find any precedent for the extraordinary condition which he would have imposed? Surely not in the enlightened judicial codes of either of the two countries, unless he goes as far back as to the proceedings of the Star Chamber. The case which he puts, (and which is believed to be of rare occurrence,) where, during the examination of one witness in court, other witnesses are kept out to prevent their hearing him, will not bear him out; for, in that case, the party to be affected by the testimony is allowed to hear it, and may, during the progress of the trial, by cross-examination, or adducing other witnesses in his behalf, counteract its effect. The condition which Mr. Jackson would have imposed was, doubtless, founded upon the apprehension of an improper use being made by the claimants of the returns, so as to subject the British Government beyond its just responsibility. But it ought to be borne in mind that the definitive list of property for which indemnity was to be made, required by the convention, was given in to the Commissioners, and that the claimants, consequently, could make no addition of other property to it. The convention having stipulated the production of the returns without any conditions, it is hardly necessary to add that Mr. Cheves rejected those which Mr. Jackson had no authority from that instrument, and, it is believed, none from his Government, to propose. The returns were then produced and filed. The proceedings of the Board will show that Mr. Jackson persevered in rejecting every general and special application which was made in behalf of the claimants for a sight of them. Mr. Cheves then proposed that the Secretary of the Board should be directed to prepare a transcript of the returns to be transmitted to his Govern-

ment to facilitate the discharge of his duty, and to afford to it an opportunity of seeing how far a compliance had been made with the stipulation of the third article. To this Mr. Jackson also objected, without some pledge or guaranty should be given to him that this Government would make no other use of the returns than such as he deemed proper. I put it to the candor of Mr. Canning to suppose a change of positions, and to ask himself what would have been his estimate of a demand of such a pledge or guaranty if it had been required at London by an American Commissioner? Mr. Cheves, it is useless to say, refused to be the organ of making such an affrontive proposal to his Government.

"It is painful to me to have been obliged to dwell so long upon the conduct of the British Commissioner. I might have greatly extended a list of the examples of his unaccommodating spirit, but those which I have selected must be sufficient to bring a conviction of it home to the British Government. It would have been much more agreeable to have seen in his official course here manifestations of that liberality, frankness, and mutual good feeling which happily characterize the subsisting relations, generally, of the two countries, and which it will be my constant purpose and pleasure to labor to increase.

"You cannot avoid remarking, in the scheme of the composition of this Board, the great difference in the relative situation of the parties, and the disadvantageous attitude in which the claimants are placed. The British Government is the party from which indemnity is expected for a large amount of property. The Government of the United States, in its corporate character, has no interest in the affair. It is to pay nothing; to receive nothing. It is the guardian only of the rights of its citizens, who are in the pursuit of that indemnity. If, when the two Commissioners are divided in opinion, the British Commissioner refuses the reference for which provision is made in the fifth article, that refusal is tantamount to a decision in favor of Great Britain. And if the refusal were extended to every case of division (and it really does not appear likely that there will be many of concurrence) the result would be that the object of the convention would be almost entirely defeated. Should the British Government sanction this course of proceeding of its Commissioner, which is not, however, to be supposed, it would turn out that one party absolutely made that decision which was to flow from the common consultations and joint judgment of both. We might, indeed, again invoke the friendly interposition of his Imperial Majesty, and he might again lend his friendly offices, and pronounce a new award. Out of this new award fresh questions might spring, dividing the judgments of the Commissioners, rendering further appeals to his umpirage necessary, and presenting a never-ending circle.

"From a commission so constituted and so executed, no practical benefit is likely to flow. It should be the mutual desire of both parties to be delivered from it. We have had reason to believe, from some former intimations, that the British Government is anxious to dispense with it by an agreement fixing upon some gross amount for all the indemnities which the convention promises. This is the only hypothesis upon which the course of Mr. Jackson is explicable. Believing that it is the interest of the claimants to make a reasonable compromise, you are requested to sound the British Government upon the subject, and if such an arrangement be attainable, you are authorized to make it. A power for that purpose accompanies these instructions.

"The difficulty is in fixing on a proper sum. We can only make an approximation, but even that will probably be nearer the justice of the case than any aggregate amount which may be expected to be awarded by the present or any other commission which would be created under the convention. The total number of slaves on the definitive list, to which the Board is now restricted, is 3,601, the details of which may be seen in the accompanying paper designated A. The aggregate sum of their values, estimated by the average price which has been agreed upon by the Board, is $1,183,200. Ten years' interest upon that sum, at six per cent. per annum, amounts to $709,920, giving, as the total of principal and interest, $1,893,120. The entire value of all personal property other than slaves, for which, as having been carried away, or destroyed, in contravention to the treaty of Ghent, claims have been laid before the Board, according to the best estimate which can be made, is $500,000. Ten years' interest upon that sum would be $300,000, making an aggregate, in principal and interest, of $800,000. The entire amount of the value of all property, including slaves, for which indemnity is claimed, and including interest, may be stated at $2,693,120. If, therefore, you could obtain that sum, every claimant might be fully compensated. But that can hardly be expected, and I will, therefore, endeavor to exhibit views of the deductions from that sum which would probably be made if the commission proceeds to fulfil its duties.

"1. As to the slaves. Of these, upwards of two thousand four hundred were carried away from the States of Virginia and Maryland, and, of this number, not more than five hundred will probably be brought, by the proof, within the terms of the treaty of Ghent. Of the residue of the 3,601, after deducting the 2,400, the principal part of them were taken from the States of Georgia and Louisiana, and all these are supposed to be comprehended in the provision of that treaty. The average values fixed by the Board were, for the slaves carried from Virginia and Maryland, $280 each; for Louisiana, $580 each; and for the other southern States, $390 each. The slave account, then, it may be conjectured, would probably stand thus:

"500 from Virginia and Maryland, at $280	$140,000
"250 from Louisiana, at $580	145,000
"900 from Georgia, &c., at $390	351,000
"Producing, together, a total sum, without interest, of	636,000

"2. As to the personal property other than slaves. The estimated value of all that is claimed is about $500,000. But many of these claims are clearly not within the terms of the treaty of Ghent. For example, a large item in the list (a copy of which, designated B, accompanies this letter) is for tobacco *destroyed* in 1814. However just it may have been to compensate the owners of that property for their loss, it is not provided for. It is believed that $250,000 principal may be assumed as large an amount as would be obtained for all the property other than slaves under the most liberal exercise of the powers of the Board. The aggregate amount, then, of the indemnity for every description of property which would probably be awarded by the commission may be safely assumed, it is believed, at $886,000, exclusive of interest. If to that sum be added ten years' interest, amounting to $531,600, the total of both principal and interest would be $1,417,600. A compromise, therefore, by which the British Government would agree to pay the sum of $1,417,600, would be deemed advisable. With respect to the question of interest, if the British Commissioner, in the event of the Board being again put in motion, should consent to refer it to the arbitrator, the reference could take place in every individual case, and the lot for arbitrator would be cast in each case. Upon the only supposition on which we can reason—that of an equality between

the parties—in the result of that appeal to chance, it would turn out that the British choice of the arbitrator would prevail as often as the American; and we may safely conclude that as often as the British arbitrator had to decide upon the claim to interest it would be rejected. In conjecturing the amount of interest which may possibly be obtained, on the contingency of the progress of the Board, we must deduct one-half from the preceding estimate—that is, $265,800—which, being taken from the aggregate of $1,417,600, would leave $1,151,800 as the highest sum which it may be fairly presumed would be awarded by the commission if it be not abolished. This sum, therefore, of $1,151,800, you will consider, in treating, as the minimum to which you can fall. I observed in the estimates laid before Parliament for the British service of the present year, one of £250,000 sterling to cover the awards of the commission. This sum being very near the same as that to which you are limited, it is probable that they may have adopted some such process to arrive at it as I have employed, and it is, therefore, anticipated that you will have no difficulty in coming to the agreement with the British Government which you are now authorized to conclude.

"In the event of your being able to effect this arrangement, it would be proper to insert in the convention which you may conclude that the gross amount shall be distributed among the persons entitled to indemnity under the treaty of Ghent, and the award of his Imperial Majesty, and the convention signed at St. Petersburg, in pursuance of it, in such manner, by an American commission, as the Congress of the United States may by law direct. It would be well, also, to insert a clause declaring that, in the distribution thus to be made, the average value of the slaves which has been fixed by the Commissioners should govern, and that the commission should be restricted to the definitive list of slaves and other property which has been given in to the mixed commission, with such additions to it as ought to be equitably made, in consequence of omissions in the Department of State. This would simplify the duty to be performed, avoid the necessity of establishing the value of each particular slave, and prevent the uncertainty which would attend a new search after a just average. It would, likewise, be proper to provide in the convention that if the aggregate sum stipulated to be paid by Great Britain should fall short of the amount of claims to be ascertained by the American commission under the act of Congress, there should be a ratable deduction from the sum adjudged to each claimant. If, on the contrary, there should be an excess, that excess should be distributed by the same commission among such other owners of slaves and personal property carried away or destroyed by the British forces as Congress may direct.

"If you should be unable to come to any agreement to put an end to the present commission, by substituting, in lieu of it, a gross sum, to be apportioned among the claimants, you will then urge the British Government to infuse a better spirit into their Commissioner, and, especially, that they instruct him to execute the fifth article of the convention, according to its true intent and meaning, by referring to the arbitrator all the questions on which he and Mr. Cheves have disagreed. And, to prevent the delay which would arise from resorting again to the British Government, he ought to be charged with a similar reference of all other questions on which, from time to time, the Commissioners, during the future progress of the Board, may, unfortunately, happen to disagree.

"I am, with great respect, sir, your very humble and obedient servant,

"H. CLAY."

Letter from H. Clay to Albert Gallatin

No. 3.] DEPARTMENT OF STATE, *Washington, June* 21, 1826.

SIR: In the general instructions which were directed from this Department, on the 10th May, 1825, to Mr. King, the then condition of the mixed commission appointed by the Governments of the United States and Great Britain, under the convention of 1822, to carry into effect the award of the Emperor of Russia, was fully stated, and Mr. King was required to urge the British Government to operate upon their Commissioner to give effect to the stipulations of the convention, and especially to the fifth article, which provides, in cases of disagreement between the Commissioners, for a reference to arbitration. He was also authorized to agree to compromise the whole affair by receiving a gross sum, and to dispense altogether with the commission. You will consider these instructions, as well as any others addressed to Mr. King, and which remain to be executed, (copies of all of which are furnished you,) as still in force, and applicable to your mission.

As soon as circumstances appear to have admitted after Mr. King's arrival in England, he called the attention of the British Government to that subject. A copy of the correspondence which passed between him and Mr. Canning is now placed in your possession. The result, finally, was a transfer of the negotiation from London to Washington. It was accordingly opened here with Mr. Vaughan, and what passed on the occasion will be seen by you in the several notes which were exchanged between him and this Department, of which copies are also now supplied you.

A perusal of the whole correspondence at London and in this city will show that it was of a nature far from being calculated to give satisfaction to this Government. Mr. Canning, after having invited Mr. King to state a specific sum which would meet the views of the United States in the way of compromise, which sum was, accordingly, promptly stated, contented himself with a laconic rejection of the amount, and, without bringing forward any counter proposal, abruptly and unexpectedly transferred the negotiation to Washington. Upon being informed of this transfer, a hope was indulged by the President that the just expectations which were so confidently cherished, in respect to the issue of Mr. King's application to the British Government for a faithful execution of the convention, would be, at last, realized through the agency of Mr. Vaughan at Washington. In this we have been entirely disappointed; and it has been seen, with no little surprise, that the only instruction with which the British plenipotentiary was charged by his Government was to communicate their approbation of Mr. Commissioner Jackson's disallowance of the claim to interest, as a part of the indemnity awarded by his Imperial Majesty, and his refusal to refer the disagreement between him and Mr. Cheves on that point to the arbitration expressly stipulated in the fifth article of the convention. The British Government did not even deign to communicate to this the reasons by which they had satisfied themselves, and which might, therefore, produce conviction here of the justness and propriety of Mr. Jackson's decisions in those two respects. We were told, indeed,

by Mr. Vaughan that he was instructed to say that the law officers of the Crown entertained the opinion that there was no foundation for the demand of interest. What *we* had to do with the opinion of the law officers of the British Crown, that it should be brought forward in a diplomatic note addressed to this Government, was not stated. The British Government has the unquestionable right, if it think fit, to consult its law officers on any question, and their opinion may form, with that Government, a proper, or even deciding, consideration in making up its judgment, but it is entitled to have no influence with the Government of the United States beyond the force of the argument or the reasons brought forward to sustain it; and with these we have not been favored. The Government of the United States has every reason to hold in the highest estimation the opinions of its own law officer, but it is only in conformity to the example which has been set them by Great Britain that you are instructed to communicate that we also have consulted the Attorney General of the United States, our law officer, and that, after full examination and consideration, he has formed the opinion that the demand of interest is well founded, and consequently that, when the two Commissioners disagreed about the allowance of it, the British Commissioner was bound by the convention to have concurred in submitting the question to arbitration. A copy of Mr. Wirt's opinion accompanies these instructions, and you will make, during your negotiation, such use of it as may appear to you to be proper.

The question of interest was not the only question which it must have been known to the British Government, at the time the instructions to Mr. Vaughan were prepared, divided the two Commissioners. There were several others, one of which has an importance scarcely inferior to the question of interest. I allude to the disagreement between the Commissioners about the slaves of Louisiana taken away from Dauphin island. Yet his instructions were restricted to the sole question of interest, leaving all others to remain as so many impediments in the progressive execution of the commission. You will observe from my correspondence with Mr. Vaughan that I could extract from him the views of the British Government, neither in reference to those other questions, nor in regard to the principles which they meant to insist on as applicable to the fifth article of the convention. It is now more than a year since the disagreement arose between the Commissioners, which rendered necessary the appeal through Mr. King to the British Government to fufil its just engagements. If that circle of time be necessary to enable the British Government to decide only *one* of the various points of disagreement, it is evident, from the number of those which have arisen, and which may be anticipated, that the duration of the commission will be interminable, should the British Commissioner wait for the communication of the pleasure of his Government in each particular instance of disagreement between the Commissioners. It was under the apprehension of an indefinite and unreasonable prolongation of the commission that the instruction was dictated to Mr. King, to require from the British Government a direction to their Commissioner to refer all questions of difference between him and his colleague, arising under the convention, to the arbitration for which it provides.

The Commissioners, who were in vacation at the date of the instructions to Mr. King, resumed their sessions on the 8th day of December last, and continued them until the 10th day of the present month, when they again adjourned to meet on the 6th day of December next. A copy of their journal is now delivered to you, from which you will perceive that they have not made the smallest advance towards the completion of the business of the Board. There appeared to be no abatement of the unaccommodating spirit of Mr. Commissioner Jackson, upon which it was my disagreeable duty to animadvert in the instructions to Mr. King. He perseveres in his refusal to allow a reasonable access of the claimants to the evidence which the British Government was bound by the convention to produce; and, after the decision of the Board is pronounced on a question submitted by one of them to its consideration, hesitates, and has not yet decided to allow the claimants the small privilege of examining the journal of the proceedings of the Commissioners to ascertain the effect of the decision upon their interests. Mr. Cheves, in a letter addressed to this Department on the 12th instant, justly remarks that the late correspondence between the Commissioners affords "the most conclusive evidence of the hopelessness of this commission, unless some new impulse be given to it by the two Governments. Indeed, should all the points in difference between the Commissioners be settled by negotiation, it is morally certain, unless the British Commissioner shall be imbued with a new spirit, that new differences will immediately arise. There is not a hope of the execution of the convention in any way, unless *unrestrained* operation, in all possible cases, be given to the fifth article. Even then, from the structure of the convention, its results never can be satisfactory." This correspondence took place, as you will discover from the journal, after Mr. Cheves had yielded to the wish of the British Commissioner to make a new experiment to get along with the business of the Board—an experiment which he thought, and which it is evident, must be useless, as long as the British Commissioner continues to refuse to refer the question of interest, and other questions on which he disagrees with his associate, to arbitration; for, without the settlement of that question of interest, which applies to *every* case, it is altogether impracticable to decide *any*. It can be no longer doubted that the effect, if not the design, of the proceedings of the British Commissioner is to defeat, entirely, the commission, by first disagreeing, in all cases, with the American Commissioner, and then refusing, in every one, to call in the arbitrator of the convention. The President will not allow himself to believe that this conduct of its agent can be sanctioned by the British Government. The approbation of his refusal to refer the question of interest must have been hasty, and without due consideration.

However obviously it is the interest of both parties to put aside the commission, and to arrange, by a compromise founded on a spirit of mutual concession, a gross sum to be received in lieu of the awards of the Commissioners, you will forbear to make any proposal to that effect. After all that has yet occurred on that subject, both at London and Washington, this Government would be wanting in the respect which is due to itself if it submitted to the British Government any new proposal for a compromise. Should that Government think proper to offer any, you will receive and decide upon it according to your instructions. If they do not authorize you to agree to it, you will reject it, or, should you deem it worthy of consideration here, you will take it *ad referendum*.

But you will lose no time, on your arrival in England, in calling the attention of Mr. Canning to the state and prospects of the commission, and to urge that the British Government instruct their Commissioner to carry into effect the convention, by agreeing to refer all questions of disagreement whatever between the two Commissioners (including that of interest) to the arbitration of the convention. If that be refused, on the ground that the British Government has decided against the allowance of interest, you will then propose that the Commissioners shall proceed, under instructions to them, to refer all other questions of disagreement to the arbitration of the convention, with a reservation of the question of interest, to be left to the Emperor of Russia to decide whether it ought not to be referred to arbitration,

according to the true intent and meaning of the award of his imperial brother, and the convention to carry it into effect. If they refuse to agree to instruct their Commissioner to refer *all* questions other than that of interest, and should insist upon excepting from reference that in regard to Dauphin island also, you are authorized to agree to the exception of that also, provided they consent that it shall be reserved and referred to the Emperor Nicholas in like manner with that of interest. You are furthermore authorized to propose a general submission to the Emperor Nicholas of all the questions in which Mr. Jackson has refused the arbitration for his decision upon each and all of them, whether they ought or ought not to have been left to arbitration. A power comprehending an authority to agree to such partial or general reference to the Emperor of Russia, and also to compromise the dispute, accompanies these instructions. Perhaps you will find it advisable to have a conference with Mr. Canning on this subject, in which, if you do not perceive a strong probability of an amicable and speedy settlement of the differences, you will address an official note to him, pointing out the instances in which the convention, and especially the fifth article, has been violated by Mr. Jackson, and demanding of the British Government to require of him to yield his co-operation in calling upon one of the arbitrators, in the manner specified in the fifth article, to decide all the cases on which he and his colleague have heretofore disagreed, or on which they may hereafter disagree.

In making this fresh appeal to the friendly offices of the Emperor of Russia the parties will not present themselves to his Imperial Majesty in a very favorable light. We would not concur in it but from necessity. Should it be agreed to, it will be requisite that no time should be lost in bringing the case before the Emperor, as the Commissioners will have to continue in office until his decision is known, in order to conform their proceedings to it.

Mr. Vaughan, in all probability, has long since communicated to his Government the correspondence which took place between him and this, and it is not unlikely that, before your arrival in England, instructions will have been despatched to him adapted to the state in which that correspondence left the business. It will be expedient, therefore, prior to your entering on this negotiation, to ascertain whether such instructions have been transmitted.

By the sixth article of our treaty with Great Britain of November, 1794, it was agreed to establish a Board, consisting of five members, to award the compensation which ought to be made to British creditors, in consequence of being prevented from recovering the amount due to them from American citizens by various lawful impediments created contrary to the treaty of peace. It so happened that a majority of the Board was composed of British subjects, and that majority laid down such sweeping principles for their government that the American members of the commission felt themselves constrained to secede from the sessions of the Board, or unjustly to lend themselves to the subjection of their Government to the payment of a most enormous sum not in the contemplation of the parties to the treaty. Their session became the subject of subsequent negotiation and a correspondence between the two Governments, extracts from which are herewith transmitted to you. They were not sent to Mr. King, because, being our minister at the Court of London with whom they took place, they were familiar to him. After much delay and discussion the two countries agreed, by the convention of 1802, (see 1st volume of the Laws, page 225,) as has been recently proposed, to dispense with the commission altogether, and that the United States should pay to Great Britain the gross sum of £600,000, in satisfaction and discharge of the money which they might have been liable to pay if the commission had proceeded.

It is remarkable how, in respect to analogous commissions, the position of the British Government being shifted, they would shift the principles which they contend as applicable to the case. Lord Grenville insisted, in substance, that the two Governments had no control over the commission; that the decisions of the Commissioners, in all cases, were binding, and that the Government of the United States had no right to object to them as exceeding the limits of the treaty; and he called upon the American Government to fulfil its stipulations, by requiring the attendance of their seceding Commissioners, or appointing others in their stead. If it be retorted that, the position of the American Government being also changed, we now bring forward principles different from those which we contended for on the occasion of the former commission, you will not admit the statement. Our great objection, in the execution of the former commission, was, that the Board laid down general rules of boundless operation, and attempted to decide cases by classes, and not, as they successively arose, according to the practice of the courts of both countries; and that the inevitable effect was to enlarge the powers of the commission, and to extend the liability of the United States beyond the plain stipulations of the treaty. The validity of this objection was admitted, at least by implication, by the British Government; for Mr. King states, in his despatch of the 22d April, 1800, that Lord Grenville expressed his opinion "that the new Board [it was proposed to create a new one] ought to proceed in a different manner from their predecessors, by deciding cases *singly*, one after another, instead of attempting to decide them by general resolves and in classes."

Contrary to the course recently pursued by Mr. Canning, Lord Grenville had no difficulty in stating a gross sum which the British Government might be willing to receive, in lieu of the amount to be awarded by the commission, if it proceeded, and, in the first instance, mentioned between one and two millions sterling, although, ultimately, only £600,000 was agreed upon; and this sum was finally fixed, after mutual propositions and such a comparison of opinions as is indispensable, in any case, to enable two parties, with conflicting interests and views, to conclude a satisfactory arrangement. Without further recalling a recollection of the circumstances by which that amicable result was attained, it is to be regretted that the example has been lost on the British Government, whose recent course has not been such as to allow of a similar, or any other, friendly issue of the present commission.

I have the honor to be, with great respect, sir, your obedient servant,

H. CLAY.

ALBERT GALLATIN, *appointed Envoy Extraordinary and Minister Plenipotentiary to London.*

Extract of a letter from Mr. Clay to Mr. Gallatin.

"Mr. Vaughan also addressed a note to this Department, under date of the 20th ultimo, of which a copy is herewith, in regard to the non-execution of the St. Petersburg convention. The answer to it, of which a copy is also transmitted, will put you in possession of the views of the President on the two

points to which Mr. Vaughan's note refers. These views you will use, and strengthen and enforce by such additional observations as may occur to you, in your discussions with the British Government. In regard to the question relating to Dauphin island, the manner in which that Government expresses itself authorized the supposition that it might labor under a mistake in believing our title to the island to be derived from the Florida treaty of 1819, instead of that of Louisiana of 1803. It was thought, therefore, expedient to assume the existence of such a mistake, which would afford to the British Government an opportunity of a decent retreat from untenable ground. The treaty of Ghent renders unnecessary any consideration of the question of our title; the fact of possession, by the terms of the first article, and the reduction of it by the British forces, being sufficient to entitle us, first, to its restoration, and, secondly, to indemnity for the slaves taken away from it. After all that has occurred, both with Spain and with Great Britain, if the claim to compensation for those slaves should continue to be resisted upon the ground which has been assumed, there can be no difficulty in comprehending the real motive which actuates the British Government.

"I am your obedient servant, H. CLAY.

"ALBERT GALLATIN,

"*Envoy Extraordinary and Minister Plenipotentiary of the United States to Great Britain.*"

Letter from H. Clay to Albert Gallatin.

No. 10.] DEPARTMENT OF STATE, *Washington, October* 21, 1826.

SIR: Your despatch, No. 9, under date of the 13th day of September last, has been received, in which you intimate the propriety of an enlargement of your instructions, so as to admit of a compromise with the British Government of the slave convention, by accepting two hundred and fifty thousand pounds, if a larger sum be unattainable. Considering the impracticability of the existing Board, and the little prospect which it holds out of a speedy and satisfactory decision of the claims presented for its consideration, and confiding in your discretion, the President authorizes you to consent to receive that sum, if no larger can be obtained. You will, of course, not agree to it until you shall have exhausted all reasonable efforts to obtain more favorable terms. It will be better that it should be made payable in England, and you are also authorized to agree to receive it at the times suggested in your previous despatch, if shorter periods of payment should be declined.

I am, with great respect, your obedient servant, H. CLAY.

ALBERT GALLATIN, *Envoy Extraordinary and Minister Plenipotentiary of the United States, London.*

To the Senate of the United States:

In the message to both Houses of Congress at the commencement of their present session it was intimated that the commission for liquidating the claims of our fellow-citizens to indemnity for slaves and other property carried away after the close of the late war with Great Britain, in contravention to the first article of the treaty of Ghent, had been sitting in this city with doubtful prospects of success, but that propositions had recently passed between the two Governments which it was hoped would lead to a satisfactory adjustment of that controversy.

I now transmit to the Senate, for their constitutional consideration and advice, a convention signed at London by the plenipotentiaries of the two Governments on the 13th of the last month relating to this object. A copy of the convention is at the same time sent, together with a copy of the instructions under which it was negotiated, and the correspondence relating to it.

To avoid all delay these documents are now transmitted, consisting chiefly of original papers, the return of which is requested.

JOHN QUINCY ADAMS.

WASHINGTON, *December* 20, 1826.

Albert Gallatin, Envoy Extraordinary and Minister Plenipotentiary, to Henry Clay, Secretary of State.

No. 4.] LONDON, *August* 19, 1826.

SIR: I had my first interview with Mr. Canning at the Foreign Office on the 17th instant. He said, on my giving him the copy of my letters of credence, that he expected that the King would be in town on the beginning of next month, when I would have an audience, and that any unforeseen delay in that respect would in no degree affect the exercise of my diplomatic functions or retard the negotiations with which I was charged.

After some general and friendly conversation, I stated that I was specially instructed to call as soon as possible his attention to the proceedings of the commission appointed in pursuance of the St. Petersburg convention of 1822.

Acquiescing in the opinion expressed on a former occasion by Mr. Canning, that the questions arising out of the convention were not in themselves, at least in this stage of the business, a proper subject of discussion between the two Governments, I said that we did not complain that the British Commissioner should, on any such question, have differed in opinion from the American Commissioner, but of his having uniformly refused, whenever such difference had taken place, to refer the question to

the arbitrator in the manner provided for by the convention. That gentleman had thereby assumed the exclusive and unwarrantable authority of deciding alone on every question on which there was a disagreement between him and his colleague. It was impossible that the Government of the United States should submit to such an assumption. Our complaint was, that the convention was not executed; our application to the British Government would be that, the non-execution arising from the act of their Commissioner, positive instructions should be given to him to agree to a reference of every case or question coming before the commission where, not being able to agree, such reference was asked by the American Commissioner. To resort to the pretence that the points on which the reference had been refused were not questions arising out of the convention, was still deciding what was in question, that it was the province of the arbitrator to decide. In point of fact, all the questions on which the reference had been refused must be admitted to have been intimately connected with the subject—to have necessarily arisen from the nature of the claims under consideration.

Without either denying or admitting the correctness of those observations, Mr. Canning said that he had not been aware that the British Commissioner had refused to refer in any other case than that of interest; and on that question he acknowledged that much might be said on both sides. He asked whether there was no remedy provided by the convention for such occurrence as we complained of; and he inquired particularly whether Mr. King had not been, and whether I was not, authorized to settle the whole subject by a compromise. I answered, that there were not only other questions besides that of interest which the British Commissioner had refused to refer, but that, although I had not yet sufficiently investigated all the proceedings and papers, I believed that there was not a single instance in which the reference, when asked by his colleagues, had not been refused by him. That such reference was the only remedy provided by the convention was evident; and here I took the opportunity, but without expressly applying the observation to the non-execution of the convention, to express how preferable it appeared to my Government that every subject of difference between the two countries should be settled amongst themselves, rather than to apply to the decision of a third Power; an observation to which Mr. Canning fully assented.

As to a compromise, I said that Mr. King had undoubtedly been, and that I still was, authorized to agree to a reasonable one as a substitute for the convention. But as Mr. Canning had simply rejected as inadmissible the proposal which Mr. King had been invited to make on that subject without making any counter offer on his part, any overtures of that kind must now come from the British Government. If made, I would be ready to receive and discuss it; but I would make none myself. All I had to ask was, that efficient measures should be speedily adopted by the British Government for the *bona fide* execution of the convention.

Mr. Canning said that the reason why he had not accompanied his rejection of Mr. King's proposal with any explanation was, that, in his view of the subject, that proposal was not founded on the principles of a compromise. It had appeared to his Majesty's Government that the sum asked was equal to the whole amount of the claims filed, including the interest on the whole, and for the whole period. This was a matter of detail which I was not willing, and which I said I was not prepared to discuss.

In the course of the conversation, which was more desultory than it appears here, Mr. Canning recurred several times to the subject of compromise, and my answer was always substantially the same. He finally said that the ministers would re-assemble on the 1st of September, and that they would then determine on the best course to be pursued on that subject. That he would prefer a compromise to enforcing the convention may be fairly inferred. But I have not sufficient data from what fell from him to judge of the probability of his making such an offer as may be accepted. I did not fail to urge every reason there was, independent of those derived from the justice of our claim, for putting an end to the interminable delays which had already occurred. That sea officers should have carried away slaves to whom they had given an asylum might be understood; but then there ought to have been no hesitation on the part of the British Government to have made immediate compensation. If the number carried away was much greater than could possibly have been anticipated by them, it must have arisen from some omission or want of precision in the orders transmitted to their naval commanders when peace was announced to them. That after a refusal to indemnify, and reference to a third Power—that after a delay of eight years arising from those causes, and a decision supposed to be final had been obtained, new impediments should again be thrown in the way, had been wholly unexpected. In a matter of private claims, deemed to have been secured by three distinct treaties or conventions, and affecting the interests of many individuals, Mr. Canning must be sensible that such delays, almost amounting to a denial of justice, must have created a strong sensation. And there was a circumstance which he had, perhaps, forgotten, and which I would beg leave to remind him of, as having necessarily increased the displeasure felt on the present occasion. A stipulation, similar to that of the treaty of peace of 1814, had already been introduced in that of 1783, and it had been equally disregarded. This had been a cause or a pretence for the alledged non-fulfilment on our part of certain stipulations respecting the payment of British debts, and both had been followed by ten years of mutual recriminations and increased difficulties. But though most of these had then been settled, no indemnity had to this day been made for the slaves that had been carried away contrary to the provisions of the treaty of 1783. The effect of a renewed disregard of a similar stipulation, and affecting the same part of the country, would be easily understood, and required no comment.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Mr. Gallatin to Mr. Clay.

No. 7.] LONDON, *September* 12, 1826.

SIR: I stated in my last despatch that I was in hopes, in my next conference with Mr. Canning, to ascertain what would be the proper course to pursue on the subject of the proceedings of the commission under the St. Petersburg convention.

Previous to the day appointed for that interview (the 7th instant) he wrote me a note postponing it, on account of Mr. Huskisson's indisposition, to the 11th, and informing me at the same time that he would leave this city for Paris on this day.

On receiving this information, and seeing there would be no time left between the conference and his departure, I determined to forego the advantage which might be derived from a previous conversation, and to try at once to bring him to a point by stating officially those grounds of complaint which I had already mentioned, verbally, on my first conference of the 17th of August. Indeed, I thought it the best if not the only mode of ascertaining what were his real intentions, and whether he had or had not transferred the discussion to Washington.

You will perceive that in that note, dated the 6th instant, and of which a copy is enclosed, I confined myself strictly to the question of right, viz: that of a reference to an arbitrator in all cases where it was asked by the American Commissioner; * * * only alluding to the ultimate remedy which might be sought for by appealing to the Emperor of Russia, and carefully avoiding, in that respect, whatever might have the appearance of a threat. To that note I received, on the evening of the 10th, the answer dated the 9th, of which a copy is also enclosed. Yesterday, the 11th, I went, according to the appointment, to the Foreign Office, where I found both Mr. Canning and Mr. Huskisson. Mr. Canning immediately alluded to his note, and gave some explanation of it. I told him that the only object of my Government was to bring the discussion on that subject to a favorable issue as speedily as possible, and that if its transfer to Washington was calculated to attain that end, and not to produce unnecessary delays, they would be perfectly satisfied with that course. But as I was unacquainted with the nature of that despatch, the contents of which Mr. Vaughan was authorized to communicate to the Secretary of State, and with the extent of the discretionary powers with which he (Mr. Vaughan) had been intrusted on that occasion, it was utterly impossible for me to decide whether it was proper or not to suspend the discussion here until an answer had been received from Washington, and that in that respect I must abide by his decision.

I hardly need observe that, as Mr. Canning was leaving town the next day for France with an intention of being absent about six weeks, and as the discussion must in the meanwhile, at all events, cease, it was wholly immaterial whether it should for the present be formally considered as suspended or not.

Although Mr. Canning did not state what were the instructions given to Mr. Vaughan, I infer from the general tenor of the conversation which took place that they are not such as will lead to any result, and that your first despatch will give me such information as will enable me to resume the discussion by the time Mr. Canning returns.

The only important observations that fell from him were, that the right of reference could not be admitted generally; that there were substantial reasons for denying it on the question of interest, and that if admitted in that case, the result would be unequal and unjust on account of the contradictory decisions that would take place, according to the arbitrator on whom the lot might fall. He then said that the view taken of that subject by the British Government was, that the Commissioners should proceed in the examination of the claims, reserving the question of interest to be afterwards discussed between the two Governments, who would then be better able to judge of what ought or might be done on that point.

I will not trouble you with the arguments I adduced in reply to his general observations, and which are already familiar to you; but I declared explicitly that we could not agree to the course he proposed, and on which the British Commissioner had already insisted. The remedy provided by the convention in cases of disagreement between the two Commissioners might be defective, inconvenient, and unequal in its operation; but there was no other provided, and to that we must adhere. To agree to the postponement of the question of interest in the manner proposed would be an abandonment on our part of the right the convention gave us to refer, and leave us afterwards without any remedy but the uncertain result of the negotiation.

The turn the conversation took led again to the expedient of arranging the difference by compromise. I repeated what, in reply to Mr. Canning's question, I had stated in our first conference, that I had powers on that subject, as on all others, but that Mr. King's offer having been rejected without any being made on the part of Great Britain, I was not authorized to make another, but would be ready to receive and discuss any that Mr. Canning might be disposed to make. He made me repeat what I had said, and observed that he had not understood me precisely at our first interview.

My belief is, that there is a great reluctance in receding from the ground they have already taken in supporting Mr. Jackson, and that there is a disposition to compromise.

The remainder of what passed at that conference, as it relates to other subjects, will be stated in a distinct despatch.

I have the honor to be, respectfully, sir, your obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State.*

Mr. Canning to Mr. Gallatin.

FOREIGN OFFICE, *September* 9, 1826.

The undersigned, his Majesty's principal Secretary of State for Foreign Affairs, has the honor to acknowledge the receipt of the note of Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary from the United States, dated the 6th instant, relating to the proceedings of the commission appointed under the convention of St. Petersburg of the 12th of July, 1822.

Upon comparing that note with the copy, transmitted to the undersigned by his Majesty's Envoy Extraordinary and Minister Plenipotentiary in the United States, of a letter addressed to that minister on the 15th of April last by the American Secretary of State, the undersigned is inclined to believe that, had Mr. Gallatin been apprised that Mr. Clay's letter had been so communicated to the undersigned, and that an answer had been sent to Mr. Vaughan's despatch, the substance of which answer is to be communicated to Mr. Clay, Mr. Gallatin would have suspended for the present any further proceeding upon the same subject.

The undersigned had not the dates of this correspondence present to his mind at the time when he had first the honor of seeing Mr. Gallatin, and he was not aware, therefore, that what Mr. Gallatin might have to say to him upon the subject of the commission could not arise out of that correspondence.

Upon reference to the archives, he finds that Mr. Vaughan's despatch, enclosing the copy of Mr. Clay's

letter, not having been received here till the 27th of May, the answer to it, which bears date the 13th of June, cannot have reached America before Mr. Gallatin set sail for England.

The undersigned would therefore submit to Mr. Gallatin whether there can be any advantage in carrying on simultaneously two discussions on the same subject—the one through his Majesty's envoy in the United States, the other between Mr. Gallatin and the undersigned.

The undersigned only thinks it necessary here to repeat the assurance, which Mr. Vaughan is instructed to give to Mr. Clay, that the British Government is earnestly desirous of seeing the business of the commission brought to a speedy and satisfactory termination.

The undersigned requests Mr. Gallatin to accept the assurance of his high consideration.

GEORGE CANNING.

ALBERT GALLATIN, Esq.

Mr. Gallatin to Mr. Canning.

62 UPPER SEYMOUR STREET, *September* 6, 1826.

The undersigned, envoy of the United States of America, has been specially charged by his Government to make the following representation to Mr. Canning, his Majesty's principal Secretary for Foreign Affairs, respecting the proceedings of the commission appointed in conformity with the convention of St. Petersburg of the 12th of July, 1822.

It is not intended by the Government of the United States that a discussion should take place between the two Governments on the merits of any particular case, or of any question growing out of the convention, on which the Commissioners may have disagreed. The ground of complaint is, that when such disagreement has unfortunately taken place, the British Commissioner has uniformly refused the reference contemplated by the fifth article of the convention. Such disagreement has happened with respect to questions relative to evidence, to interest, to the definitive list, and to the territory where private property had been carried away. The proof and the effect of this uniform refusal are conspicuous in the fact that to this day not a single case or question has been referred to an arbitrator under the article aforesaid. The reason assigned has been that, in the opinion of the British Commissioner, none of the questions alluded to resulted from the stipulations of the convention. This, in every case, was precisely the subject of disagreement. To refuse to refer has, in every case, been to assume what was in question. He first, as Commissioner, rejects a claim or decides against a question because, in his opinion, it is not embraced by the convention; and then refusing, for the very same reason, to refer, he makes his own decision conclusive, and constitutes himself in every such instance the sole judge of the case. This cannot be considered but as defeating altogether the object of the convention, which has provided no other remedy for any possible difference of opinion between the Commissioners but the reference to an arbitrator.

As to any argument drawn from the possibility of extreme cases, it is sufficient to observe that it is precisely as possible that the British Commissioner should refuse to refer cases clearly embraced by the convention, as that the American Commissioner should propose to refer cases clearly not comprehended by that instrument; and that, in point of fact, all the questions on which a disagreement has actually happened were such as, whether embraced or not by the convention, were at all courts intimately connected with the nature of the claims and grew out of their consideration.

To judge from the past there would seem to be no limit to the number of cases or questions on which the two Commissioners may differ. To what extent the course heretofore pursued by the British Commissioner will be carried is unknown; but it is evident that the Government of the United States cannot acquiesce in that assumed interpretation of the convention which makes him the exclusive judge of every question.

On one occasion already has an explanation of the award of the Emperor of Russia been asked and given. To renew similar applications relative to the true meaning of that decision, or of the convention concluded under his mediation, for the purpose of carrying that award into effect, would, to the United States at least, be most unpleasant.

It is their earnest wish that every subject of difference between the two countries should be adjusted by amicable arrangements and among themselves. This course they sincerely believe to be far better calculated to preserve and promote harmony and friendly relations, and in every respect preferable to a reference to a third Power.

The undersigned has accordingly been instructed to lay the facts above stated before his Majesty's Government, in full confidence that a complaint so entirely founded in justice will be redressed, and that a proper and efficient remedy will be applied. To infuse a new and more accommodating spirit would be highly useful. What the Government of the United States think they have a strict right to ask is, that in order to give its true and full effect to the convention the British Commissioner shall be instructed to assent to the reference contemplated by the fifth article in all the cases and upon all the questions on which a disagreement has already taken place, or may hereafter happen between the two Commissioners, whenever such reference is asked by his colleague.

The undersigned requests Mr. Canning to accept the reiterated assurance of his highest consideration.

ALBERT GALLATIN.

Right Hon. Mr. CANNING, *&c., &c., &c.*

Mr. Gallatin to Mr. Clay.

No. 9.] LONDON, *September* 13, 1826.

SIR: Private information, received since my despatch No. — of yesterday, authorizes me to say that this Government is disposed to offer £250,000 in lieu of the indemnity which might be obtained by virtue of the St. Petersburg convention, the payment to be made by instalments, the first of which not before April or May next, and the last not later than April or May, 1828.

Although, in that case, every effort will be made to demonstrate the justice of a more adequate compensation, and to obtain it, I am of opinion that the attempt will be useless. There is, as far as I can judge, a settled determination not to apply to Parliament for any additional appropriation. It is clear that the conduct of the naval officers who carried away the slaves might have been prevented if positive and explicit orders had been sent to them at the time. One of them is now one of the Lords of the Admiralty. The clause in the Ghent treaty would also be represented as improvident, and as a proof of incapacity on the part of the British plenipotentiaries; and a discussion on the reference to the Emperor of Russia, and on his decision, would be unpleasant to the ministry.

I make these observations in anticipation, and before I can announce that the proposal has been officially made, because, if I am right in my view of the subject, the sum in question, though coming very near, *may* fall somewhat short of the minimum prescribed by the instructions.

Your estimate of that minimum is—

Claims that will be admitted—principal	$886,000
Ten years' interest, at 6 per cent., $531,600, one-half of which, according to the chances of reference, would be obtained under the convention	265,800
Total	1,151,800

But one year has elapsed since you made the estimate, and I apprehend that you calculated the interest to the time when you wrote, and not with reference to that when the payments would be made. Calculating the interest from May 1, 1815, to May 1, 1827, is twelve years instead of ten, and, taking the half of it, is 36 instead of 30 per cent. on the principal.

The estimate thus corrected would be—

Principal	$886,000
Twelve years' interest, at 6 per cent., $637,920, one-half of which is	318,960
Estimated interest on instalments subsequent to May 1, 1827	28,040
Total	1,233,000

Which last sum appears to me to be the true minimum, as prescribed by the spirit of the instructions.

This sum of $1,233,000, calculated at what is erroneously called par—that is to say, at 4*s.* 6*d.* sterling per dollar—is equal to £277,425.

Calculated at 4*s.* 2½*d.* per dollar, which is its true value, it would be equal to about £259,443.

Supposing the exchange to continue as it is, viz: 10 per cent. below the nominal par, the said $1,233,000 would be procured in America for bills on London amounting to a fraction less than £250,000, or on an average three months earlier than the dates on which the payment of the instalments has been calculated.

On this last supposition, therefore, the sum proposed would cover the minimum as calculated by me; and it is wholly improbable that the exchange will fall below the real par, at which rate (4*s.* 2½*d.* per dollar, or 7 per cent. below the nominal par) the £250,000 would produce about $1,188,000, perhaps received about three months earlier than calculated.

This, to be sure, is but a trifle below the sum prescribed; yet, as the fact whether the £250,000 will actually cover the sum or minimum depends on a contingency, viz: the rate of exchange at the time, I request to be informed immediately whether, if nothing better can be obtained, I am authorized to accept it. It would not be worth while to refer, for that purpose, the whole case to Washington, and, in truth, I do not believe that I will have it in my power to do it, or that the proposal will be officially made to me until after it shall have been ascertained that it will be accepted.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN

Hon. HENRY CLAY, *Secretary of State, Washington.*

Mr. Gallatin to the Secretary of State.

No. 11.] LONDON, *September* 16, 1826.

SIR: I have the honor to enclose copy of my answer of this day to Mr. Canning's note of the 9th instant relative to the slave commission. Independent of the reasons already mentioned, I was the more inclined to make no objection to the suspension of the discussion for the present, on account of the unofficial proposal of compromise.

The more I have reflected on this the more I feel satisfied of the propriety of acceding to it, and of the improbability of obtaining better terms.

Amongst other considerations, I will observe that your estimate, founded on the information received from the American Commissioner, has for basis the chance of what we could get under the convention, supposing this Government to accede to our demands that the British Commissioner should refer, in every case, when required by his colleague so to do. Mr. Cheves, in his calculation, has made no deduction from the amount claimed for the Georgia and Louisiana slaves. He believes that the proofs will be sufficient with respect to all of them; but, considering his colleague's temper, it cannot be doubted, especially if instructed to refer, as above stated, that he will be still more difficult, and ask himself, for a reference in numerous cases where the proof shall have appeared satisfactory to Mr. Cheves. In all such cases our chance is but one-half of the claim, and it is already certain that we must abide by that chance as respects the Louisiana slaves, the reference having been asked in that case by our Commissioner.

This item alone amounts to £32,000, making a deduction of £16,000 in the estimate, on the same principle on which it has been calculated.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State.*

Mr. Gallatin to Mr. Canning.

UPPER SEYMOUR STREET, *September* 16, 1826.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States, had the honor to receive the note of Mr. Canning, his Majesty's principal Secretary of State for Foreign Affairs, dated the 9th instant, and written in answer to the note of the undersigned of the 6th, relating to the proceedings of the commission appointed under the convention of St. Petersburg of the 12th of July, 1822.

The object of both Governments is to avoid unnecessary delays, and to bring the business of the commission to a speedy and satisfactory termination. Whether this will be accelerated by the transfer of the discussion to America depends on the nature and extent of the powers of Mr. Vaughan in that respect. The undersigned, being unacquainted with these, and unable to form an opinion on the subject, abides by that of Mr. Canning. He does it the more cheerfully as, by comparing dates, it appears that information of the result at Washington may be expected by the time when the discussion can, if necessary, be renewed with convenience in this country.

The undersigned requests Mr. Canning to accept the assurance of his high consideration.

ALBERT GALLATIN.

Right Honorable GEORGE CANNING, *&c., &c., &c.*

Mr. Gallatin to Mr. Clay.

No. 18.] LONDON, *November* 4, 1826.

SIR: Mr. Canning having returned to London two days ago, I lost no time in asking an interview, which took place yesterday. I ultimately proposed to accept £270,000 as an indemnity for the slaves and other property carried away contrary to the stipulations of the treaty of Ghent, the additional £20,000 which I asked to make part of the last instalment. To this proposal he was not prepared or disposed to accede, and said he must have time to consider it.

You will perceive, by reference to my former letter, and by making the calculations, that the £250,000 offered are equivalent, at the exchange of 10 per cent. below the nominal, or about 4 per cent. below the real par, to the minimum contemplated by the instructions, adding two years' *half interest* thereto; and, as this has been the average exchange for the last twelve months, I intend to accept that sum if Mr. Canning refuses to accede to my proposal. There are other reasons for it, which have been mentioned in my former despatch on this subject.

I pray you to recollect that all that has heretofore passed respecting compromise has been confidential and unofficial, and with the understanding that, in case we should not agree, nothing that had taken place should be published, or considered as affecting the rights of either party.

I have the honor to be, respectfully, sir, your most obedient and very humble servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State, Washington.*

Mr. Gallatin to Mr. Clay.

[Confidential.]

No. 22.] LONDON, *November* 11, 1826.

SIR: The informal offer of £250,000 in lieu of the sums which Great Britain might be liable to pay as indemnity and compensation for the slaves and other private property carried away in contravention of the 1st article of the treaty of Ghent was founded on the following basis, viz:

Claims admitted by both Commissioners		£140,000
Claims doubtful, on which reference under the convention would be asked	£80,000	
And which, the chances of the arbitrator's decision being equal, would be reduced to one-half		40,000
Making the probable amount of principal that would be allowed under the convention		180,000
The chance of the interest being also equal, one-half of it only should be added to the principal; and as the American rate of interest was 6, and the British 5 per cent., this question would also be referred; the rate of interest must therefore be taken at 5½, one-half of which was 2¾ per cent. for 12 years		59,400
Total		239,400

The difference between which and the £250,000 offered would more than cover the interest on the deferred instalments.

In my informal answer given on the 3d instant I admitted that though, in justice, the whole interest was due to the claimants, yet, taking into consideration the chances of a reference under the convention, the reduction of the interest to one-half was a proper basis of compromise. But I objected to the British rate of interest being assumed as one of the elements of the calculation, since the damages arising from delay had been sustained in America. As related to the principal, admitting, also, the reduction to one-half of the claims which might be referred as doubtful, I said that claims to the amount of two hundred thousand pounds were considered by the American Commissioner as indisputable; and about sixty thousand pounds might be considered as doubtful, either for want of legal proof or for other reasons. Even supposing that the British Commissioner should raise objections against all the claims, £140,000

only excepted, I could not estimate the principal that probably would be allowed under the convention at less than..... £200,000
The twelve years' interest, at 3 per cent. on which, being..... 72,000

Would make the total amount, if paid on May 1, 1827..... 272,000

But if the payments were made in London on the drafts of the Treasurer of the United States, I would take £270,000 in three instalments, at the same dates which had been offered, viz: £100,000 on 1st May next, £100,000 on 1st November ensuing, and £70,000, instead of the £50,000 offered, on May 1, 1828.

Mr. Canning invited me to an official conference at the Foreign Office for the 9th instant, at which Messrs. Huskisson and Addington, the plenipotentiaries appointed to treat with me, also attended. After some preliminary observations on the informal communications which had taken place, and having stated that all the claims having been made in dollars, any agreement we might make for a gross sum in lieu thereof must be expressed in the same currency, they offered, as the highest sum which, after a thorough investigation, they could give, twelve hundred thousand dollars.

I stated that, as related to the informal proposals, mine was expressed in pounds because that of Mr. Canning was in that currency; that from my having asked that the payments should be in London, it was clear that I had taken the rate of exchange into consideration, not indeed at its present high rates, on which I could not rely, since the payments were offered at six, twelve, and eighteen months from this date, but at that which I considered the true par, or at about 5½ per cent. above the nominal par, and that my proposal of £270,000, payable in three instalments, was founded on that basis. Now that a formal offer of $1,200,000 was made, and in the shape of an ultimatum, I would give mine, from which I could not recede, as it was the minimum prescribed in my instructions. It would be $1,204,960, payable on the 1st of May, 1827, with interest at the rate of six per cent. a year on any portion of that sum, the payment of which should be made subsequent to that day. As to the sum itself, I expressed my regret to be compelled to ask the amount in addition to that offered in round numbers, but in every instruction there must be some limit, and the amount of interest produced that fractional sum. You will recollect that the minimum prescribed in the instructions to my predecessors, and to which I was referred, was $886,000 principal; the rate of interest was fixed at 3 per cent., and that there would be next spring 12 years of interest. The 1st of May, 1815, had been agreed on as the time from which it should commence.

My proposal was ultimately agreed to, but as the British plenipotentiaries had not yet the necessary information of the time when the payments would suit the convenience of the Treasury, the amount and dates of the instalments were left undecided for the moment, and we proceeded to arrange the details of the convention, to which I will hereafter advert. Most of them having been arranged, as I had come prepared with a draft of a convention, it was agreed that I should leave it with the British plenipotentiaries, and that after having made the alterations in conformity with what we had agreed on, they should send me the next day a new draft for my inspection, and that we should again meet this day at the Foreign Office in order to conclude.

The draft was accordingly sent to me yesterday by Mr. Addington, and having made in the margin several necessary alterations, I was ready to return, it when I received a private note from him, intimating that Mr. Canning considered it as indispensible that the ratifications should be exchanged in London; that an article to that effect was therefore sent to me, and also an alteration in the article which provided for the instalments, they being now made to depend on the date of that exchange, instead of fixing the precise days on which they should be paid. In my original draft, Washington was designated as the place for exchanging the ratifications. In that first prepared by Mr. Addington and sent to me there was no article providing for the exchange, and the dates and amount of instalments were still left in blank.

The reason for making London the place where the ratifications should be exchanged was sufficiently obvious; it was a subject not proper for discussion, at least on my part; and in the sequal Mr. Canning avoided to approach it. On principle I could not object to it, since the right of selecting the place where to exchange the ratifications was equal on both sides; and Washington having in general been the place heretofore agreed on, London might now be asked on the ground of reciprocity.

I answered Mr. Addington, also, in a private note, avoiding to make the question one of right, or in itself of any importance, but stating merely the inconveniences that would arise from the uncertainty of the times of the payment, and from the delay in the adjustment of claims, since the convention would not be laid before Congress till ratified by both parties. I added that I would call at the Foreign Office at 3 o'clock, in order to try to obviate the difficulty, if Mr. Canning should be disengaged, and could receive me.

When I called I found there was a Cabinet council, but Mr. Addington to receive me. I proposed to him that the payment of the first instalment should be postponed until the 1st of November, interest being paid on it to that date from the 1st of May. This he thought would be inadmissible, as they were limited, as well as myself, as to the gross sum to be paid, and would not swell it with additional interest. In saying this he alluded, undoubtedly, to the great reluctance of exceeding the estimate for that object which had been laid before Parliament. He carried, however, my proposal to Mr. Canning, and returned after awhile with a proposition intended, as he said, to obviate, as far as practicable, the inconvenience complained of. It was, that half the money should be paid after the ratification of the convention by the President, but without waiting for that of the King. This would give us a sufficient pledge, if any indeed was wanting, that his ratification would certainly follow that of the President. The second instalment they would pay on the 1st of August, which was as long after the 1st of May as the probable time which would elapse between the payment of the first instalment and the last mentioned day, so as to make both together tantamount to a payment of the whole on the 1st of May, and therefore without interest. As they were ready to pay the money, they could not take into consideration the delay which might arise on account of the early adjournment of Congress; but they presumed that the anticipated payment of the first half might also facilitate an anticipated provision on our part for the adjustment of the claims. The proposition, considered without reference to this last point, but only as connected with that of exchanging the ratifications in London, appeared to me sufficient, and I accordingly accepted it. In a conference which took place the same afternoon, after the council had been dissolved, with the British plenipotentiaries and Mr. Canning, the few details not yet arranged were adjusted; but in order to have

time for transcribing four fair copies of the convention, the next meeting was postponed to Monday the 13th instant.

In arranging the details, the object of the British plenipotentiaries was to be fully discharged, not only from any demand on account of the claims, but also from any species of responsibility as to the manner in which these claims might be adjusted and paid. This they said belonged exclusively to the United States; and they rejected altogether the clause I proposed, that if the sum paid by Great Britain should fall short of the principal of the claims allowed, there should be a ratable deduction from such claims respectively, and that if there was a surplus it should be distributed in the same proportion among the claimants. I stated that, exclusive of the wish to facilitate the labors of the new American commission which must be appointed to adjust the claims, the compromise being founded on the estimate of their amount, and this again on the valuation of the slaves as already fixed by the present commission, and on the total amount of the claims presented to it, it was necessary that those two bases should be preserved. For that purpose it was agreed that, in annulling the convention of St. Petersburg, the second article, which provides for the valuation of slaves, should be preserved as having been already executed, and that so much of the third article as related to the definitive list, and had already been executed, should also be preserved; leaving no question open, in that respect, but that of the claims not included in the definitive list on account of omissions in the Department of State, on which particular question the Commissioners had not made a decision. The sum to be paid by Great Britain was defined to be "for the use of the persons entitled to indemnification and compensation by virtue of the decision of the Emperor of Russia and of the convention of St. Petersburg," so as to make that decision and convention the rules which must govern the proceedings of the new commission. The British plenipotentiaries refused to enter into any other stipulations as to the manner in which the United States should direct the adjustment and payment of the claims to be made, and a clause was inserted at their request, "that the British Government should have no further concern or liability on that subject," in order to avoid a possibility of an appeal to Great Britain, as party to the convention, by any claimant who might complain that the decision of the United States in his case was not in conformity with the provisions of the convention.

I think that Mr. Canning was sensible from the beginning that our right to a reference in all cases under the St. Petersburg convention was well founded, and that the embarrassment arising from the ground assumed, perhaps without sufficient consideration on that question, and the inconvenience of an appeal to the Emperor of Russia, were strong motives for making a compromise. He also appeared struck with an observation I made at one of our interviews: that a similar provision to that of the 1st article of the treaty of Ghent had been inserted in the treaty of peace of 1783; that slaves had, in contravention thereto, been also carried away, and for whom, to this day, no compensation had ever been made, and that a repetition of the same injury, in relation to the same species of property, and affecting the same part of the country, had a most unfavorable aspect. I believe, also, that, satisfied that the steps taken here on the subject of the colonial intercourse would be considered as not of a very friendly nature, he was desirous to arrange, at this time, this vexatious subject of difference. He was, I am confident, equally determined not to go beyond the estimate laid before Parliament, and he is entitled to the credit of having at once offered the sum he meant to adhere to. Had he not gone to France the very day he sent me his informal proposal, the business would have been arranged six weeks ago.

I have said that he had avoided a discussion on the question of the place where the ratifications should be exchanged. He, however, told me, after the agreement was made, that he admitted fully what I had stated to Mr. Addington, that the convention could not be laid before Congress until ratified by both parties. This, I presume, was said designedly, as, from the view entertained of the subject here, such a course would appear extremely objectionable in reference to this Government. I presume that such information may, nevertheless, be given to Congress of the great probability of a compromise taking place as may justify an act providing for that contingency, and investing the President with the necessary powers, so that the new commission may at once be organized, and proceed to the adjustment of the claims. Although I have no authority for it, it is very evident that the proceedings in the case of the slave trade convention are the cause of London being selected for the place where to exchange the ratifications. And I think I may state with tolerable correctness the view which is taken here of that subject. No fault is found with the decision of the Senate in this or any other similar case. This is considered as a natural and occasionally unavoidable consequence of the political institutions of the United States. It is expected that each branch of Government must and will exercise its discretion on all subjects which by the Constitution are made to depend on its decision. But this circumstance produces this effect, that the power of giving instructions, in fact of carrying on negotiations, and that of ratifying, not being placed in the same hands, the ratification ceases to be a matter of course, but is a substantial act quite distinct from that of concluding and signing; whilst in Great Britain both powers belonging to the same person or body, there is always a moral certainty that a treaty concluded will be ratified. The exceptions, at least, are extremely rare, arising from a departure from the instructions, or from some important unforeseen event, and always requiring a solemn explanation. It is on * * * that difference, as I understand, that is founded the argument that, in order to place in their respective negotiations both countries on an equal footing, it is necessary that the ratification of the United States should precede that of Great Britain; the first being necessarily always uncertain, whilst that of England may almost always be considered as certain. I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State, Washington.*

P. S.—By designating this letter "confidential" it is not intended that it should not remain on the files of the Department of State, but only to suggest that, on account of some of its details, it is not at this time altogether fit for publication. I will write another letter in transmitting the convention.

A. G.

Mr. Gallatin to Mr. Clay.

No. 23.] LONDON, *November* 13, 1826.

SIR: I have the honor to transmit a new convention, concluded this day with the British plenipotentiaries, by which Great Britain agrees to pay and the United States agree to accept the sum of $1,204,960

in lieu of and satisfaction for the indemnity due on account of slaves and other private property carried away in contravention of the first article of the treaty of Ghent.

In my first conferences with Mr. Canning, and in my note to him of the 6th of September, I had only insisted, according to my instructions, on a faithful execution of the convention of St. Petersburg. By my note of the 16th of the same month I acceded to the suggestion contained in his of the 9th, to postpone the discussion of that subject. This I was induced to do, both on account of his intended journey to Paris and because he appeared disposed to offer a compromise.

The basis of that now agreed upon is, that the choice of the arbitrator's decision on all the questions on which the Commissioners may differ being considered as equal, the claim for interest, and all those of a doubtful nature, should be reduced to one-half. There was, as might have been expected, a difference in our estimates of doubtful claims ; and the sum finally agreed upon is that, adding thereto two years' *half interest*, which was stated in the instructions to my predecessor, to which I was referred, as the least which the United States would accept.

The principal, as estimated by the instructions, was.....	$886,000
Twelve years' interest from the 1st May, 1815, the day from which it was agreed that it should commence, would, at six per cent., have amounted to $637,920—one-half of which, according to the instructions and to the basis of the compromise, is.....	318,960
	1,204,960

This sum is made payable in two equal instalments, the dates of which are such as to make both, as nearly as we could estimate, equivalent to a payment of the whole on the 1st of May, 1827.

The estimate of $886,000 principal was, as you know, made on the best data in the possession of the American Commissioner under the St. Petersburg convention. It is possible that there may be claims admissible beyond that amount. But, on the other hand, that estimate includes a sum of near $150,000 on account of slaves carried away from Dauphin island, which was disputed, on which a reference had already been asked, and the decision on which was therefore doubtful. Upon the whole, I believe that, although the sum payable by Great Britain under this new convention falls short, principally as relates to interest, of what was due in justice to the claimants, yet it is more than all that could have been received under the convention of St. Petersburg, even supposing the right of asking for a reference in cases where the Commissioners differed, to have been allowed in all cases and to its fullest extent.

The British plenipotentiaries objected to stipulations which might be construed as making them parties to the manner in which the claims might hereafter be adjusted or paid; and they rejected altogether the clause, which I was instructed to propose, respecting the apportionment of the money in case it should either exceed or fall short of the whole amount of claims finally allowed. The other provisions suggested by the instructions have, however, been substantially made part of the convention by preserving so much of the St. Petersburg convention as related to them.

The average value of slaves, as fixed by the Board appointed under the last mentioned convention, is made absolute by virtue of the second article of this convention, which also confirms the definitive list of claims, leaving no question open, in that respect, but that of the claims not included in that list on account of omissions in the Department of State, on which particular question the Commissioners had not made an ultimate decision.

The words in the first article which declare that the sum agreed upon is paid and received "for the use of the persons entitled to indemnification and compensation by virtue of the decision of the Emperor of Russia and of the convention of St. Petersburg," will serve as a rule to govern the proceedings of the new American commission which may be appointed for the final adjustment of the claims.

The last paragraph of the fourth article, which provides that "the British Government shall have no further concern or liability with respect to the adjustment of the claims and to the distribution of the money," was inserted at the request of the British plenipotentiaries, in order to remove every doubt in that respect, and particularly to prevent the possibility of an appeal to Great Britain, as party to the convention, by any claimant who might complain that the final decision in his case was not in conformity with the stipulations of the convention.

It has been agreed that the ratifications should be exchanged in London. To this I objected, on the ground of the delay it might produce. But I could not object on principle, the right to select the place being equal on both sides, and the exchange having heretofore generally taken place at Washington, which was also specially designated in the St. Petersburg convention. The anticipated payment of the first instalment is, in the meanwhile, a pledge, if any was wanted, that the convention will certainly be ratified by Great Britain.

I have the honor to be, respectfully, sir, your most obedient and very humble servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State, Washington.*

Mr. Gallatin to Mr. Clay.

No. 27.] LONDON, *November* 17, 1826.

SIR: I had the honor to receive yesterday your letter of the 21st ultimo, in answer to mine of 13th September, and authorizing the acceptance of Mr. Canning's offer of £250,000 in lieu of the indemnity due on account of slaves and other private property carried away in contravention of the treaty of Ghent. Although it was hardly possible to have received an answer within a shorter time, the convention, as you know, was already signed when it reached me. But it is gratifying to find that the President had concurred in the view I had taken of the subject.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State, Washington.*

Convention with Great Britain.

Difficulties having arisen in the execution of the convention concluded at St. Petersburg on the twelfth day of July, 1822, under the mediation of his Majesty the Emperor of all the Russias, between the United States of America and Great Britain, for the purpose of carrying into effect the decision of his Imperial Majesty upon the differences which had arisen between the said United States and Great Britain on the true construction and meaning of the first article of the treaty of peace and amity concluded at Ghent on the twenty-fourth day of December, 1814, the said United States and his Britannic Majesty, being equally desirous to obviate such difficulties, have respectively named plenipotentiaries to treat and agree respecting the same, that is to say:

The President of the United States of America has appointed Albert Gallatin their Envoy Extraordinary and Minister Plenipotentiary to his Britannic Majesty, and his Majesty the King of the United Kingdom of Great Britain and Ireland the Right Honorable William Huskisson, a member of his said Majesty's most honorable Privy Council, a member of Parliament, President of the Committee of Privy Council for Affairs of Trade and Foreign Plantations, and Treasurer of his said Majesty's Navy, and Henry Unwin Addington, Esq., late his Majesty's Chargé d'Affaires to the United States of America, who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon and concluded the following articles:

ART. I. His Majesty the King of the United Kingdom of Great Britain and Ireland agrees to pay, and the United States of America agree to receive, for the use of the persons entitled to indemnification and compensation, by virtue of the said decision and convention, the sum of twelve hundred and four thousand nine hundred and sixty dollars, current money of the United States, in lieu of and in full and complete satisfaction for all sums claimed or claimable from Great Britain, by any person or persons whatsoever, under the said decision and convention.

ART. II. The object of the said convention being thus fulfilled, that convention is hereby declared to be cancelled and annulled, save and except the second article of the same, which has already been carried into execution by the Commissioners appointed under the said convention, and save and except so much of the third article of the same as relates to the definitive list of claims, and has already likewise been carried into execution by the said Commissioners.

ART. III. The said sum of twelve hundred and four thousand nine hundred and sixty dollars shall be paid at Washington to such person or persons as shall be duly authorized, on the part of the United States, to receive the same, in two equal payments, as follows:

The payment of the first half to be made twenty days after official notification shall have been made by the Government of the United States to his Britannic Majesty's minister in the said United States of the ratification of the present convention by the President of the United States, by and with the advice and consent of the Senate thereof; and the payment of the second half to be made on the first day of August, 1827.

ART. IV. The above sums being taken as a full and final liquidation of all claims whatsoever arising under the said decision and convention, both the final adjustment of those claims and the distribution of the sums so paid by Great Britain to the United States shall be made in such manner as the United States alone shall determine, and the Government of Great Britain shall have no further concern or liability therein.

ART. V. It is agreed that, from the date of the exchange of the ratifications of the present convention, the joint commission appointed under the said convention of St. Petersburg of the twelfth of July, 1822, shall be dissolved, and, upon the dissolution thereof, all the documents and papers in possession of the said commission relating to claims under that convention shall be delivered over to such person or persons as shall be duly authorized, on the part of the United States, to receive the same; and the British Commissioner shall make over to such person or persons so authorized all the documents and papers (or authenticated copies of the same where the originals cannot conveniently be made over) relating to claims under the said convention which he may have received from his Government for the use of the said commission, conformably to the stipulations contained in the third article of the said convention.

ART. VI. The present convention shall be ratified, and the ratifications shall be exchanged in London in six months from this date, or sooner if possible.

In witness whereof, the plenipotentiaries aforesaid, by virtue of their respective full powers, have signed the same, and have affixed thereunto the seals of their arms.

Done at London this thirteenth day of November, in the year of our Lord one thousand eight hundred and twenty-six.

[L. S.] ALBERT GALLATIN.
[L. S.] WILLIAM HUSKISSON.
[L. S.] HENRY UNWIN ADDINGTON.

19TH CONGRESS.] No. 442. [2D SESSION.

BRITISH COLONIAL TRADE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES DECEMBER 22, 1826.

To the House of Representatives of the United States:

I communicate to the House of Representatives a report from the Secretary of State, with a copy of the three articles, marked A, requested by the resolution of the House of the 19th instant. The third of those articles relating to a subject upon which the negotiation between the two governments is yet open, the communication of all the other documents relating to it is reserved to a future period, when it may be closed.

JOHN QUINCY ADAMS.

WASHINGTON, *December* 22, 1826.

DEPARTMENT OF STATE, *Washington, December* 21, 1826.

The Secretary of State, to whom the President has referred the resolution of the House of Representatives of the 19th instant, requesting him to furnish the House with "a copy of the three articles (marked A) referred to in the protocol of the third conference of the American and British plenipotentiaries on the 5th of February, 1824," has the honor to report herewith a copy of the three articles requested. The first two of those articles relate only to the British colonial trade, and it was a clerical omission that they were not among the other documents relating to that subject communicated by the President to Congress at the commencement of the present session. The third article relates to another subject which is still under negotiation between the Governments of Great Britain and the United States, and the propriety is therefore submitted of its being communicated at this time to the House of Representatives.

All which is respectfully submitted.

H. CLAY.

A.

I. Whereas by the trade as it now exists under the respective laws and regulations of the two high contracting parties, between certain enumerated ports of his Britannic Majesty's colonies in America and the West Indies and the ports of the United States, discriminating duties and charges are reciprocally imposed and levied upon the vessels and cargoes of each nation in the ports of the other as aforesaid; and whereas it is the desire of the contracting parties, for the reciprocal advantage of their subjects and citizens, to abolish all such discriminating duties and charges: It is therefore agreed, that upon the vessels of the United States admitted by law into all and every one of his Britannic Majesty's colonial ports as aforesaid, and upon any goods, wares, and merchandise lawfully imported therein in the said vessels, no other or higher duties of tonnage or impost, and no other charges of any kind, shall be levied or exacted than upon British vessels, including all vessels of the colonies themselves, or upon the like goods, wares, or merchandise imported into the said colonial ports from any other port or place whatever, including Great Britain and the colonial ports themselves; and that upon the vessels of Great Britain admitted by law into all and every one of the ports of the United States, and upon any goods, wares, and merchandise lawfully imported therein in the said vessels, no other or higher duties of tonnage or impost, and no other charges of any kind, shall be levied or exacted than upon vessels of the United States, including vessels of each and every one of the said States, or upon the like goods, wares, or merchandise imported into the United States from any other port or place whatever.

II. For the more perfect fulfilment of the intentions of the high contracting parties, as expressed in the foregoing article, it is agreed that the trade to which it has reference shall continue on the footing upon which it now stands by the laws and regulations of the two countries respectively, with the exception of the removal by Great Britain of the duties specified in the schedule C of the act of Parliament passed on the twenty-fourth day of June, one thousand eight hundred and twenty-two, in the third year ment passed on the fifth day of August in the same year and reign, chapter one hundred and nineteen, of his present Majesty's reign, chapter forty-four, and those specified in schedule B of the act of Parliaand of the removal by the United States of all additional duties of tonnage in the light of foreign tonnage duty, and of all additional duties of impost in the light of foreign impost, existing against British vessels and merchandise coming to the United States from any of the colonial ports aforesaid; and the high contracting parties pledge themselves to remove reciprocally the duties herein recapitulated, as well as all other discriminating duties and charges, of whatever kind they may be, intending by this and the foregoing article to be removed, it being the desire and intention of the parties to place the aforesaid trade upon a footing of perfect equality in all respects.

III. It is agreed by the high contracting parties that the navigation of the river St. Lawrence shall be at all times free to the citizens of the United States, as to the subjects of Great Britain, in its whole breadth and length to and from the sea, and that the vessels belonging to either party shall not be stopped, visited, or subjected to any let, impediment, or hindrance whatsoever by the other; nor shall they be liable to the payment of any duty whatever for this right of passage on the said river. But respecting such moderate and reasonable tolls as either party may claim and appear entitled to, the high contracting parties agree to treat at a future day, that the principles regulating the same may be adjusted to mutual satisfaction.

19TH CONGRESS.] No. 443. [2D SESSION.

PROCEEDINGS OF CONGRESS OF MINISTERS AT PANAMA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES DECEMBER 22, 1826.

To the House of Representatives of the United States:

I transmit to the House of Representatives a report from the Secretary of State, with sundry documents containing the information requested by two resolutions of the House of the 15th instant, relating to the proceedings of the Congress of ministers which assembled last summer at Panama. The occasion is taken to communicate, at the same time, two other despatches from the minister of the United States to the Mexican Confederation, one of which should have been communicated at the last session of Congress, but that it was then accidentally mislaid, and the other having relation to the same subject.

JOHN QUINCY ADAMS.

WASHINGTON, *December* 26, 1826.

DEPARTMENT OF STATE, *Washington, December* 21, 1826.

The Secretary of State, to whom the President has referred two resolutions of the House of Representatives, adopted on the 15th instant, by the first of which the President is requested to furnish to the "House any information in his possession, which, in his opinion, may be communicated without detriment to the public service, concerning the nature of the stipulations contained in the treaty of league and perpetual friendship, the convention respecting contingents, and the special convention and compact which were concluded and signed at Panama on the 15th July last," and, by the second, to communicate "any information in his possession relative to the organization, proceedings, and adjournment of the Congress lately held at Panama, which, in his opinion, may be communicated without detriment to the public interest," has the honor now to report to the President:

1. Copy of a despatch from Mr. Poinsett, (No. 53,) under date the 20th August, 1826, with the accompanying documents.

2. An extract from a despatch from the same minister, (No. 55,) under date the 26th August, 1826, with the accompanying documents.

3. Copy of a despatch from the same minister, (No. 56,) under date the 6th September, 1826. Extracts.

4. Copy of a despatch from the same minister, (No. 58,) under date the 23d September, 1826.

5. Copy of a despatch from the same minister, (No. 59,) under date the 4th October, 1826, with the accompanying document; and

6. Copy of a note from Mr. Salazar, under date the 20th day of November, 1826.

These papers and documents supply all the information in the possession of the Department of State called for by both the above-mentioned resolutions.

During the last session of Congress a despatch from Mr. Poinsett was accidentally mislaid. In order to replace it a note was addressed to him, and a copy of the last despatch was obtained. It is laid before the President, at this time, for his decision upon the propriety of his taking this occasion to communicate it to the House of Representatives. With the same view, a copy of a despatch from Mr. Poinsett, (No. 43,) under date the 6th day of May last, is reported to the President.

All which is respectfully submitted.

H. CLAY.

No. 53.] LEGATION OF THE UNITED STATES, *Mexico, August* 20, 1826.

SIR: I have the honor to send herewith the translation of a note received late last night from the Secretary of State *ad interim*, together with the Gazette to which it alludes.

The Government received this intelligence only yesterday, and I doubt whether the terms of the treaties and conventions concluded at Panama are yet known here. Nothing relating to them has yet transpired.

I am, sir, very respectfully, your obedient servant,

J. R. POINSETT.

Hon. HENRY CLAY, *Secretary of State, Washington.*

[Translation.]

PALACE, *Mexico, August* 19, 1826.

MOST EXCELLENT SIR: The most excellent President of this Republic, desirous that your excellency should be gratified with the intelligence, no less important than flattering, contained in the Gazette Extraordinary of to-day, and that you should communicate the same to your Government, has directed that ten copies of it should be remitted to your excellency; and the undersigned, while he fulfils with pleasure this supreme order, has the honor to renew to your excellency the assurances of his distinguished consideration.

JUAN JOSÉ ESPINOSA DE LOS MONTEROS.

His Excellency J. R. POINSETT,
Minister Plenipotentiary and Envoy Extraordinary from the United States of North America.

[Translation.]

Extraordinary Gazette of the Supreme Government of the Mexican Federation.

The official document, which, by order of the most excellent President, is copied below, imparts the most glorious political event that posterity will ever celebrate in the annals of the new American States, which, intimately connected by the indissoluble bonds of fraternity, met together in the famous Assembly of Panama to sustain their independence against their ancient oppressor.

We refer with pleasure to the plain tenor of the document itself, without making a mystery of any of its clauses; nor, by pompous annunciations, depriving the inhabitants of the happy Anahuac of the ineffable pleasure of regarding themselves the honor which, in so happy an event, has fallen to the lot of the Federal Republic of the United Mexican States. Blessed be Providence, that has deigned so

bountifully to extend to them its favors; praise and immortal glory to the learned, zealous, active, and patriotic ministers plenipotentiaries of that assembly, who have discharged with so much ability the most high, serious, and important object of their mission, and to the Governments of the States concerned, who have evinced so much judgment in their delicate choice!

"Legation of Mexico to the Assembly of the New American States.

"MOST EXCELLENT SIR: We arrived at this port to-day in the brig-of-war *Constante*, having left Panama the 21st of the past month, and have the satisfaction of announcing to your excellency that, on the 15th of the same month, were concluded and signed a treaty of league and perpetual friendship between the Republics represented, a convention respecting contingents, a secret convention, and an agreement which, within a few days, we shall have the honor of delivering, personally, into the hands of your excellency.

"In conformity with this agreement, the Assembly of Plenipotentiaries is transferred to the village of Tacubaya, there to continue its sessions; and, for this purpose, a minister of each Republic proceeds to Mexico, whilst the others have gone to communicate what has been done by the Congress to their respective Governments. His excellency Don Pedro Gual, minister for Colombia, will leave here for the capital within three days. His excellency Don Antonio Larrazabal, minister for Central America, has arrived in company with us, and likewise proceeds to Mexico. His excellency Don Manuel Tudela, minister for Peru, and the secretaries of that legation, and of that of Central America, are expected in a few days in the brig *Treshermanos* for the same purpose.

"All which we communicate to your excellency that you may be pleased to arrange what you think expedient, in order that the plenipotentiaries may find the succors they require, and that every possible facility may be afforded them, suited to the dignity of our Republic, and likewise that this interesting intelligence may be laid before the most excellent President.

"May God preserve your excellency many years. Acapulco, August 15, 1826.

"JOSÉ MARIA MICHELENA.
"JOSÉ DOMINGUEZ.

"His Excellency the MINISTER OF STATE AND OF INTERIOR AND EXTERIOR RELATIONS."

NOTE.—By a private letter of the 15th of this month we learn the following, viz :

Ministers Plenipotentiaries of the Assembly.

For Colombia: Señor Gual, who left Acapulco on the 16th instant for the capital. Señor Briseño, who returned with the treaties.

For Peru: Señor Tudela, who will arrive at Acapulco in eight or ten days. Señor Bidaurre, who returned with the treaties.

For Guatemala: Señor Larrazabal, who comes with our ministers plenipotentiaries. Señor Molina, who returned with the treaties.

The minister of Holland comes *via* Vera Cruz.

The minister of England will not come until November.

(Tacubaya is two leagues from this capital.)

Extract of a letter (*No.* 55) *from Mr. Poinsett to Mr. Clay, dated Legation of the United States of America, Mexico, August* 26, 1826.

"The plenipotentiaries from Panama have not yet reached this city. It is now confidently asserted that those from Mexico were instructed to propose the removal of the Congress to Yucatan, or some other point in these States. Upon their arrival I shall endeavor to learn the precise nature of the secret convention concluded at Panama. In all probability it relates to the invasion of Cuba and Porto Rico.

"I send herewith a translation of the speech of the President of the Congress of Panama on the installation of that assembly."

PANAMA.

Installation of the American Congress the 22*d of June*, 1826.

This day may be called the day of America. From this day the people enjoy freely their political liberty, and each individual conforms to his social compacts. A strict and eternal bond unites the four Republics of Colombia, Guatemala, Mexico, and Peru. All engage mutually to assist each other against their foreign oppressors, and against those who may attempt to infringe the rights they have recovered. To preserve a perfect equality the Presidency was decided by lot, as was the order of signatures. The names of the most excellent Señors Pedro Gual, Minister of State and of Exterior Relations of Colombia; Antonio Larrazabal, Penitentiary of the Holy Cathedral Church of Guatemala; Don Manuel Lorenzo de Vidaurre, President of the Supreme Court of Justice of Peru, and decorated with the medal of *Benemaritos* of his country; Don José de Michelena, Brigadier General in the Armies of Mexico; Pedro Briceño Mendez, Brigadier General in the Armies of Colombia, and of the Liberators of Venezuela and Cundinamarca; Pedro Molina, Plenipotentiary from Central America; Don Manuel Perez Tudela, Attorney General of the Supreme Court of Justice of Peru; and Don José Dominguez, Regent of the Tribunal of Justice of Guanaxuato, will be repeated forever with respect, as the most eminent defenders of our liberty and independence. Blessed be the God of Justice, who, in recompense of our toils and slavery, has vouchsafed to us forever the means of being happy.

Address of Don Manuel Lorenzo de Vidaurre to the Plenipotentiaries of the American States assembled at Panama.

The inhabitants of the Americas which were formerly Spanish will cover themselves with infamy in the eyes of all known nations if they fail to promulgate such wise, equitable, and just laws as will insure their present felicity, and that of their descendants for many generations. Restored to the state of nature, free and independent, in perfect possession of all their rights, and of that free will given to them by the Sublime Author of all beings, they are more perfect than in the early days of the creation. Then man could not be prudent, because he had no experience; he could not avoid evil, because he knew it not; he was incapable of enjoyment, because he was ignorant of pain or pleasure. Now, in the exercise of his perfected faculties, he distinguishes that which is justice and that which is injustice; the useful and agreeable from the pernicious and troublesome; security from danger; the fruition of continued moderate pleasures from delights momentary though intense. The overthrow of a thousand empires, the flux and reflux of riches throughout all parts of the known world, the destruction of some cities and the elevation of others, the rise and fall of States, all are lessons of which he may profit, all are rules offered to him for his present conduct.

Among the many physical, moral, and political revolutions which history relates and philosophers have examined, our own is unexampled. Dynasties succeeded each other in China from the time of Fo-hi until the Tartar seized the throne; the Egyptians number three hundred and forty-one generations to the days of Lethon; the Persians succeeded the Medes, as these had succeeded the Assyrians; the Romans took the place of all; a cloud of locusts sallies forth from the North and takes possession of the South of Europe; the infant Henry and Columbus discover a new world; Cortez, Pizarro, and other criminal adventurers dethrone sovereigns, and seize upon a fourth part of the globe; human nature has not advanced; she is every day more a slave to the shameful passions of a few, and an accomplice in their crimes by a stupid passive obedience, which blinds her to a sense of her degradation, and almost causes her to forget her noble origin; dynasties are changed, but not the vices of government. Even when the Greek, the Roman, the Carthagenian of antiquity, appear devoted to liberty, they are unsteady, inconstant, suspicious, envious, discontented with their own territories; great warriors, but bad citizens. I only see in them vices under different aspects, and a chain of evils and of misfortunes. Let them rejoice in Marathon and Salamis, still the Athenian is panic struck at hearing that the walls of the Pireus are doomed to destruction, and to be levelled with the earth; the sons of Thebes weep over their fallen country; the Emilian sheds tears in seeing Carthage in ashes, because it prognosticates that barbarians are to sack Rome; her precious monuments will be delivered over to the flames, and her famished sons will rush through her streets seeking for bread or death. The time had not yet come when men were to be happy. The sublime theory of rights and obligations had not yet been discovered—countries were defended, but not individuals.

I look upon the English as the first who labored for the rights of man. Their ancient charter, extorted by force from John Santerre, and their progress through several centuries, to the time of William the Third, show that we ought to consider them as the discoverers of the great political system. The Anglo-American must confess that the lights he received from his fathers directed him in his struggle, and conducted him to the haven where he reposes under the shade of the tree of just and moderate liberty.

Our situation, however, is still more fortunate. We have before us, in pictures perfectly executed, the errors and the knowledge, the virtues and the vices, of seventy-two centuries. The union of the Swiss, the constancy of the Dutch, the prudence of the North Americans, the atrocities of the French revolution, the parties of the Belgic provinces, and even our own, are models which we are to keep in view, that we may follow the examples of some and detest those of others.

The great American Congress, which is to be a council in great conflicts, a faithful interpreter of treaties, a mediator in domestic disputes, and charged with the formation of our new international law, finds itself invested with all the powers necessary to accomplish the noble, grand, and singular object for which it is convoked. All the precious materials have been collected beforehand. The whole world is about to witness our labors, and to examine them with deliberation. From the first sovereign to the last inhabitant of the Austral regions, there is not one indifferent to our task. This, perhaps, may be the last experiment that will be tried to ascertain whether mankind is capable of being happy. Fellow laborers, the field of glory has been laid open to us by Bolivar, San Martin, O'Higgins, Gaudalupe, and many other heroes, superior to Hercules and Theseus. Our names are to be written either with immortal praise or eternal opprobrium. Let us elevate ourselves above a thousand millions of inhabitants, and may a noble pride inspire us, assimilating us to the Deity himself on that day when he gave the first laws to the universe.

Warmed by a divine fire, and fixing my eyes steadily on the Author of the universe, the most enormous difficulties appear to me trivial. Few, but solid, are the bases on which our confederation is to be founded. Peace with all the world; respect to the established Governments of Europe, although they be diametrically opposite to those generally adopted in our America; a free commerce with all nations, and a great diminution of duties in favor of those which have recognized us; religious toleration towards such as observe different rites from those which we have established by our several constitutions. Ah! nearly thirty-three millions of victims sacrificed by fanaticism from the time of the Hebrews to the beginning of the present century! These teach us to be humane, pacific, and compassionate, even towards those who walk in very different paths. Let the stranger come; whatever may be his mode of worship, he will be admitted, respected, protected, if his morality, which is true religion, is not contrary to that taught by our Christ. Let them be our masters in agriculture and the arts; let the sad and despairing countenance of the African, oppressed with the chains of force and power, disappear from our fields; let him see at his side a man of that color which he had believed a mark of superiority. He begins to be rational when he perceives that he is distinguished in nothing from other men. Immortal Pitt! eloquent Fox! interrupt for a moment your repose, lift your heads from the tomb, and behold with admiration that the countries formerly enslaved are those which most venerate your philanthropic maxims.

With respect to ourselves, there are two terrible hidden rocks—one, the desire of aggrandizement of some States at the cost and to the injury of others; the second, the risk that some ambitious man may aspire to tyrannize over his fellow men and enslave them. I fear both cases as much as I despise the threats of the feeble Spaniards. I cannot extinguish the passions, nor would it be well to extinguish them. That man forever aspiring to something above him—that man never content with what he

possesses—he has ever been unjust, and shall we convert him suddenly to a love of justice? I trust so. He has experienced the ravages caused by extravagant desires.

Sully and Henry the Fourth formed the project of a tribunal, in order to prevent, in Europe, the first of these dangers. In our days Gordon wrote a treatise upon the same subject. This Diet realizes the praiseworthy intentions of the Kings and of philosophers. Let us avoid war by reducing everything to mediations. The effect of war is conquest; one State is augmented by reducing that of the vanquished. Montesquieu explained what it really was; Debonaire what it ought to be. Napoleon, by every fresh victory, acquired new territories for France. An arrow cast into our fields or mountains will be an horrid sound, which will be heard throughout the continent and over all the islands. And about what shall we dispute? Our productions are the growth of every soil; our territories are immense; our ports secure and excellent. One Republic need not envy the other. Will the shepherd of a thousand sheep go forth to rob the little flock of his neighbor? What injustice! The Diet will not consent to it.

As it frequently happens that wars spring from alliances, it appears that America will only enter into them with the common consent of all the contracting parties. I suspend my opinion, because that would be to prejudge the decisions.

The second danger is provided for by very simple rules. First, let the confederated Governments guaranty each other's liberty and independence. Second, never let an individual be intrusted with more power than what is necessary to accomplish the purpose for which it was granted. Third, the greater the power the shorter the time it ought to be enjoyed, if this is compatible with its intent. Fourth, that he to whom power is confided be made to depend upon that part of the nation which is disarmed. Fifth, not to maintain standing armies, except in time of actual war. Sixth, to avoid this dreadful evil, irreconcilable with the domestic tranquillity of society, by every means in our power, and which honor and prudence dictate.

It does not escape me that, in a corner of the Escurial or of Aranjuez, plans are forming for new expeditions—an event I deem almost impossible. The history of Spain furnishes us with proofs. Could Philip II, his son, or grandson, subject Holland? Could Philip IV recover Portugal? Could Catalonia have been restored had it not been for the generosity of France? Has Gibraltar returned into the hands of the Spaniards? Has Jamaica been restored? The history of treaties may be called that of the renunciation of Spain. What was gained in Pavia and San Quintin was lost in that of Vervins, Westphalia, the Pyrenees, Nineguen, Aix-la-Chapelle, and all that have been concluded up to the present day. The Floridas, which were acquired by that of Paris, the United States compelled her to cede by force.

Let us call to mind some circumstances. Philip the Second consented that his troops should live at free quarters, and drive the Dutch to desperation. Charles the Second had to take up loans at 15 per cent., and to sell the vice royalties of Peru and Mexico to carry on his wars. This was when the sun never went down in the dominions of the Kings of Spain, and when they were obeyed implicitly. Of what importance are they now, without colonies, without internal union, and the peninsula garrisoned by an hundred thousand French? I am well aware in what manner the expedition against us was formed which sailed in Cadiz in the year 1820. In that were employed the indemnities paid by the French, the private purse of the King, and their last resources. All have been exhausted. There are no vessels; the last rotten hulks have been sent to the Havana. There are no arms, nor any disposition on the part of the Spaniard to come and perish in these countries by the lance or the rigor of the climate.

It is not my wish that we persuade ourselves to disarm; quite the contrary. Let our land and naval forces be increased; but do not let this be done that they may remain in inaction in garrison. Let us strike a blow against this obstinate nation which shall make her tremble. To wait until she attacks is to wait for the Messiah; it is to be eternally armed. Let us compel our enemy to abandon his rashness and caprice. All Europe disapproves his conduct. Even the Princes of the house of Bourbon do not flatter him on this subject. No nation feels an interest that Spain should continue the war. The general wish is for peace. Without this, the uniform course of commerce is frequently interrupted, to the great prejudice of all industrious and commercial nations. How different was the position of England when she recognized the independence of the United States. May the prudent English lead the blind Spaniards!

So long as he resists the mediation of those Powers that protect us, let the products of his soil and manufactures of every sort be entirely prohibited. Let them be confiscated wherever they may be found; and let those who may be convicted of having broken a law which we are compelled to adopt lose the cargo.

Destroy completely the manufactures of Valencia and Barcelona. Without a market, let the industry of Spain be paralyzed. Let Ferdinand the Seventh be persuaded that if, by withholding his recognition, he compels us to incur prodigious expenses by maintaining armies, he likewise destroys the remnant of a miserable kingdom, torn to pieces as it is by discord, and prostrated under the yoke of a foreign nation.

If ever he was accessible to reason founded in strict justice; if he can persuade himself that ill can he recover what he knew not how to preserve; if he be convinced that he has in the Americas neither factions nor places of asylum, then the feeling American would express himself in a different manner. We never will buy our independence. The name of *Liberti* is shocking to us. We are constituted into States, with rights equal to those possessed by the European. We are men voluntarily united in society, and subject only to those compacts which, in the exercise of our free will, we have formed. If Ferdinand the Seventh recognizes them, let him enter into a generous reconciliation which is offered him. Let us forget the immense evils he has occasioned us, and the period of peace be that of the sincerest union. We continue the war against our inclination and against our character; if not dishonorably, we will terminate it with the liveliest pleasure.

But, gentlemen, this recognition is not the circumstance which most interests us. Holland became very wealthy and achieved conquests before she was acknowledged. The Swiss formed alliances with the sovereigns of Europe before the house of Austria recognized them. The existence of a State does not depend upon being recognized; that serves only to open foreign relations. The existence of a nation depends upon its interior political organization. Let us possess that, so that it may be the interest of the whole world to hold communication with us. Let us preserve our dignity; let us not admit foreigners who do not come authorized in due diplomatic form; let us not consent that other flags shall be displayed in our ports than those of the Kingdoms and Republics where ours are admitted.

Above all, let us form one family; let the names which distinguished our respective countries be at an end, and let us adopt the general one of brothers; let us carry on commerce without obstacles and without prohibitions; let American goods pass every custom-house unexamined; let us give to each other continued proofs of confidence, disinterestedness, and sincere friendship; let us form one code of public law,

which may become the admiration of the civilized world. By that, an injury done to one State is understood to be done to all; as, in a well organized society, what is committed against one citizen interests the rest of the Republic. Let us solve the problem of which is the best of Governments; each individual enjoying, in ours, the greatest portion of good, and the nation the most perfect prosperity, it is beyond doubt that which reaches the climax of that happiness which human nature is capable of enjoying.

And when, having concluded our labors, we retire to our homes, surrounded by our sons and grandsons, let us take the youngest of them in our arms, and, lifting him up as an offering to the Supreme Being, our cheeks bathed in rivers of tears, let us make him, in his innocent language, pronounce a thanksgiving for the immense benefits we have received from His sovereign justice. Let the Greek boast of his deeds in having left Troy in ashes; the representatives of the Republics may glory in having promulgated laws which provide for universal peace with all nations, and the internal felicity of those States which have this day met together, and which will endure to the end of ages.

MANUEL DE VIDAURRE.

PANAMA, *June* 22, 1826; *(First of the great Diet of America.)*

Extracts of a letter (No. 56) from Mr. Poinsett to Mr. Clay, dated Legation of the United States, Mexico, September 6, 1826.

I saw the Mexican deputies to the Congress of Panama this morning for the first time since their return.

One of the articles of agreement between the new States is, that whenever the safety of America shall require a large force to be kept on foot, the expense shall be defrayed by all parties.

A meeting of the plenipotentiaries of the allied Republics is to take place once in every year, in the month of September, so long as the common war continues, and every two years in time of peace. The plenipotentiaries are to remain in the place agreed upon for three months, which term may be prolonged for two months more, at the end of which period the sessions may be renewed; but, during the war, these plenipotentiaries cannot leave the territory of the Republic wherein the meetings are held, so that they may meet together immediately if any extraordinary circumstance should require it.

The Congress will continue its negotiations in Tacubaya so soon as the ministers arrive who carried the treaties from Panama to their respective Governments. (Eight months is the time fixed for exchanging these ratifications; six will probably elapse before these plenipotentiaries reach Mexico.)

The following is the substance of an additional article of the treaty of union, league, and perpetual confederation concluded and signed at Panama: "Whereas the contracting parties, desiring ardently to live at peace with all the nations of the universe, by avoiding all motives of misunderstanding which might arise from the exercise of the legitimate rights in peace and war, have agreed, and hereby agree, that, immediately on the ratification of the present treaty, they will proceed to fix, by common agreement, all those points, rules, and principles which are to govern their conduct in both cases; for which purpose they will renew their invitation to the neutral and friendly Powers, that, if they deem it expedient, they may take an active part in these negotiations, and may be present, by means of their plenipotentiaries, in order to adjust, conclude, and sign such treaty or treaties as may be made for so important an object."

It would appear from this article that, although the sessions of the Congress of Panama have been removed to Tacubaya, the invitation is to be renewed to the neutral and friendly Powers. At all events, our plenipotentiaries need not be here before the month of February next.

The Mexican plenipotentiaries told me that they found no difficulty to induce a majority of the deputies of the Congress of Panama to remove to Tacubaya.

The Isthmus is so sickly that they were all glad to remove from Panama.

I adverted, in the course of conversation, to the very extraordinary sentiments contained in Vidaurre's speech on the opening of the Congress. They assured me that Vidaurre never delivered that discourse, but published it without the knowledge of his colleagues; that, on the following day, they, the Mexican plenipotentiaries, remonstrated, verbally, both against the publication of that discourse and against the sentiments it contained, and the Colombian plenipotentiaries delivered in a written protest to the same effect.

I suggested the propriety of publishing a notice of what took place on that occasion, as the whole tenor of Vidaurre's discourse is calculated to produce an unfavorable impression. I believe this will be done. Might it not be well to do so in our papers?

I shall probably learn the whole of the proceedings at Panama in a few days, and I will continue to send the information as I collect it.

Mr. Poinsett to Mr. Clay.

No. 58.] LEGATION OF THE UNITED STATES, *Mexico, September* 23, 1826.

SIR: I have been assured that, although the present condition of the islands of Cuba and Puerto Rico was considered by the American plenipotentiaries at Panama to be incompatible with the safety of these countries, and the policy of subduing them by force formed a frequent topic of conversation in that Assembly, still no decisive measures with respect to them were resolved upon, nor are they mentioned in the secret convention concluded between the Spanish American States.

The plenipotentiaries were probably deterred from acting upon this very important subject, both by the language which has been held by the President with regard to these islands, and by the inability of the Governments of Mexico and Colombia at this time to undertake any expensive expedition. The American plenipotentiaries at Panama followed in their discussions the order of matters as laid down in General Bolivar's proclamation. The defence of these countries formed the first and most important

subject of their deliberations, and they founded the basis of their system on the ground that Spain had lost the means of protecting or holding her American colonies at St. Vincent's and Trafalgar, where her fleets were beaten and destroyed; that those disastrous defeats and the subsequent events of her revolutions having almost entirely annihilated her maritime power, the most obvious method of defending the Americas will be to augment their naval forces, so as to enable them to intercept and destroy on the ocean any expedition that might be sent by Spain against them.

On this reasoning the offensive and defensive treaty between the Spanish American States is formed, and it embraces two objects: first, the ostensible one above recited; and, secondly, that, by this arrangement, the Governments concerned may be enabled gradually to diminish their land forces. A well-grounded jealously appears to have been entertained by the plenipotentiaries assembled at Panama with respect to these large standing armies, and it entered into their views that, by this convention, the Governments concerned should be compelled to develop their intentions in this respect. By Governments is meant here those military chieftains who direct the civil as well as military affairs of their respective Governments.

As it was understood that Mexico and Colombia must defray the expenses to be incurred in building and equipping the proposed naval force, it is provided that the other States shall pay a contingent for the purpose of supporting it.

The agent sent to Panama by his Majesty the King of the Netherlands is arrived here, but his Britannic Majesty's Commissioner, Mr. Dawkins, is returned to England. These gentlemen were not present at the deliberations of the Congress. The American plenipotentiaries communicated to them, from time to time, accounts of such of their proceedings as were of great interest, or as they judged proper.

I have gathered these particulars in conversation with the plenipotentiaries, but have not yet had a sight of the treaties; whenever I do see them I will immediately give you a more detailed account of their import.

I have the honor to be, very respectfully, sir, your obedient servant,

J. R. POINSETT.

Mr. Poinsett to Mr. Clay

No. 59.] LEGATION OF THE UNITED STATES, *Mexico, October* 4, 1826.

SIR: I have the honor to transmit herewith the translation of a report made by the Secretary of State of this Republic to the Senate, in reply to a call for information, directed to ascertain the causes of the removal of the Congress of Panama from that place to Tacubaya.

I am, very respectfully, sir, your obedient servant,

J. R. POINSETT.

Hon. HENRY CLAY, *Secretary of State, Washington.*

Communication from the Government to the Chamber of the Senate, on the motives of the removal of the Congress of Panama to Tacubaya.

[Translation.]

MOST EXCELLENT SIRS: The most excellent ministers plenipotentiary of the Republic, in the Assembly of the New American States, under date of the 22d instant, make to this Department the following communication: "In order to gratify the wishes of the most excellent President, which you express to us in your note of the 18th of the present month, we have solicited and obtained the public papers referred to, and it is only in the Gazette Extraordinary of the Isthmus of the 22d of June, in the Sun of the 22d August, and in the supplement to the Royal Gazette of Jamaica, number 32, that we have found any notice or articles having reference to the Assembly of the New American States which met at Panama. The mistakes and political errors which those papers contain on this subject will be demonstrated and removed by the simple exposition we here make of all that occurred in the said Isthmus during the forty-eight days we remained there. To do this in regular order we shall have to repeat here the relation of some events of which the most excellent President will have been already informed by the respective protocols which we have placed in your hands.

"We arrived at Panama on the 4th of June of this year after a passage of twenty-two days. Compliments and visits of etiquette being concluded, we began to treat of the labors which formed the object of our mission, and, although all the ministers of the Republics resident there were most anxious that we should assemble formally, we could not do so on account of the illness of Don Manuel Vidaurre, plenipotentiary from Peru. While waiting his recovery we held various private conferences which facilitated the course of the negotiations when the time arrived to hold formal sessions. With this object we met on the 22d of June, and, from that date to the 15th of July, by means of the painful labor of ten and eleven hours daily, we proposed, discussed, adjusted, and concluded a treaty of friendship, league, alliance, and perpetual confederation, in peace and in war, between the Republics present; a convention on the quotas of men, ships, and money, to make the treaty effective; an arrangement by which the allied Governments only should combine their military operations by sea and land; and an agreement for the removal of the Assembly, most necessary, as well on account of the insalubrity and of the absolute want of resources experienced at the place fixed upon, as because of the difficulty of communication with the respective Governments, and the scarcity of intelligence of events in Europe, so important to an Assembly whose principal care it was to propose and negotiate the means of preserving the independence of the New

American States, by agreeing upon measures proper to disconcert and resist those which, with opposite views, either by themselves alone, or with the aid of the Holy Alliance, might be taken by our oppressors. It is scarcely credible that during the four months of our absence neither did we receive any communication from Mexico, nor did the Government know anything whatever of our operations, although, on our part, no opportunity was lost of making them known, and sending successively the corresponding documents. The most frequent communication at Panama is that which that city maintains with the capital of the Republic of Colombia, (Santa Fé de Bogota,) and letters to go and return again require seventy-five days at least. On the same day on which the plenipotentiaries assembled in form, an address appeared in the Gazette of the Isthmus which is supposed to have been spoken to that Assembly. The Assembly not only did not hear this harangue, nor approve this measure, but did not agree with the views it contained of the business that had been concluded, nor in the designation of those subjects which were intended to form the object of their future sessions. The minister himself who subscribed that paper was satisfied of the propriety of this conduct. The Republic of Chile offered to send her ministers so soon as her attention should be relieved from the war of Chilœ, which at that period had not terminated. Buenos Ayres had shown no disposition to attend. Upper Peru or Bolivar is not yet recognized as a Republic independent of its former metropolis. The United States of the North appointed their ministers, of whom one has not yet set out for his destination, and the other was in Bogota. They were to unite and to join the Assembly to agree upon such matters as might not infringe the neutrality which that Republic observes and wishes to continue to observe towards Spain. In the same situation, but under different circumstances, the Empire of Brazil is placed. These considerations, the faculty possessed by a majority of the Republics, in virtue of the treaties made by Colombia with Mexico, Guatemala, and Peru, to commence their labors and select a place proper for their sessions, the liberty remaining to the Republics, which may be allies, to join the confederation on condition that they ratify the treaties already concluded, and the option left to the neutral and friendly Powers to attend as witnesses, (signatarias,) the succeeding sessions, at which is to be negotiated all that may contribute to the establishment of a system of public law, which shall render uniform the conduct of the American continent in peace and in war, determined the Assembly to commence at once the negotiations, and pursue them to their termination, and to propose a change of place; when, after some discussion, Tacubaya was agreed upon by the majority. At the period of our arrival at Panama the dissensions excited by General Paez had already commenced, but neither had he, nor the Government he had disobeyed, assumed a hostile attitude, but both waited until General Bolivar, in person, or in such other manner as he might think best, should terminate those disturbances which, although they threatened a revolution in the form of Government, had not effected this object. In this state the affair remained when we left Panama to return to this Republic. During the time we remained at Panama the most perfect tranquillity prevailed, and the only disagreeable incident which occurred was the imprisonment of two or three of the principal inhabitants, men of good reputation, on an accusation made against them at Lima by an individual known to be an impostor and evil-minded man, of their being connected with the Spaniards. At the same time there appeared off Carthagena, an Atlantic port at a great distance from Panama, the ship-of-the-line Guerrero and two Spanish frigates; whereupon the commanding general declared his district under martial law, assuming the powers which the laws gave him, and assembled a meeting of the inhabitants to demand supplies. Those persons who had been imprisoned justified themselves, and obtained their liberty in a short time, and the ships disappeared in two days. The plenipotentiaries, in the midst of these occurrences, continued assembled, made no alteration in their arrangements, and took no part in matters that did not concern them, and which they only learned in familiar conversations. Nothing was communicated to us officially by the authorities of that country which, at the time of our departure, enjoyed the most perfect order, repose, and tranquillity."

And, by order of the President, I have the honor to communicate the same to your excellencies for the information of the Senate, until the treaties concluded in that Assembly are laid before it, which will be done in due time by this Department.

God preserve your excellencies many years. Mexico, September 26, 1826.

JUAN JOSÉ ESPINOSA DE LOS MONTEROS.

The Most Excellent SECRETARIES *to the Chamber of the Senate.*

Don José Maria Salazar to the Secretary of State.

[Translation.]

LEGATION OF COLOMBIA, *Washington, November* 20, 1826.

SIR: I have received an order from the Government of Colombia to communicate to that of the United States that the Great American Assembly was installed on the 22d of June last by the plenipotentiaries of Peru, Mexico, Central America, and Colombia. The necessity for the concurrence of the Legislature of Chile, which was not in session, to the nomination of plenipotentiaries had retarded their arrival at Panama.

The Assembly being installed, it was determined by lot in what order the confederated States should be named, and by common consent it was determined that the representatives of each should alternately hold the presidency for the direction of the discussions. These were conducted with that perfect harmony and concord which the great and important object in view should inspire; and the preparatory conferences and labors which preceded enabled the plenipotentiaries, on the 15th of July last, to sign—

1st. A treaty of union, league, and perpetual confederation, between the four States represented, to which the other Powers of America might have an opportunity to accede within one year. 2d. A convention for the renewal of the Great Assembly annually in time of common war, and biennially during peace. 3d. A convention which fixes the contingent which each confederate should contribute for the common defence. 4th. An agreement concerning the employment and direction of those contingents; and 5th. Divers declarations that the treaties which Colombia had formerly concluded with the United Mexican States, Central America, and Peru, should be included in those treaties with certain reservations.

Although the labors of the Congress were already so far advanced, the hazards occasioned by the

climate of Panama to the plenipotentiaries admonished them to resolve upon a removal of the Congress to the town of Tacubaya, near the city of Mexico, where they expect the minister whom the Government of the United States has resolved to send.

I have the honor to renew to you the assurances of the high consideration and respect of your most obedient servant,

JOSÉ MARIA SALAZAR.

Mr. Poinsett to Mr. Clay.

No. 15.] LEGATION OF THE UNITED STATES, *Mexico, August* 17, 1825.

SIR: I received this day a note from the Secretary of State, dated on the 16th instant, a translation of which accompanies this letter, together with my reply, marked A and B. The intelligence communicated by the agent of this Government at Jamaica of a large French force being collected at Martinique, and of the appearance of a squadron of French vessels-of-war off the western cape of the island of St. Domingo, directing their course towards Havana, has produced a great sensation here, and a strong disposition exists on the part of the Executive and of Congress to take very decisive measures against the French residents and against the commerce of that nation; a disposition which I shall use every exertion to soften and restrain within due bounds.

The Chargé d'Affaires of his Britannic Majesty despatches this evening a courier for London, by the way of New York, to convey intelligence of these events to his Court. He waits for my letters, and I have not time, therefore, to write so fully by this opportunity as I could have wished.

I have the honor to be, with great respect, sir, your obedient servant,

J. R. POINSETT.

Hon. HENRY CLAY, *Secretary of State, Washington.*

A.

Mr. Alaman to Mr. Poinsett.

NATIONAL PALACE OF MEXICO, *August* 16, 1825.

MOST EXCELLENT SIR: I have the honor to enclose to your excellency, numbered 1 to 5, copies of the communications received by this Government from their agent in Jamaica, and of a paragraph from a Kingston Gazette, which he sends with them. Whatever degree of credit may be given to the intelligence of the union of French maritime forces in Martinique, to the number of 28 sail, and which is founded on two notices, confirmatory of each other, the fact appears undoubted that a French squadron, composed of two ships-of-the-line, seven frigates, and two brigs, passed Cape St. Nicholas, sailing in the direction of Havana, since, as your excellency will see by the copy No. 4, the commander of the Colombian schooner-of-war, the Zulma, gives official notice to his Government of his having fallen in with it, and of having spoken one of the frigates. By the paragraph of the Jamaica Gazette, copied in No. 5, your excellency will see that it is said, although on information less certain, that French troops had disembarked in the island of Cuba, and that its capital was about to be garrisoned by French troops. Supposing only so much of all this to be true as is absolutely incontestable, which is, that a French squadron, composed of nine large vessels and two smaller, has appeared off the coast of the island of Cuba, sailing in the direction of the Havana, and immediately the question occurs, What is the object of this force? Undoubtedly, it will not be pretended that it is to protect the French commerce in the West Indian seas, for it is very well known that in them it has no other enemies but the pirates, who are enemies to all nations, and against these, it is clear, there would not be sent large vessels united in squadron; neither can it be said that these vessels have for their object the island of St. Domingo, because it would always be asked wherefore they were directed towards the Havana? And even should such excuses be alleged instead of an admissible explanation, they would only, in the present state of these countries, call to mind the cordon sanitaire, under pretext was organized on the frontiers of Spain, the very Army which was to invade it. If it is pretended that a French squadron may go to the Havana without causing well founded alarm, because that place is in the possession of Spain, it should be remembered that Havana is the headquarters of the Spanish forces in the present war against the American continent. From thence have issued the reinforcements and every description of supplies for the Spanish Army which fought in Colombia, and from thence the Spanish garrison of the Castle of San Juan de Ulloa still maintains itself; so that even in the case when the Spaniards of the Havana would receive no direct aid from the French forces, these, by placing that bay under shelter, give to the former the means of attacking us, by leaving them at liberty to dispose of their ships-of-war against us, and even of their land forces. This reasoning would be much stronger, if, as reported, the fortresses of the Havana have been garrisoned by French troops, under whatsoever pretext those may have been delivered up to them; for such a measure can produce no other effect than to leave the Spanish forces free to undertake expeditions against the continent. Under whatever aspect this extraordinary and secret union of French forces in Martinique be considered, and, much more, their employment on the island of Cuba, the President of this Republic can do no less than see in it an act positively hostile against the independent States of America, or, at least, so suspicious that it justly demands the attention of this Government. That of your excellency has declared, in the most solemn manner, that it will never consent that any third Power interfere in the existing question between Spain and the independent States of America which formerly were part of her dominions. The conduct of France, in the step to which I refer, is certainly an inter-

ference which, for being dissembled, is not more excusable. The President, therefore, directs me to inform your excellency of these important events, and to request that you will be pleased to bring them to the notice of your Government, from whose friendship he hopes that it will ask of that of his most Catholic Majesty such explanations as the case requires, which may serve also as a rule of proceeding to these States, which, in the meantime, under these circumstances, will find themselves obliged to adopt that line of conduct with respect to France which may be dictated by prudence and the necessity of preserving their dignity and political existence.

The President flatters himself that the Government of your excellency will see in this step a new and distinguished proof of the confidence and reciprocity of interests which happily exists between both nations.

I have the honor to reiterate to your excellency the assurances of the high consideration with which I am your obedient servant,

L. ALAMAN.

His Excellency JOEL R. POINSETT,
Minister Plenipotentiary and Envoy Extraordinary from the United States of North America.

B.

Mr. Poinsett to Mr. Alaman.

LEGATION OF THE UNITED STATES OF AMERICA, *Mexico, August* 17, 1825.

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 16th instant, together with the copies of the communications which this Government has received from its agent in Jamaica, and of a paragraph from the Gazette of Kingston, numbered from one to five.

In compliance with his excellency the President's desire, I shall immediately transmit them to my Government, not doubting that the President of the United States will take measures to obtain the explanations which his excellency the President of these States solicits him to ask from his most Catholic Majesty.

I beg your excellency to assure the President that in the declaration made by the late President of the United States, in his message to Congress of the 2d of December, 1823, respecting the policy it would become the United States to adopt in the event of any interposition of the Powers of Europe in the contest between Spain and the independent States of America which formerly formed a part of her dominions, he spoke the sentiments of the whole nation; and that the present President cherishes the same feelings towards these countries, and entirely coincides in the views and principles laid down in that message.

Although the reunion of so large a French force in the island of Martinique, and the information received by this Government of the appearance of a numerous squadron of the ships-of-war of that nation in the vicinity of the island of Cuba, are certainly calculated to alarm the fears and to excite the suspicions of this Government as to the ulterior views of his most Catholic Majesty, and not only justify but call for measures of precaution, I cannot abstain from observing to your excellency that these movements do not necessarily imply hostile intentions on the part of France towards these countries, and that it will be politic that the measures this Government proposes to take with regard to France should not be of a nature to give just cause of complaint to his most Catholic Majesty, if it should hereafter appear that the reunion of so large a force in Martinique and the movements of the French squadron in the West India seas were entirely unconnected with any designs of that Government against the Americas.

I trust his excellency the President will attribute this expression of my opinion to the only motive which can actuate me—my earnest solicitude for the peace and security of this country.

I have the honor to be, with respect, sir, your obedient servant,

J. R. POINSETT.

His Excellency Don LUCAS ALAMAN,
Secretary of State and of Interior and Exterior Relations.

Mr. Poinsett to Mr. Clay.

No. 43.] LEGATION OF THE UNITED STATES, *Mexico, May* 6, 1826.

SIR: I have this instant seen Washington papers of the 20th and 30th of March, containing the debate upon a resolution offered by Mr. Wickliffe, and directed to learn upon what authority I had declared that the United States had pledged themselves not to permit any other Power than Spain to interfere with the independence or form of Government of the new American Republics.

This inquiry was avowedly made in order to ascertain whether I was expressly authorized by the President of the United States to make such a declaration; and although you have no doubt been able clearly to show that no such authority, implied or direct, was ever given to me, I cannot rest satisfied without stating explicitly that, in the observations I made during my conference with the Mexican plenipotentiaries, I alluded only to the message of the President of the United States to Congress in 1823.

That message, dictated, in my opinion, by the soundest policy, has been regarded, both in Europe and America, as a solemn declaration of the views and intentions of the Executive of the United States; and I have always considered that declaration as a pledge, so far forth as the language of the President can

pledge the nation, to defend the new American Republics from the attacks of any of the Powers of Europe other than Spain. That the people of the United States are not bound by any declarations of the Executive is known and understood as well in Mexico, where the Government is modelled upon our own political institutions, as in the United States themselves. I need scarcely, therefore, disclaim all intention to have deceived the Mexican plenipotentiaries by the argument I used on that occasion.

But, in order to correct any erroneous impression these words might have made upon the minds of the Mexican plenipotentiaries, I explained to them, in the course of our conference this morning, their precise meaning; that the declaration of Mr. Monroe, in his message of 1823, to which I had alluded, indicated only the course of policy the Executive of the United States was disposed to pursue towards these countries, but was not binding upon the nation unless sanctioned by the Congress of the United States; and that when I spoke of the United States having pledged themselves not to permit any other Power than Spain to interfere with the independence or form of Government of the new American Republics, I meant only to allude to the above cited declaration of the President of the United States in his message of 1823, and to nothing more. Don José Ignacio Esteva, one of the plenipotentiaries at that period of our negotiations, replied, that he had so understood it, but it was not thought by the Mexican plenipotentiaries at the time that such a disposition, nor even a more solemn pledge so to act, entitled us to any special privileges, as it was so obviously the interest of the United States to assist in defending the Americas against the attacks of United Europe.

I have the honor to be, very respectfully, your obedient servant,

J. R. POINSETT.

Hon. HENRY CLAY, *Secretary of State, Washington.*

19TH CONGRESS.] No. 444. [2D SESSION.

NEGOTIATIONS WITH MEXICO.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES DECEMBER 28, 1826.

To the House of Representatives of the United States:

I transmit to the House of Representatives a report from the Secretary of State, containing the information requested by two resolutions of the House, relating to certain negotiations with the Government of the United Mexican States.

JOHN QUINCY ADAMS.

WASHINGTON, *December* 28, 1826.

DEPARTMENT OF STATE, *Washington, December* 26, 1826.

The Secretary of State, to whom the President has referred two resolutions of the House of Representatives, under date the 19th instant, the first requesting the President to inform the House, "if he deem it not incompatible with the public interest, whether any instructions have been given to our minister at Mexico relative to the ascertaining and running of the boundary line between that Government and the United States, and, if such instructions have been given, whether an answer has been received to the same, and what that answer is;" and the second requesting the President, under the same qualification, to inform the House "whether any measures have been taken, by instructions to our minister at Mexico, or otherwise, to obtain the runaway negro slaves from Louisiana, and elsewhere, which have taken refuge in the territories of that Government, and also whether any measures have been taken with the Government of Mexico to enable citizens of the United States to recover debts from those who have fled from the United States to the territories of Mexico," has the honor to report that the subjects, both of the boundary between the territories of the United States and those of the United Mexican States, and of slaves who have escaped from their proprietors in the United States and taken refuge in the territories of the United Mexican States, have formed topics of instruction to the minister of the United States at Mexico, and of negotiation between the two Governments, and a treaty has been signed by their plenipotentiaries, embracing, among other stipulations, an article in relation to one of those two subjects, but, as the treaty has not been ratified or rejected (as far as information has yet reached this Department) by either Government, it is respectfully submitted that it would be premature now to disclose the purport of that article; and it would be still more premature, as is also respectfully submitted, to communicate, at this time, what has passed between the two Governments in relation to the other of the two subjects above mentioned, there being yet in progress a negotiation concerning it.

In respect to the recovery of debts from those who have fled from the United States to the territories of Mexico, although reports have reached this Department that the laws in the adjoining province of Texas interposed obstacles to such recovery, those reports have not been substantiated in such manner as appeared to the Secretary of State would justify a formal application to the Mexican Government to remove those obstacles.

All which is respectfully submitted.

H. CLAY.

19TH CONGRESS.] No. 445. [2D SESSION.

DISCRIMINATING DUTIES—SWEDEN AND NORWAY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 5, 1827.

Mr. TOMLINSON, from the Committee on Commerce, to whom was referred so much of the message of the President of the United States as relates to the commerce of the United States with foreign nations and their colonies, made the following report:

That the commercial treaty of the 4th of September, 1816, between the United States and his Majesty the King of Sweden and Norway, expired on the 25th of September last. The note of the Secretary of State, hereto annexed, marked A, explains the causes of the failure to renew that treaty.

On the 26th of September last the Baron de Stackelberg, Chargé d'Affaires of the King of Sweden and Norway, at Washington, announced to the Secretary of State that his Majesty the King of Sweden and Norway had "resolved to maintain, with regard to American commerce, and till a new order, the dispositions of the late treaty." A translation of the official note of the Baron de Stackelberg, marked B, is annexed to this report.

On the expiration of the treaty aforesaid, Swedish and Norwegian vessels, and the merchandise imported in such vessels, arriving in the United States, became liable to pay discriminating duties of tonnage and impost. In the opinion of the committee, the frank and friendly conduct of the King of Sweden and Norway in this emergency ought to be reciprocated on the part of the United States, and provision ought to be made, by law, that Swedish and Norwegian vessels, and the merchandise imported therein, if the same be the produce and manufacture of the territories of the King of Sweden and Norway, shall be exempted from the payment of alien or discriminating duties of tonnage and impost while a negotiation in relation to the renewal of that treaty is pending. Presuming that a renewal of the treaty will have been accomplished before the termination of the next session of Congress, the committee deem it expedient to limit the exemption aforesaid to that period.

From the subjoined document, marked C, it appears that alien duties of tonnage and impost may have been exacted and paid, or secured to be paid on certain Swedish vessels, and the merchandise imported therein, in the ports of the United States, since the date of the Baron de Stackelberg's official note above mentioned. The alien duties which may have been paid or secured to be paid, under such circumstances, in the opinion of the committee, ought to be promptly refunded or remitted.

The committee, therefore, report a bill to effect the aforesaid objects.

A.

DEPARTMENT OF STATE, *Washington, December* 25, 1826.

SIR: I have the honor to transmit herewith, for the information of the committee, the translation of an official note, under date the 26th September last, received at this Department, from the Baron de Stackelberg, Chargé d'Affaires of his Majesty the King of Sweden and Norway, announcing the determination to observe, in the ports of those Kingdoms, the stipulations of the treaty of the 4th of September, 1816, until a new treaty shall have been concluded. Negotiations for this object, prior to the expiration of the treaty, were prevented by the sickness and subsequent death of Mr. Somerville, and the unavoidable delay in the arrival of his successor at Stockholm, and by expectations that Baron de Stackelberg would have been charged, on the part of the Government of Sweden, with the conduct at Washington of those negotiations.

I have the honor to be, with great respect, your obedient servant,

H. CLAY.

G. TOMLINSON, Esq., *Chairman of the Committee on Commerce, House of Representatives.*

B.

The Baron de Stackelberg to the Secretary of State.

[Translation.]

WASHINGTON, *September* 26, 1826.

SIR: The late treaty of commerce with Sweden and Norway and the United States of America expiring, and nothing being yet stipulated between the two Governments for the renewal of the treaty, his Majesty the King of Sweden and Norway, to give a new proof of his sentiments of sincere friendship towards the Government of the United States of America, and in the intimate conviction that it will adopt, on its part, analogous measures, has resolved to maintain with regard to American commerce, and till a new order, the dispositions of the late treaty, in order to have the power of concluding in the interval another treaty in its place, without there being, in this manner, any hindrance in the mutual relations.

The undersigned having received orders from his Government to announce, officially, to his excellency Mr. Clay, Secretary of State and of Foreign Affairs, the contents of this note, is also authorized to propose to the American Government to give similar orders in the ports of the United States in regard to the Swedish and Norwegian commerce.

The undersigned has also the honor, officially, to acquaint the Secretary of State that the King, his august sovereign, is desirous that a new treaty be signed at Stockholm, and, in order to accelerate its conclusion, the King wishes that the President would send some one as soon as possible to treat of this affair; without wishing in any way to influence his choice, the undersigned is persuaded that his Majesty would see, with pleasure, that Mr. Hughes was charged with that honorable commission.

The undersigned, Chargé d'Affaires of his Majesty the King of Sweden and Norway, prays his excellency Mr. Clay, Secretary of State and Foreign Affairs, to be pleased to lay this note before the President of the United States, and to communicate, as soon as possible, to the undersigned the answer of the President.

The undersigned has the honor to renew to his excellency Mr. Clay the assurance of his high consideration.

BARON DE STACKELBERG.

C.

TREASURY DEPARTMENT, *January* 5, 1827.

SIR: Referring to our conversation of yesterday, I beg to send you herewith a copy of the letter of which I spoke, received from the Collector of Charleston. It is inferred from it that a Swedish vessel has probably arrived at that port. No instructions have yet been given to the Collector in reply to his letter, but they can only be, as the law now stands, to charge foreign duties.

I have the honor to remain, with great respect, your obedient servant,

RICHARD RUSH.

Hon. G. TOMLINSON, *Chairman of the Committee on Commerce.*

19TH CONGRESS.] No. 446. [2D SESSION.

IMPRESSMENT OF SEAMEN FROM AMERICAN VESSELS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 15, 1827.

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives of the 20th of May last, I transmit herewith a report from the Secretary of State touching the impressment of seamen from on board American vessels, on the high seas or elsewhere, by the commanders of British or other foreign vessels or ships-of-war, since the 18th of February, 1815, together with such correspondence on the subject as comes within the purview of the resolution.

JOHN QUINCY ADAMS.

WASHINGTON, *January* 15, 1827.

DEPARTMENT OF STATE, *January* 12, 1827.

The Secretary of State, to whom has been referred by the President the resolution of the House of Representatives of the 20th May, 1826, requesting him to cause to be laid before the House "any information in his possession touching the impressment of seamen from on board American vessels, on the high seas or elsewhere, by the commanders of British or other foreign vessels or ships-of-war, since the 18th of February, 1815, together with any correspondence on the subject with any foreign Government, so far as the communication of the same be not inconsistent with the public service," has the honor to report:

That on the 8th day of May last, having then just received at this Department the letter of which a copy, marked A, is herewith reported, a correspondence was opened with Mr. Vaughan, the British minister, in relation to the instances of alleged impressment which are stated in that letter; that a copy of the notes which passed on that occasion is herewith also reported, marked B. No further explanation of the circumstances which attended the taking of the two seamen from on board the brig Pharos has been yet received at this Department; that it will be seen, from an inspection of the correspondence, that the captain of that vessel had sailed from the United States before the Attorney for the district of Massachusetts could obtain his deposition, and information of his return has not reached this Department. But it is proper to add that Mr. Vaughan has verbally stated that his Government, having received a copy of the note above mentioned, of the 8th of May last, has given the proper orders to procure from Africa all the information necessary to enable it to decide on the conduct of Captain Clavering, and that he presumes the distance of the place whence it was to be obtained has hitherto prevented the receipt of instructions adapted to the state of the case.

No other instances of impressment falling within the scope of the resolution are known at this De-

partment, except one which is stated in a recent despatch from Mr. Raguet, from which an extract is herewith reported, marked C.

All which is respectfully submitted.

H. CLAY.

A.

Consul Samuel Hodges, jr., to the Secretary of State.

CONSULATE OF THE UNITED STATES,
Cape de Verde Islands, Villa du Praya, St. Jago, March 16, 1826.

SIR: I had the honor to inform you, on the 12th of August last, of the outrage committed by Captain D. C. Clavering, commander of his Britannic Majesty's ship Redwing, on this station, by firing into the brig Ruby, of Bucksport, and now acquaint you of his impressing two seamen from the brig Pharos, of Boston, on the 6th of December last, while that vessel was at anchor in the harbor of Freetown, Sierra Leone, one of whom, Studson Roberts, of Portland, was given up, after a detention of eleven days, by order of Commodore Bullen, who arrived in the meantime, and the other detained under a plea that he was a British subject.

I have the honor to remain, with sentiments of the highest consideration, your most obedient, humble servant,

SAMUEL HODGES, JR.

B.

Copy of a letter from Mr. Clay to Mr. Vaughan.

DEPARTMENT OF STATE, *May* 8, 1826.

SIR: I have just received intelligence that Captain D. C. Clavering, commander of his Britannic Majesty's ship Redwing, on the 6th day of December last impressed two seamen from on board the American brig Pharos, of Boston, while she was at anchor in the harbor of Freetown, Sierra Leone, on the coast of Africa; that after ten days' detention of one of them he was released; and that the other is still detained in the British service. Although these facts have been communicated through an official channel, the surprise which they justly excite creates an unwillingness to credit them. If, as we are bound at present to believe, they are well founded, Captain Clavering must not only have acted without, but contrary to the orders of his Government; for it is, otherwise, impossible to believe that the outrage which they disclose should have been attended with the aggravating circumstance of being perpetrated in a season of profound peace between Great Britain and the rest of Christendom. Assuming, however, the information which we have received to be correct, the President cannot doubt that the conduct of that officer has been unauthorized, nor that the Government of his Britannic Majesty will promptly animadvert upon it in such signal manner as will prevent, by the example, the recurrence of similar enormities in future. If you are without instructions on this subject, I have the honor to request that you will, with as little delay as possible, transmit this note to your Government.

I seize the occasion to tender to you assurances of my high consideration.

H. CLAY.

Right Honorable CHARLES RICHARD VAUGHAN,
Envoy Extraordinary and Minister Plenipotentiary from Great Britain.

Mr. Vaughan to Mr. Clay.

WASHINGTON, *May* 10, 1826.

SIR: I have the honor to acknowledge the receipt of your note complaining of the impressment of two American seamen on the coast of Africa by Captain Clavering, commander of his Britannic Majesty's ship Redwing. I shall lose no time in transmitting a copy of your note to his Majesty's Government, and I shall anxiously await an explanation of this disagreeable event.

I beg you will accept the assurance of my highest consideration.

CHARLES R. VAUGHAN.

HON. HENRY CLAY, *&c., &c., &c.*

Mr. Vaughan to Mr. Clay.

WASHINGTON, *May* 22, 1826.

SIR: I have the honor to transmit to you a copy of a letter which I have this day received from Mr. Manners, his Majesty's Consul at Boston, containing certain facts which he has collected from the master

of the American ship Pharos, relative to the impressment of two sailors from the vessel under his command, off the coast of Africa, by Captain Clavering, of his Majesty's ship Redwing.

It appears by the enclosed letters that Mr. Merchant, the master of the Pharos, has distinctly admitted that neither of the men taken on board the Redwing were natives of the United States. One of them was an Englishman, whom he had picked up at the Cape de Verde islands, and the other a native of Norway, and that they had both of them volunteered to serve his Majesty on board the Redwing. When the boats of the Redwing went alongside of the Pharos an inquiry was made which were the two men who had volunteered to serve his Majesty; they were pointed out, and told by the person in command of the Pharos at the time to go into the boat from the Redwing, which they did voluntarily. It being found, afterwards, that the seaman who was a native of Norway had an American protection, he was sent back to the Pharos.

When I had the honor to receive your note of the 8th instant, relating to this alleged impressment of two American sailors, I had no doubt but that in due time I should receive a satisfactory explanation of the transaction complained of, as I am not aware of any act being now in force, at this period of peace, which justifies the impressment of British seamen by his Majesty's forces.

I invite you, sir, to institute an investigation into the facts stated in the enclosed letter; and should that investigation satisfactorily prove that the master of the Pharos has misled the Government of the United States by a misrepresentation of the occurrence in question, that he may be punished, in order to deter others from a similar offence, and that the utmost publicity may be given to the real facts of the case, in order to allay the irritated feelings which have been manifested by the public.

I request, sir, that you will accept the assurances of my highest consideration.

CHARLES R. VAUGHAN.

Hon. HENRY CLAY, *&c., &c., &c.*

Mr. Manners, his Majesty's Consul at Boston, to Mr. Vaughan.

HIS MAJESTY'S CONSULATE, *Boston, May* 13, 1826.

SIR: The master of the American brig Pharos, recently arrived at this port from Africa, having published a statement in which he accused Captain Clavering, of his Majesty's ship Redwing, of having forcibly taken from on board his brig two seamen; and the circumstance having excited some sensation, I felt it my duty to ascertain the real state of the case, and, with this view, called, in company with a friend, on the author of the accusation, Captain Merchant. As the affair may, probably, be misrepresented to you, I have the honor to communicate the result of the interview. After much evasion and evident embarrassment at being called upon to explain, Captain Merchant distinctly admitted that neither of the men taken on board the Redwing were native Americans; that one of them was an Englishman whom he had picked up at the Cape de Verde islands; that they had both *volunteered* to serve his Majesty on board the Redwing; that when the boat from the Redwing came alongside the Pharos, Sailing-master Taylor, who commanded her, inquired which were the men who had so volunteered to serve his Majesty; that they were pointed out, when they were told to go into the boat, which they did voluntarily; that no opposition whatever was made to their leaving the Pharos by the mate, who commanded, Captain Merchant being absent, on shore; and that one of the men, a native of Norway, having an American protection, was subsequently sent back to the Pharos. I am happy in having thus detected a falsehood calculated to injure the character of a gallant British officer, and trust that you will not consider this communication either unnecessary or intrusive.

I have the honor, &c.

GEORGE MANNERS.

Right Hon. C. R. VAUGHAN, *&c., &c., &c.*

Mr. Clay to Mr. Vaughan.

DEPARTMENT OF STATE, *June* 15, 1826.

SIR: As soon as I recovered from an indisposition which confined me at the receipt of your note of the 22d ultimo, transmitting a statement by the British Consul at Boston of the circumstances attending the impressment of two seamen from on board the American brig Pharos, represented by him to have been obtained from the commander, Captain Merchant, I addressed a letter to the United States Attorney for the district of Massachusetts, requesting him to exhibit the statement to the captain, in order to ascertain if it were a full and fair account of the transaction, and, if necessary, to take his deposition. I regret to have to inform you that it appears from a letter just received from Mr. Blake, the Attorney, that, on or about the 15th ultimo, only two days after the date of the Consul's letter, Captain Merchant had sailed from Boston, on a voyage to the Cape de Verde islands. We shall not be discouraged by this disappointment from a further prosecution of the investigation, and it will afford much satisfaction if it should issue in an acquittal of the British officers concerned of all blame. In the meantime it is necessary to make some observations on the statement which the British Consul has forwarded. And the first is, that if he felt himself officially authorized to interrogate Captain Merchant on the occasion, it would have been better to have called in a magistrate, qualified to administer an oath, and to take the examination of the witness. A deposition taken under that solemnity, by a qualified and responsible officer, would have enabled us to judge how far the imputation to the witness of evasion and embarrassment which the Consul permits himself to make was well founded. It would, probably, have been also more full and explicit than the Consul's statement on two or three important particulars. For example: it would, most likely, have detailed the circumstances under which the two seamen are alleged to have *volunteered* to serve his Britannic Majesty, and, particularly, by *whose* order it was that, when demanded by the boat from the Redwing, they left the Pharos and went on board the boat. But, passing by the imperfections of this

ex parte statement, unverified by any oath, and giving to it the fullest credit, it does not furnish anything like a satisfactory explanation, as you seem to suppose, of the conduct of the British officers.

Certainly it is not necessary to remark that, if the fact be true that neither of the seamen were natives of the United States, it could constitute no justification of Captain Clavering, unless the British Government is prepared to assert the extraordinary claim that all seamen found on board a foreign vessel, who are not natives of the country to which the vessel belongs, may be taken or impressed into the British service.

The case, then, appears to be, that two seamen, part of the crew of an American vessel, in a distant foreign port, and where it was difficult, if not impracticable, to supply their places, volunteer to serve on board a British vessel-of-war; but when, and under what circumstances, they volunteered, does not appear; and that a boat is sent, (most probably with armed men, at any rate in the presence of an armed force ready to sustain her,) alongside the American vessel, and, in the absence of her captain, the seamen are demanded, and being pointed out, they are told to go into the boat, which they do voluntarily, and without any opposition from the mate, who had been left in the command of the ship. If no actual force were applied in the seizure of the men, the circumstances attending the affair superseded the necessity of its direct use. The demand being made in the absence of the commander of the American vessel, the mate, who represented him, and, probably, had no instructions for such an occurrence, no doubt saw how unavailing any resistance would be, and hence forbore to make any opposition. The mischief would be manifest, of allowing an armed vessel to obtain seamen from a foreign merchantman under color of their volunteering. Such a practice would lead to every species of abuse; and if, after seamen are thus suffered to volunteer, or are enticed from their duty, they may be lawfully demanded of the unarmed merchantman in the presence of a man-of-war, and by a boat, for that purpose sent from her, with a crew armed or unarmed, whatever name may be given to the transaction, it is, in fact, if not in form, an instance of impressment. The actual presence of a competent force may be sufficient to attain all its purposes without a direct application of it, and the moral and legal responsibility of him who commands it is as great in the one case as in the other. Should, therefore, the statement of the British Consul turn out to be true in all its particulars, the President indulges the confident expectation that the Government of his Britannic Majesty will not fail to require an immediate restoration of the seaman yet detained in the British service, and cause such punishment to be inflicted on the officers who were concerned in the impressment as will effectually prevent the recurrence of similar outrages.

I avail myself of the occasion to renew assurances of my distinguished consideration.

H. CLAY.

Right Hon. C. R. VAUGHAN, *Envoy Extraordinary and Minister Plenipotentiary from Great Britain.*

Mr. Vaughan to Mr. Clay.

WASHINGTON, *June* 22, 1826.

SIR: I have the honor to acknowledge the receipt, on the 20th instant, of your note, dated the 15th, containing some observations upon the letter which I communicated to you from his Majesty's Consul at Boston, giving me some information which he had acquired respecting the alleged impressment of two American seamen, by a British officer, off the coast of Africa.

I should have willingly abstained from making any further observation upon the subject of this supposed impressment until the result of the investigation which I invited, upon the report made to me by the British Consul, should have put us in possession of the real facts of the transaction.

As you have concluded, however, your observations upon the Consul's letter with expressing the confident expectation of the President that his Majesty's Government will not fail to require the restoration of the seaman who remains on board the British sloop, and to punish the officer concerned in the impressment of him, "though the statement of the British Consul should turn out to be true in all its particulars," as I cannot acquiesce in the justness of this demand, some observations seem to be required of me.

Should the circumstances, as stated to me by the Consul, turn out to be correct, surely no outrage can be alleged against the officer of the *Redwing* sloop. Having been informed that two British seamen, aboard the American brig *Pharos*, volunteered to enter on board his ship, he sent a boat to inquire for them, when, without force or menace, excepting such as you are pleased to imply from the vessel-of-war being in sight, the two seamen leave the *Pharos*, and are conveyed on board the *Redwing*. It was then found that one of them only was a British seaman, and he remained on board, while the other, being a native of Norway, with an American protection, was sent back to the American brig. This part of the conduct of the British officer ought to do away all apprehension expressed in one part of your note, that "the British Government may be prepared to assert the extraordinary claim, that all seamen found on board a foreign vessel, who are not natives of the country to which the vessel belongs, may be taken or impressed into the British service."

I trust that you will do me the justice to believe that I have been induced to protract my correspondence with you upon the subject of this alleged impressment, with the imperfect information which has hitherto reached me, from an anxious desire only to calm the irritation which complaints of such a nature are too apt to excite in the feelings of the public.

Anxious to seize the first opportunity of doing away any misrepresentation which might aggravate those feelings, I was glad to have been enabled to communicate to you the report of the Consul; and I beg leave to express the satisfaction with which I learned from your note of the 15th that you had already instituted an inquiry into the circumstances of this transaction, and that the investigation would be continued, though rendered unfortunately fruitless, at present, on account of the captain of the American brig having sailed from Boston for the Cape de Verde islands.

I shall anxiously await the final issue of the inquiries instituted into this transaction; and I cannot but entertain a confident expectation, from what has already transpired, that the British officer concerned will be acquitted of all blame.

I seize this opportunity to renew to you the assurances of my high consideration.

CHARLES R. VAUGHAN.

Hon. HENRY CLAY, *Secretary of State.*

C.

Extract of a letter (No. 17) from Mr. Condy Raguet, Chargé d'Affaires of the United States at Rio de Janeiro, to the Secretary of State, dated Rio de Janeiro, October 31, 1826.

"Mr. Bond* relates three instances of recent impressment of American seamen, and says, 'I am well convinced that there are others on board the fleet† who have been impressed, but they are prevented from coming ashore. I have understood that those who have been impressed, and who refuse to enter the service, are compelled to do heavier duty than the rest; are sometimes put on short allowance, and are paid less than the others, in order to induce them to accept of the bounty; in consequence of which, some have entered, after refusing to do so for a long time.' He states one case of an American being severely beaten by a press-gang, and carried off, after having been released from a former impressment a few days before."

19TH CONGRESS.] No. 447. [2D SESSION.

PAYMENT OF INDEMNITY BY GREAT BRITAIN FOR SLAVES CARRIED AWAY IN 1815.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 16, 1827.

To the Senate and House of Representatives of the United States:

I communicate to both Houses of Congress copies of a convention between the United States and Great Britain, signed on the 13th of November last, at London, by the respective plenipotentiaries of the two Governments, for the final settlement and liquidation of certain claims of indemnity of citizens of the United States which had arisen under the first article of the treaty of Ghent. It having been stipulated by this convention that the exchange of the ratifications of the same should be made at London, the usual proclamation of it here can only be issued when that event shall have taken place, the notice of which can scarcely be expected before the close of the present session of Congress. But it has been duly ratified on the part of the United States; and by the report of the Secretary of State, and the accompanying certificate herewith also communicated, it will be seen that the first half of the stipulated payment has been made by the minister of his Britannic Majesty residing here, and has been deposited in the office of the Bank of the United States at this place, to await the disposal of Congress.

I recommend to their consideration the expediency of such legislative measures as they may deem proper for the distribution of the sum already paid, and of that hereafter to be received, among the claimants who may be found entitled to indemnity.

JOHN QUINCY ADAMS.

WASHINGTON, *January* 16, 1827.

DEPARTMENT OF STATE, *January* 15, 1827.

The Secretary of State has the honor to report to the President that payment to the United States has this day been made by the British minister of the sum of $602,480, agreeably to the third article of the convention with Great Britain, signed on the 13th day of November last; that sum being the first moiety of the gross amount stipulated in the first article of the convention to be paid by Great Britain in lieu of and in full and complete satisfaction for all sums claimed or claimable from Great Britain under the decision of the late Emperor of Russia, and the convention to carry it into effect, which was concluded at St. Petersburg on the 12th day of July, 1822. A procés verbale was made of the manner in which the payment was effected, of which a copy accompanies this report. The sum thus paid has been deposited in the office of the Bank of the United States at Washington, to the credit of the United States, and subject to the order of Congress.

All which is respectfully submitted.

H. CLAY.

DEPARTMENT OF STATE, *Washington, January* 15, 1827.

On this day, in consequence of an appointment made by an exchange of official notes between H. Clay, Secretary of State, and the Right Honorable Charles R. Vaughan, his Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, Mr. Vaughan attended at the Department of State, and, in pursuance of the third article of the convention, concluded and signed at London on the 13th day of November last, between the United States and Great Britain, paid to the Secretary of State the sum of six hundred and two thousand four hundred and eighty dollars, being the first moiety of the gross sum

* Consul of the United States at Montevideo. † That of Brazil.

which Great Britain, in the aforesaid convention, stipulates to pay to the United States; which payment, in the presence of Daniel Brent, Chief Clerk of the Department of State of the United States, and Charles Bankhead, his Britannic Majesty's Secretary of Legation, was made by a transfer of a check or order for that sum, drawn by the Bank of the United States on its Office of Discount and Deposit, in the city of Washington, in favor of said Vaughan. Whereupon the said Clay, Secretary of State as aforesaid, executed, in duplicate, a receipt for the said sum and delivered it to the said Vaughan.

In testimony of all which, this procés verbale has been made and signed by the said Clay and Vaughan.

H. CLAY.
CHARLES R. VAUGHAN.

Done in presence of—
DANIEL BRENT.
CHARLES BANKHEAD.

Convention between the United States and Great Britain, concluded at London November 13, 1826.

Difficulties having arisen in the execution of the convention concluded at St. Petersburg on the 12th day of July, 1822, under the mediation of his Majesty the Emperor of all the Russias, between the United States of America and Great Britain, for the purpose of carrying into effect the decision of his Imperial Majesty upon the differences which had arisen between the said United States and Great Britain on the true construction and meaning of the first article of the treaty of peace and amity concluded at Ghent on the 24th day of December, 1814, the said United States and his Britannic Majesty, being equally desirous to obviate such difficulties, have respectively named plenipotentiaries to treat and agree respecting the same, that is to say:

The President of the United States of America has appointed Albert Gallatin their Envoy Extraordinary and Minister Plenipotentiary to his Britannic Majesty:

And his Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honorable William Huskisson, a member of his said Majesty's Most Honorable Privy Council, a member of Parliament, President of the Committee of Privy Council for Affairs of Trade and Foreign Plantations, and Treasurer of his said Majesty's Navy, and Henry Unwin Addington, Esq., late his Majesty's Chargé d'Affaires to the United States of America:

Who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon and concluded the following articles:

ARTICLE 1. His Majesty the King of the United Kingdom of Great Britain and Ireland agrees to pay, and the United States of America agree to receive, for the use of the persons entitled to indemnification and compensation, by virtue of the said decision and convention, the sum of twelve hundred and four thousand nine hundred and sixty dollars, current money of the United States, in lieu of and in full and complete satisfaction for all sums claimed or claimable from Great Britain, by any person or persons whatsoever, under the said decision and convention.

ARTICLE 2. The object of the said convention being thus fulfilled, that convention is hereby declared to be cancelled and annulled, save and except the second article of the same, which has already been carried into execution by the Commissioners appointed under the said convention; and save and except so much of the third article of the same as relates to the definitive list of claims, and has already likewise been carried into execution by the said Commissioners.

ARTICLE 3. The said sum of twelve hundred and four thousand nine hundred and sixty dollars shall be paid at Washington, to such person or persons as shall be duly authorized on the part of the United States to receive the same, in two equal payments, as follows:

The payment of the first half to be made twenty days after official notification shall have been made by the Government of the United States to his Britannic Majesty's minister in the said United States of the ratification of the present convention by the President of the United States, by and with the advice and consent of the Senate thereof.

And the payment of the second half to be made on the first day of August, 1827.

ARTICLE 4. The above sums being taken as a full and final liquidation of all claims whatsoever arising under the said decision and convention, both the final adjustment of those claims and the distribution of the sums so paid by Great Britain to the United States shall be made in such manner as the United States alone shall determine, and the Government of Great Britain shall have no further concern or liability therein.

ARTICLE 5. It is agreed that, from the date of the exchange of the ratifications of the present convention, the joint commission appointed under the said convention of St. Petersburg of the 12th of July, 1822, shall be dissolved, and, upon the dissolution thereof, all the documents and papers in possession of the said commission relating to claims under that convention shall be delivered over to such person or persons as shall be duly authorized on the part of the United States to receive the same; and the British Commissioner shall make over to such person or persons so authorized all the documents and papers (or authenticated copies of the same where the originals cannot conveniently be made over) relating to claims under the said convention which he may have received from his Government for the use of the said commission, conformably to the stipulations contained in the third article of the said convention.

ARTICLE 6. The present convention shall be ratified, and the ratifications shall be exchanged in London in six months from this date, or sooner if possible.

In witness whereof, the plenipotentiaries aforesaid, by virtue of their respective full powers, have signed the same, and have affixed thereunto the seals of their arms.

Done at London this thirteenth day of November, in the year of our Lord one thousand eight hundred and twenty-six.

[L. S.] ALBERT GALLATIN.
[L. S.] WILLIAM HUSKISSON.
[L. S.] HENRY UNWIN ADDINGTON.

19TH CONGRESS.] No. 448. [2D SESSION.

DISCRIMINATING DUTIES—NETHERLANDS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 19, 1827.

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives of the sixth instant, I transmit herewith a report from the Secretary of State, together with copies of the correspondence with the Government of the Netherlands relating to discriminating duties.

JOHN QUINCY ADAMS.

WASHINGTON, *January* 18, 1827.

DEPARTMENT OF STATE, *January* 17, 1827.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the sixth instant, requesting the President to communicate to the House, if compatible with the public interest, the correspondence with the Government of the Netherlands referred to in his message, and relating to discriminating duties, has the honor to report, that, in conformity to a resolution of the House of Representatives of the twenty-first January, 1825, a report on the tenth February, 1825, was made from this Department, submitting copies of the correspondence which had taken place up to the latter period upon the subject-matter of the present resolution, to which report a reference is respectfully requested. Copies of the correspondence in relation to the same subject which has since taken place are now herewith reported. All which is respectfully submitted.

H. CLAY.

Papers accompanying report.

Mr. Clay to Chevalier Huygens, December 10, 1825. (Copy.)
Mr. Huygens to Mr. Clay, December 12, 1825. (Translation.)
Mr. Clay to Mr. Huygens, December 24, 1825. (Copy.)
Mr. Huygens to Mr. Clay, December 27, 1825. (Translation.)
Mr. Clay to Mr. Hughes, April 27, 1826. (Extract.)
Mr. Huygens to Mr. Clay, September 15, 1826. (Translation.)
Mr. Clay to Mr. Huygens, October 25, 1826.
Mr. Huygens to Mr. Clay, November 11, 1826. (Translation.)
Mr. Clay to Mr. Hughes, December 12, 1826. (Extract.)

Mr. Clay to the Chevalier Huygens.

DEPARTMENT OF STATE, *Washington, December* 10, 1825.

SIR: According to the respective regulations of the United States and the Kingdom of the Netherlands, each professes to act towards the other, in regard to navigation, upon the basis of perfect reciprocity and equality. The United States have not deviated from their professions. The vessels of the Netherlands and their cargoes, consisting of the produce and manufacture of that Kingdom, or of such produce and manufactures as are most usually first shipped from its ports, pay no higher duties in the ports of the United States than their own vessels and their cargoes of similar produce. On the 7th of March, 1823, at Brussels, Mr. Everett, then representing the Government of the United States in the Netherlands, addressed an official note to the Baron de Nagell, stating that several articles of the Dutch tariff established a difference of duties in favor of goods imported in Dutch vessels; and, in particular, that the law of the 26th of August, 1822, creates, in the form of a drawback, a general discrimination to the same effect, according to which one-tenth of the duties paid upon the importation or exportation of all goods in Dutch vessels is to be returned, with the exception of those articles the importation or exportation of which, in Dutch vessels, is otherwise favored specifically by the tariff. On the 27th of May, 1823, the Baron de Nagell returned an answer to the note of Mr. Everett, in which he does not contest the existence of the above provisions of the laws of the Netherlands. The Baron labored under a misconception of the views of the American Government in supposing that it contemplated an abolition of the principle of equality which it had adopted in the ports of the United States between American and Dutch vessels, as Mr. Everett showed in his reply of the 31st of the same month of May. The limitation of the duration of the acts of Congress, by which that equality had been established, to the 1st of January, 1824, having been prescribed for the purpose of bringing the whole subject under the review of our Legislature, it was accordingly again taken up, and on the 7th of January, 1824, a new act was passed, (which takes effect on the first of that month,) according to which the principle of equality is applied to all foreign Powers who may be disposed to adopt it; and the continuance of this new act, as to time, is indefinite. The Congress

of the United States supposed that the Kingdom of the Netherlands had done away all discriminations unfavorable to the vessels of the United States in a fair competition with Dutch vessels in the ports of the Netherlands, and accordingly, in enumerating the foreign Powers to which the act is to be extended, first designates that Kingdom. By the third section of the act it is declared, in effect, that its operation is to cease as to any of the nations enumerated which shall not continue to apply to vessels of the United States the principle of equality between them and its own, of which the act is predicated. A copy of this new act of Congress was communicated to the Chevalier de Reinhold, by Mr. Everett, on the 22d of March, 1824.

It is not my intention to discuss the question presented by Mr. Everett to the Government of the Netherlands. Whatever may be the form of the law, it is manifest that if in the ports of that Kingdom vessels of the United States pay, in export or import duties, ten per cent. more than Dutch vessels, or Dutch vessels pay ten per cent. less than those of the United States, there does not exist an equality between them. This proposition is too clear to be considered as open to argument. If the Government of the Netherlands thinks proper to originate such a difference, or, having created it, thinks proper to continue it, we shall not controvert its right to do so. But we are entitled to know its dispositions in this respect. I am directed, therefore, by the President, to inquire of you if you are authorized to state that the vessels of the United States and all goods and merchandise of the produce and manufacture of the United States laden therein and imported into any of the ports of the Netherlands are now exempted from all and every discriminating duty of impost and tonnage, direct or indirect, whatsoever, other or higher than is levied upon the vessels and similar goods and merchandise therein imported belonging to the subjects of the Netherlands; and, especially, if the laws referred to in Mr. Everett's note, hereinbefore mentioned, of the 7th of March, 1823, so far as they have an unequal operation upon the vessels of the United States, in comparison with Dutch vessels, have been modified or repealed. It will afford the President much satisfaction to find in your answer that the contingency provided for in the third section of the act of the 7th of January, 1824, has not arisen, and, consequently, that it is not his duty immediately to withdraw from Dutch vessels the privileges which they now enjoy in the ports of the United States equal with their own vessels.

I pray you, sir, to accept assurances of the distinguished consideration of your obedient servant,

H. CLAY.

The Chevalier Huygens to the Secretary of State.

[Translation.]

WASHINGTON, *December* 12, 1825.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of his Majesty the King of the Netherlands near the United States of America, has had the honor to receive the note which Mr. Clay, Secretary of State, addressed to him, dated the 10th of this month, relative to representations made in 1823 and 1824 by the Chargé d'Affaires of the United States near the Government of the Netherlands, against a deviation from the admission, at duties equal with the national ships, of American vessels in the ports of the Netherlands, caused by certain fixations of duties in the tariff of the Netherlands.

The undersigned, not being furnished with instructions in regard to this question, regrets exceedingly his inability to answer, in a positive manner, the demand contained in the aforesaid note: "If the laws which gave rise to the representations of Mr. Everett in 1823, so far as they operate unequally upon American vessels, in comparison with the vessels of the Netherlands, have been modified or repealed?"

The undersigned thought that the differences in this regard had been discussed or explained between Mr. Everett and Mr. Reinhold, charged at that time with the Port Folio of Foreign Affairs, and that the result of this discussion was not of a nature to suppose that an uniformity of measures between the two Governments was far distant. It may be that the change of persons in the mutual missions, and the interruption of diplomatic relations, have been the cause that the state of the question is such as is represented, without being removed or decided.

The undersigned, however, believes to a certainty that his Government, having adopted a system of reciprocity in its commercial relations with friendly Powers, is always disposed to apply this system in regard to the United States.

The undersigned ought to confine himself to the preceding answer to the above-mentioned note of the Secretary of State, but he hastened to inform his Government, whose instructions upon the subject he has demanded.

He prays Mr. Clay to accept the assurances of his high consideration.

THE CHEVALIER HUYGENS.

Mr. Clay to the Chevalier Huygens.

DEPARTMENT OF STATE, *December* 24, 1825.

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant, which has been laid before the President. Some surprise is felt that you have no instructions on the subject of the inequality of duties against which Mr. Everett remonstrated both to Mr. Reinhold and his predecessor. Considering the nature of that inequality, and the time which has elapsed since its injustice was clearly demonstrated by Mr. Everett to the Government of his Majesty the King of the Netherlands, it was expected that you would have been fully authorized to give the requisite assurances of its being done away. Since you have no such authority, and have referred home for instructions, the President, willing to give a new proof of his desire to cultivate the most amicable relations with the Government of the Netherlands, will refrain, until he receives an answer, from exercising the power with which he is invested by the act of Congress referred to in my former note. That act leaving him no alternative in the event

of the persistance of your Government in maintaining the inequality alluded to, it is expected, after all that has occurred, that you will lose no time in obtaining and communicating to this Department information whether it be intended so to persist or not.

I pray you to accept the renewed assurances of the distinguished consideration of your obedient servant,

H. CLAY.

The Chevalier Huygens to the Secretary of State.

[Translation.]

WASHINGTON, *December* 27, 1825.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of his Majesty the King of the Netherlands, has the honor to acknowledge the receipt of the note which Mr. Clay, Secretary of State addressed to him on the 24th of this month, to communicate to him the friendly intentions of the President with regard to the expectation of an answer or decision of his Government on the representations made by Mr. Everett respecting an inequality of the duties of tonnage borne by American ships in comparison of those borne by vessels of the Netherlands. The undersigned returns his thanks for this communication, and for the desire which it expresses of cultivating the most friendly relations with the Government of the Netherlands, and will hasten to transmit it, as he has not failed to do with the preceding note of the Secretary of State, of the 10th of this month, upon the same subject; and sure of the reciprocal sentiments entertained by his Majesty the King of the Netherlands for the United States, the undersigned flatters himself that he will receive, with the least possible delay, the instructions required.

He prays Mr. Clay to accept the repeated assurances of his high consideration.

C. D. E. J. BANGEMAN HUYGENS.

Extract of a letter from Mr. Clay to Mr. Hughes, Chargé d'Affaires of the United States to the Netherlands, dated Department of State, Washington, April 27, 1826.

"I have received no assurance from Mr. Huygens that the inequality in the ports of the Netherlands between American and Dutch vessels, which forms the topic of my letter to him, under date of the 10th of December last, has been removed. You will again bring that subject before the Government of the Netherlands, and express the just expectation of the President that it should be forthwith done away, if it yet continues in operation."

The Chevalier Huygens to the Secretary of State.

[Translation.]

WASHINGTON, *September* 15, 1826.

SIR: Furnished with instructions relative to the demands which you did me the honor to address to me, of the 10th and 24th of December, 1825, in regard to an article in the tariff of the Netherlands, of the 22d of August, 1822, which grants a restitution of 10 per cent. on the duties of merchandise imported and exported under the national flag, I am now authorized to explain to the Government of the United States the system which governed that of the Netherlands in this matter.

When, in 1817, negotiations were commenced between the two Governments to relieve the languishing and interrupted commerce between the two nations, and to favor their relations, it was intended to obtain, by mutual concessions, reciprocal advantages. At this period the flag of the United States already enjoyed in the Netherlands all the advantages which flowed from the liberal system which was then predominant. This system preceded what the United States wished to obtain; for, by the legislation of the Netherlands, the Americans were permitted to import and export any productions, without exception of origin, upon paying the same duties as national vessels, with the exception of only a few articles. The Americans were, besides, permitted to navigate to the colonies of the Netherlands.

The Government of the Netherlands does not think new concessions necessary to strengthen the existing grievances against the *discriminating duties* which press upon its commerce in America. It is also authorized to think that the report of the American Commissioners upon the fruitless issue of the above-mentioned conferences directed Congress in its deliberations on the passage of the act of 20th of April, 1818.

This act was considered in the Netherlands as a commencement of a system of reciprocity; and they flattered themselves, it is true, that the advantages granted by this act to the national flag, over the flags of other nations, would have a salutary effect upon the navigation, and produced the hope that it would pave the way to the establishment of the ancient commercial relations between the two countries.

But experience has proved that the direct relations continue languishing, and that the American flag alone possessed the advantages which the liberal system in the Netherlands presented to it. It was observed that, during six years, no amelioration took place in the direct navigation of the Netherlands in the United States, and that during this time the flag of the Netherlands had scarcely participated in it.

From Rotterdam, where formerly the commerce with America had been very active, not a single vessel under the national flag had been despatched; from Amsterdam and Antwerp the number was confined to a few. On the contrary, these ports had been visited by a number of American ships.

These, therefore, have alone derived the advantages of the equality of duties, whilst the ships of the Netherlands have obtained, if I may so speak, no benefit from the act of April 20, 1818; and if this act was not sufficient to encourage new speculations, and to excite emulation in the flag of the Netherlands, it ought to be still less expected from that of the 7th of January, 1824. This act, instead of fulfilling the concession which might, in justice, be expected, diminishes the advantages stipulated by the former. This general measure, granting to almost all the commercial nations of Europe rights which had been granted lately to the Netherlands alone, by generalizing them, dispelled the illusion, if I may so speak, of the advantages which the act of the 20th of April, 1818, had produced.

In this state of affairs the Government of the Netherlands did not expect a renewal of the representations against the tenth article of the law of August 26, 1822. It flattered itself that the Government of the United States had admitted the explanation, "that by the tariff of the Netherlands the duties of entry and clearance are, in general, the same for all foreign and the national flags, and that the reimbursement of the ten per cent. only aimed at the encouragement of maritime building, and can only be considered as a premium or gratification."

In effect, this ten per cent. is not a diminution of the duties of navigation, properly speaking, because it is not calculated by the capaciousness of the ships, but is granted upon the duties of entry for merchandise loaded on national ships, and is, consequently, entirely conformable with the duties of the tariff; the amount of reimbursement depending upon the nature of the objects of which the cargo is composed, so that it may be more considerable for a small vessel than for a large ship, according as the merchandise loaded thereon is liable to pay more or less duties. It is not, then, in reality, from the duty of tonnage, on which, in the first instance, the reciprocity is applicable, that the representations of the United States can draw the question. Upon consideration, the Government of the Netherlands cannot help thinking that they have demonstrated that the representations of the Chargé d'Affaires of the United States, in 1823 and 1824, were not based upon a system of reciprocity; and it is probable that, if Mr. Everett had not gone away during the deliberations on a new report which was about to be made upon this matter, he would have understood that there were no reasons for granting the reimbursement of ten per cent. of the duties of entry and clearance to American ships, which he claimed.

These were the circumstances, sir, when the notes which you did me the honor to address me on the 10th and 24th December last arrived in Holland, and they caused the matter to be taken into consideration anew.

In order to understand with certainty if the state of the navigation between the Kingdom and the United States could actually admit of a more favorable reception of the above-mentioned representations than in 1823 and 1824, the state of the ships and their cargoes which sailed between the Netherlands and the United States in the last three years was taken.

It is evident, from this table, that there were entered in the ports of the Netherlands under the American flag—

In 1823	136 ships.
In 1824	98 "
And during the first six months of 1825	55 "
Under the flag of the Netherlands—	
In 1823	2 "
In 1824	5 "
And during the first six months of 1825	5 "
And cleared under the American flag—	
In 1823	65 "
In 1824	97 "
And during the first six months of 1825	66 "
Under the flag of the Netherlands—	
In 1823	6 "
In 1824	11 "
During the first six months of 1825	7 "

This disproportion in the number of American and national ships engaged in the commerce between the two countries is too striking not to recognize in it the inequality of advantages which exist in the reciprocal relations, and ought to convince the Government of the Netherlands that the legislative provisions of the United States in favor of its flag had produced no benefit to it.

The cause of this difference in the navigation of the two nations ought to be principally attributed to the tendency of the tariffs of duties in the two countries, by which, although the ships of the Netherlands and their cargoes are treated in the American ports on the same footing as the national vessels, they are still in a worse condition than the American ships and their cargoes in the ports of the Netherlands, even if they were considered only as foreign vessels.

And how could the ships of the Netherlands transport their merchandise to the United States when they find there the principal productions of the Kingdom, as, for example, Geneva, sail-cloth, cheese, and many other articles charged so high as to pay, calculated from the original price, from 50 to 100 per cent. of the value. These articles, justly including a part of the provisions and necessaries of the crews, with which it may be useful sometimes for the captains to part with, or which they are often obliged to sell, the impost upon them presses essentially upon the navigation, as also the dues of pilotage upon the footing of foreign ships, as they have been demanded and paid, even recently, at Norfolk, by the brig Mary, Captain James Almeida. But another disadvantage to the ships of the Netherlands in the ports of the United States is found in the facility of desertion and the power which the tribunals claim in the differences between the crews, without admitting the claims of the Consuls on this subject, or acknowledging their right of decision. In fine, in the limitation of the cargoes which the ships of the Netherlands are permitted to bring to America to duties equal with the Americans.

It is easy to conclude from hence, on one side, that the reciprocity of duties of navigation for the ships of the Netherlands to an equality with those of the United States in American ports is of little or no utility to the former, because the merchants of the Kingdom can find no profit to charge upon the merchandise entering into their commerce, and more especially the products of the national industry, on account of the excessive duties imposed upon them, and that the owners or captains cannot be tempted to offer facilities in the freight. On the other hand, it is evident that, in consequence of the liberal stipulations of the tariff of the Netherlands, especially in regard to the products of the United States and the equality of the duties of tonnage, the American ships may bring continually their merchandise, with

advantage, to the Netherlands, although some articles, as coffee, sugar, &c., are subjected to a heavier duty than national vessels pay, and although they do not receive a restitution of ten per cent. To this it may be added that, by a law of 24th March last, which was put in force on the 1st of April following, and which I take the liberty of enclosing, the duties of entry upon cotton, tobacco, and sugar, all prime articles of importation for Americans, have been fixed so low that they amount scarcely to one per cent. of the value. Besides, it is to be observed that the ships of the United States do not pay, in the ports of the Netherlands, higher pilotage dues than national ships. Moreover, the Consuls of the United States are in full possession of the rights and prerogatives which the Consuls of the most favored nations enjoy in the Netherlands. Their decisions in point of differences between American crews are respected, and the authorities comply, without difficulty, to their claims for the restoration of deserters.

All these advantages to the American flag ought not to be forgotten, and it must be acknowledged that the navigation and commerce under this flag, anything appearing to prove a different treatment, are much more favored in the Kingdom than the navigation and commerce under the flag of the Netherlands are in the United States, although it be treated on the footing of the national flag.

From this explanation one must justly be convinced that the Government of the United States has no subjects of real complaint in regard to the treatment which its flag experiences in the Netherlands; but it may see, on the contrary, in the new dispositions of the tariff, the liberality of the custom-house system of the Netherlands. It will be observed, at the same time, that an equal treatment of American ships with the national, with regard to the premium of 10 per cent., could be based only upon a reciprocal advantage for the commerce of the Netherlands relative to the duties of importation in America.

In consequence of this system I am authorized to express to the Government of the United States the desire and good will of his Majesty the King of the Netherlands to have, ulteriorly, a fellow feeling with the President, in case of a similar disposition, and a wish to consent to a reciprocal diminution of the duties of entry upon the original merchandise of the Netherlands, or brought with ships under its flag, so that, in consenting to new advantages to American ships in the Netherlands, its flag may also reciprocally receive a more advantageous treatment than at present in the ports of the United States, and that, on this hypothesis, agreements may be adopted, in regard to merchandise, as well as to the subject of navigation, all which, by favoring the prosperity of the two nations, may, at the same time, draw closer the bonds of amity which exist between the two Governments.

Be pleased to accept, upon this occasion, the assurances of the high consideration with which I have the honor to be, sir, your most humble and most obedient servant,

C. D. E. J. BANGEMAN HUYGENS.

Mr. Clay to the Chevalier Huygens.

DEPARTMENT OF STATE, *Washington, October* 25, 1826.

SIR: I have the honor to acknowledge the receipt of your note of the 15th ultimo, communicating, according to instructions received by you from the Government of the Netherlands, the explanation which it has to offer of the inequality existing in the ports of that Kingdom between the duties to which vessels of the United States and national vessels are subjected. The President, to whom I have submitted your note, has been anxious to find, but has been unable to perceive in it, a satisfactory explanation of that inequality.

The negotiations in 1817, to which you refer, had in view, among other objects, that of placing the vessels of the two countries, in their respective ports, upon a footing of perfect equality in regard to impost and tonnage duties, so as to leave a fair competition between them in the transportation of the subjects of commerce. The act of Congress of the 20th of April, 1818, was founded upon express assurances from the Government of the Netherlands that no inequality existed in the ports of the Netherlands between the vessels of the two countries in the above particular; and it accordingly repeals the discriminating duties of the United States in regard to Dutch vessels, the repeal to take effect from the time the Government of the Netherlands abolished the discriminating duties on its part. All that had passed between the Governments of the two countries on this subject prior to the article in the tariff of the Netherlands of the 22d August, 1822, entitled us to conclude that there was a perfect understanding between them that no discriminating duties should exist in the ports of the one operating to the disadvantage of the vessels of the other. This mutual understanding ought to have all the effect of a solemn contract, and the United States have accordingly so treated it from the passage of their act of Congress in 1818 to the present time. For more than four years have their vessels been subjected to a charge, in the ports of the Netherlands, of ten per cent. on their cargoes greater than is paid by Dutch vessels. We have, again and again, remonstrated against this inequality, and now we are informed in your note, as a reason for not fulfilling the engagement, that the navigation of the Netherlands has not derived all the benefit which its Government anticipated from the equalization of duties. If that even were the result of experience, it certainly could afford no justification for the non-execution of an arrangement which ought to be regarded as guarantied by national faith.

The Government of the United States demands no new concessions from that of the Netherlands. It requires only that the equality which had been stipulated by their mutual laws, and which had existed prior to the tariff of August, 1822, shall be fairly enforced. It can perceive no reason for not giving effect to that stipulation in the state of the trade between the United States and the ports of Rotterdam, Amsterdam, and Antwerp, which is described by you. The President would be happy to see the greatest commercial activity prevailing between those and all other ports of the Netherlands and the United States; but that is a matter beyond the control of either Government, and must be left to the wants of consumption and to individual enterprise. Nor can it be admitted that the Government of the Netherlands is justified in making the discrimination which exists in its ports by the fact of the act of Congress of January, 1824, having extended to other Powers the same liberality which our laws dispensed to the Netherlands. We came under no such restriction in that respect to your Government; and it is the desire of the United States to place their navigation with all countries on the liberal and equal footing of perfect reciprocity.

We can comprehend very clearly that the aim, as you state, of the restitution of ten per cent. of the duties levied in the ports of the Netherlands in behalf of Dutch vessels, is to encourage them. The object of our discriminating laws was to encourage our navigation. Relinquishing that object, and

depending on equal competition, we abolished them in regard to the Netherlands, and placed the vessels of the two countries, in that respect, in our ports, in a condition of entire equality. And it is precisely because the tendency of the tenth article of your tariff is that of encouragement to Dutch vessels, and discouragement to all foreign vessels, including American, that it disturbs the equality which ought to exist between Dutch vessels and those of the United States, that we are authorized to expect its repeal. The fact of the existence of the inequality cannot be affected by the form of the privilege which is enjoyed. Whether it be that of a direct bounty to the native vessel, or compels the foreign vessel to pay more, and allows the native to pay less duty, or be laid upon the cargo, or upon the tonnage, the effect is the same. The object of a mutual abolition of discriminating duties in the ports of the two countries was to leave to their vessels a fair and equal competition in the transportation of commodities between them. But can such an equality of competition exist, if, in the ports of one country, its vessels pay ten per cent. less than those of the other; or, what is in effect the same thing, after paying a like amount of duty, receive back ten per cent. of that amount?

You remark that the ten per cent. is not a diminution of the duties of navigation, because it is calculated, not upon the capacity of the vessel, but on the amount of duties on the cargo with which she may be laden. But its effect is the same; that is, to favor the Dutch tonnage employed in the trade between the Netherlands and the United States.

Protesting against the principle that a nation is absolved from the duty of fulfilling its engagements because it has been disappointed in the degree of benefit which it expected to derive from them, the table which you exhibit, of the relative amount of tonnage employed in the trade between the United States and the Netherlands, admits of several observations. Assuming the facts which it presents to be correct, it shows a gradual increase of the Dutch and a diminution of the American tonnage during the two years and a half which it comprises. The marine of the Netherlands was almost destroyed during the long wars which originated out of the French Revolution. The ten years which had intervened since their conclusion, were not sufficient to restore it to its ancient flourishing condition. The first object of the Government, and of the enterprise of the Dutch merchants, was probably to revive the intercourse with their distant colonies, and in that their marine was principally employed. Time is necessary to establish the habits and to create the mercantile marine necessary to a foreign trade; and, accordingly, the table shows that time is working, slowly but certainly, its usual effects.

It cannot be admitted that the state of our tariff operates more to the disadvantage of the tonnage of the Netherlands than to that of the United States. If it prevents some exchanges which might take place on a lower scale of duties, that affects alike the tonnage of both countries. Whatever may be the amount of transportation between them, if the vessels and their cargoes of both are liable only to the same duties, the equality of the competition between them, so far as it depends upon legislation, will be preserved; and those of each will have a fair opportunity of sharing in the transportation, whether it be chiefly from the ports of the one country or of the other. As to the application of the American tariff to the produce of the Netherlands, it must be remarked that it is received upon the footing of that of the most favored nation. It unfortunately happens that the articles of Geneva, sail-cloth, and cheese, which you particularize, are similar to those which our own country produces; and our tariff was not arranged with any reference to its particular operation on Dutch produce, but with the general purpose of protecting American industry. The articles, on the contrary, of cotton, sugar, and tobacco, not being products of the Netherlands, may be admitted at a low rate of duty, not only without injury, but, as it respects the first especially, with great encouragement to the industry of the Netherlands.

The understanding which existed between the two Governments in relation to the abolition of discriminating duties did not embrace the subjects of pilotage and the jurisdiction which ought to be exercised by the Consuls of the two countries over seamen deserting from their respective flags. Pilotage is regulated, under the authority of an act of Congress, by the laws of the several States. It is not known that those laws generally make any discrimination between a foreign and a native flag; and if such difference were made in the case of the brig Mary, we have no other information of it but that which is contained in your note. If no higher duties are paid by American vessels than those of the Netherlands in the waters of the latter, the Government of the United States would readily apply the principle of equality, adopted in reference to discriminating duties, to the demand for pilotage. As to the control of the Consuls of the Netherlands over deserting seamen, the Government of the United States would be willing to enter into any agreement founded on mutual convenience and reciprocity.

With respect to the desire of the Government of the Netherlands, which you are authorized to express, to treat with the United States for a mutual reduction of duties of impost, I have the honor to state that the policy which this Government has hitherto adopted has been to reserve to itself, exclusively, the judgment of the proper rate of those duties. In fixing it, equality has been alike dispensed to all nations. The circumstances of no two given countries are of such exact resemblance as to admit of the same rate of duty for both. The United States are not, therefore, prepared to change their established policy. There is a manifest distinction, however, between the standard of duties which is applied to the articles of a commerce between the two countries, and the principle of equality in the transportation of those articles by the vessels of the same countries. Leaving each free to impose such duties as the state of its revenue, of its institutions, and of its domestic industry may seem to require, there is nothing to prevent the operation of a rule of fair competition between the vessels of the two countries, by each being allowed to export or import at the same rates of duty for vessel and cargo. The laws of the United States and of the Netherlands professed to establish such a rule. The Dutch tariff of 1822 violates it; and I am therefore directed anew to express the expectation of the President that the equality will be restored, and the hope that your instructions will spare him the necessity of performing the duty which is enjoined by the act of Congress of January, 1824.

I avail myself of this occasion to tender you assurances of my high consideration.

H. CLAY.

The Chevalier Huygens to the Secretary of State.

[Translation.]

WASHINGTON, *November* 11, 1826.

SIR: I have had the honor to receive, on the 1st day of this month, the note which you addressed to me, under date of the 25th ultimo, in answer to the explanation which I was charged to make to you, on

the 15th of September last, in respect to the system which directs my Government in the claim of the Government of the United States in favor of their flag, touching the restitution or premium which the tenth article of the tariff of 1822, of the Netherlands, grants to national vessels on the duties of importation and exportation of merchandise.

The President not being satisfied with the explanations given, and not admitting the reasons alleged for considering this article as not applicable to the duties of tonnage equalized between the two countries, I think, for the interest of the reciprocal relations, that I ought to add to the above cited explanation the following observations:

From the commencement of the relations between the United Provinces of the Netherlands and the United States of America, founded and stipulated by the treaty of 1782, and faithfully maintained until the war of Europe, and, in fine, the invasion of the United Provinces of the Netherlands by a foreign Power, suspended these happy relations, the American flag was there treated on an equality with the national flag, which enjoyed a perfect reciprocity in the United States. At that time, however, the tariff of the United Provinces of the Netherlands granted advantages to certain branches of the national navigation. For example, the national vessels destined to the whale fishery, at that time very numerous, paid 8½ to 12 per cent. less than foreign vessels on their cargo. The vessels of the India Companies were equally, but otherwise, favored. This circumstance proves that, at all times, and when a formal treaty between the two countries, based upon a system of liberality and reciprocity, was in force, such advantages were admitted, without appearing to derogate from that system. The present Government of the Netherlands, in making the tariff of 1822, only acted on the same principle, without thinking that it was restrained in the formation of the law by that which admits the equality of the duties of tonnage in favor of the American flag.

The United States find themselves, in this regard, in the same predicament with all the Powers which have equalized the duties of tonnage with the Netherlands, by the consideration that the tariff in question does not derogate from their rights, and there would, therefore, occur a particular concession to the United States in applying the tenth article of the tariff of 1822 to the merchandise loaded on American bottoms. In this acceptation the Government of the United States do not pretend to it; yet that of the Netherlands cannot grant it but by considering it thus, and against some conventional equivalent.

The desire of his Majesty the King of the Netherlands to favor and extend the navigation and commerce between his Kingdom and the United States is well known, and of the sincerity of his dispositions the President cannot be in doubt. His Majesty has given unequivocal proofs of it, from his coming to the throne. To the time when Belgium was united to the Kingdom of the Netherlands, his Majesty, without knowing the reciprocal dispositions of the Government of the United States, admitted, without hesitation, the bases of the treaty of 1782, and caused them to be applied to the navigation and commerce of the United States. The Americans were immediately placed in the position of the most favored nation. This was in the confidence and hope of finding their intentions reciprocal; but still encountering, in the system of legislation of the United States, difficulties in this respect, his Majesty only obtained, at first, from their Government, promises, and, especially on the subject of the existence or renewal of the treaty of 1782, evasive answers. Nevertheless, his Majesty did not relax in his system of concessions, and the constant instructions to his legation prove the value which he set upon the re-establishment of the ancient relations between the two countries. I can cite, on this subject, the notes sent by his Chargé d'Affaires on the 4th of April and 16th of September, 1816. But the hesitation of the Government of the United States, on its side, to adopt a system of liberality and reciprocity towards the navigation and commerce of the Netherlands continued. In the month of August, 1817, when the conferences commenced for the making of the treaty of commerce, no change was effected, and the flag of the Netherlands was always treated in the United States as a foreign flag. The American plenipotentiaries, however, were convinced that the navigation and commerce of their country were in the full enjoyment, not only of all the rights which the second article of the treaty of 1782 granted them, but, over and above, of new advantages. Among these advantages may be ranked, as one of high importance, the navigation to the King's possessions in the Great Indies, against which a direct equivalent could not be given by the United States, they not having colonies.

His Majesty might have expected to learn, by the agency of plenipotentiaries, that their Government had, or would, apply the act of Congress of March 3, 1815, to the flag of the Netherlands; but, instead of this weak act of reciprocity, the plenipotentiaries commenced by demands to which his Majesty was not authorized to subscribe. In fine, it was only on the 20th of April, 1818, that Congress especially abrogated "the *discriminating duties* imposed upon the flag of the Netherlands, in regard to the duties of tonnage, as well as in relation to the produce or manufactures of the territories of the King in Europe, or such produce and manufactures as can or ought to be considered as habitually loaded originally in the ports of the Kingdom."

The Government of the Netherlands considered that law as an act of reciprocity as to the duties of tonnage, and as a partial and limited concession in regard to the duties of importation on merchandise loaded under its flag. It was satisfied to see in the act of Congress that disposition to favor the navigation and commerce between the two countries, even beyond what the President thought he was able or ought to propose. The news of it was received in the Netherlands with that feeling which so voluntarily appears in a nation which had the recollection of ancient relations advantageous to the two countries, and which saw in the act of Congress a disposition favorable to their entire renewal. It was agreeable to recognize in it the commencement of the application of the basis of the treaty of 1782, and it was hoped that the United States would continue to remove the restrictions which were contrary to them. This treaty did not limit the merchandise which might be imported into America to equal duties by the ships of the United Provinces of the Netherlands, nor restrain them to a direct navigation; and if the treaty were no more in force, it was expected, from the principle of reciprocity proclaimed by different acts of the United States, since it had been formally communicated that no limitation restricted the American flag in the Netherlands. But this expectation was deceptive. After having, for a long time, given to the American flag the enjoyment of the advantages which they had in the ports of the Netherlands, and, above all, to the Great Indies, from which it was formerly excluded, and where there was no obligation to admit it, the flag of the Netherlands continued, during four years, to navigate, with a disadvantage too evident to admit of an illusion, upon the unequal position of the privileges of the two flags; that of America being able to import and export all merchandise whatever in the Netherlands, from all parts of the world, and to all its ports, and that of the Netherlands being limited in the cargo, and to a direct navigation to the American ports, conjoined with other inconveniences existing for it in these

ports, could no more enter into competition with the former in the commercial movement between the two countries.

If, then, in 1822, the Government of the Netherlands adopted a general measure in its tariff, by a restitution, at the expense of the Treasury, and which was not imposed upon commerce, to countervail the inequality of the position between the national and foreign navigation, in its own ports as in foreign ports, this was only a consequence of that inequality.

After the enumeration of the disadvantages to the flag of the Netherlands which, antecedently, I have taken the liberty to submit to your consideration, and to discuss in the conference which you granted me, it appears to me conciliatory on the part of my Government to have taken the measure in question, instead of recriminating means, which it might have adopted to remedy the false position of the national flag. If it has preferred the measure, the expenses of which it alone bears, it is not for foreign Powers, which have been the cause of it, to complain. It is the Netherlands that have suffered and still suffer by not receiving elsewhere, for the national flag and its commerce, the advantages which the other flags reap in her ports. The patience and perseverance which the King has employed in waiting for the display of the liberal system which ought to extend the navigation and the commerce of the world, of which the Netherlands have given the first example, will be surely appreciated, one day, by all the commercial nations which, long fearing, from different motives, to pursue this system, appear now disposed to give it fulfilment. The conventions recently concluded between the United States and Denmark, as well as with Guatemala, leave no doubt that the Government of the United States wishes to put said system into execution, and the King, my master, will see with pleasure, I think, laid down in these acts the same principles which form the basis of the treaty of 1782, and of his commercial legislation.

In this state of things, can it be that the commercial relations between the two countries present differences to be discussed? Yet, as long as the application of a system of perfect reciprocity is retarded or refused in the United States, in regard to the navigation and commerce of the Netherlands, it appears to me that there is no room for insisting on the application of the tenth article of the tariff of 1822, in favor of American ships.

It is unquestionable that the commercial relations between the two countries, before being settled, render voluntary every act of concession on either side; and it is for each Government to judge if that which it receives is analogous to that which it grants. In the present position I know of no other engagements between the two Governments. There are between them, for the moment, only acts of reciprocity, which are characteristic of justice, equity, and friendship.

The Government of the United States is not supposed bound to maintain the act of Congress of April 20, 1818, which granted a particular concession to the navigation and commerce of the Netherlands above other nations; and the Government of the Netherlands has not objected to the act of the month of January, 1824. Yet it was no less true that this latter act lessened the advantages which accrued to the flag of the Netherlands from the former. On the other hand, there is no obligation on the Government of the Netherlands not to lessen the advantages which the flag of the United States enjoys in her ports. It would certainly be more advantageous to the two nations to leave that precarious legislation, and to be bound by liberal and reciprocal conventions, and it must be hoped that the increasing and generally felt interest to favor, by all reasonable concessions, the relations between the nations, will soon bring about this state of things between two nations whose prosperity can only be a mutual benefit.

Besides, sir, I have transmitted the above mentioned note, with which you honored me, to my Government, and have submitted to it the considerations which it demands.

I pray you, on this occasion, to accept the renewed assurances of my high consideration.

C. D. E. J. BANGEMAN HUYGENS.

Extract of a letter from Mr. Clay to Mr. Hughes, dated

DEPARTMENT OF STATE, *Washington, December* 12, 1826.

"The departure of Mr. Huygens, the son of the Dutch minister, affords an opportunity of acknowledging the receipt at this Department of your despatches, numbered and unnumbered, to the 18th of October last, inclusive; and of transmitting the President's message, with the documents from the Department of State, communicated to Congress at the commencement of the present session. I add copies of such correspondence, not previously put in your possession, as has passed between the Dutch minister and me since your departure from the United States.

"From the message and that correspondence you will observe that the two Governments have not been able to come to any agreement on the subject of the discrimination made in the ports of the Netherlands in behalf of Dutch vessels, to the disadvantage of those of the United States, and that the President has referred the whole affair to Congress. It is probable that Congress will, during the present session, provide by law for the inequality. What may be the nature of the enactment which they may think proper to make, it would be premature now to intimate. We regret very much the perseverance of the Government of the Netherlands in a system which is manifestly at variance with their professions, and with that fair reciprocity which had been promised on both sides, but which has been enforced by us only. We might be more disposed to acquiesce in the present state of the Dutch law, if the example would not have an injurious effect upon our relations with other maritime Powers, with all of which it is our anxious desire to adopt the liberal principle of equal competition and perfect reciprocity."

19TH CONGRESS.] No. 449. [2D SESSION.

COMMERCIAL INTERCOURSE WITH THE BRITISH PROVINCES.

COMMUNICATED TO THE SENATE JANUARY 24, 1827.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The memorial of the undersigned, Chairman and Secretary of a meeting of delegates from the twenty towns in the county of St. Lawrence, and State of New York, assembled in convention in pursuance of previous public notice, to represent and express the views and interests of the citizens of said county, in pursuance of a resolution unanimously adopted at said convention, do hereby, in behalf of said convention and of the citizens represented in it, beg leave respectfully to lay before your honorable body a brief statement of the grievances under which they labor, and of the causes which produce them.

Your honorable body need not to be informed that the Imperial Parliament of Great Britain, in and by its several acts passed on the 5th of August, 1822, and on the 27th of June, 1825, have imposed upon the introduction into their North American provinces of breadstuffs, ashes, lumber, and various other articles of American produce, such duties of impost as, in most cases, practically to amount to a prohibition of trade and intercourse therein; and that, in and by the latter act, it has actually *prohibited*, among other things, the introduction into the said provinces of salted provisions from the United States, thereby effectually depriving the inhabitants of this extensive and hitherto growing frontier of its accustomed trade in the channels traced out by the finger of Nature herself, and heretofore freely used, under the high sanctions of the Government, by amicable treaty regulations—measures tending in their effects, if not seasonably and effectually counteracted, to impoverish the natural resources, undermine the prosperity, alarmingly to reduce the population, and consequently to sap the strength of this important border of the Union; which acts and all their provisions, whether they have their origin in the predetermined hostility of the British Government, which recent developments in relation to her general colonial policy, as it regards the United States afford some grounds to fear, or whether they are to be attributed to a total disregard of our unquestionable rights, when their exercise may be deemed to come in collision with the interests of that Government, ought to be met by calm yet determined opposition, and to be counteracted by all the means which either Providence or fortune may have placed within our reach.

The National Legislature is also well advised of the fact that, by the final establishment of the boundary line between the United States and Canada, which lies between the point where the 45th degree of north latitude strikes the river St. Lawrence and Lake Superior, as settled by the Commissioners of both Governments, under the 6th article of the treaty of Ghent, the several islands in that river, known on the maps or charts thereof by the names of Upper Long Sault island, Lower Long Sault island, and Barnhart's island, belong to the United States; whereby, and by the nature of the navigation, the only practicable route for loaded boats descending the said river is through and upon exclusively American waters, on the southerly side of said islands, for distance of about fifteen miles, thereby enabling this Government to control the use of those waters, and to impose, by law, such countervailing duties or burdens on foreign vessels and their cargoes entering the same as sound policy and the ends of equal justice may require.

If the undersigned have a just conception of the intended operation of the late British order in council in relation to the colonial trade, the trade of this frontier with the provinces immediately adjoining the United States is not directly prohibited by the terms of that order. But the undersigned need only to refer your honorable body to the provisions of the aforementioned acts of the British Parliament to bring to every mind the assured conviction that the practical effect of those provisions of exaction and of prohibition is, and must continue to be, the entire destruction of that trade—a destruction much more complete and absolute than that of the trade between the seaboard of the United States and the British West Indies, by reason of that order; inasmuch as, in the case of your memorialists, nature has forbidden them any resort to circuity of voyage to a market through any intermediate neutral port, and the efforts of art have not yet, by overcoming the obstacles of nature, opened any internal communication to any of our own domestic markets.

The order in council and the aforesaid restrictions imposed on the articles of trade passing down the St. Lawrence are only different means to attain the same end—the destruction of our trade with the British West Indies, and with or through the Canadian ports—and seem to call for equally strong measures to countervail their effects.

Your memorialists, reposing the most entire confidence in the wisdom of Congress to devise the best measures of redress for the unexampled sufferings which they endure, by reason of their utter exclusion from all foreign or domestic markets for the bountiful and rich productions of their forests, their ores, their quarries, and their fertile soil, inhabited by sturdy freemen, destined to become, in times of peril, the defenders of this exposed frontier, are content to abide the decisions, and to support the measures which that wisdom shall adopt. But they cannot forbear, respectfully, to suggest to that body whose acknowledged duty it is to extend equal protection to all, that satisfied, as they must assuredly be, that further negotiation affords no reasonable prospect of relief, it is the deliberate opinion of your memorialists that it is the undoubted right, if not the incumbent duty of the National Legislature to impose, by law, upon British products passing through or upon the aforesaid American waters of the St. Lawrence river, *duties of transit, corresponding in amount with those imposed by the British act of June* 27, 1825, *on American products passing into the Canadas, and in every respect countervailing the provisions of the said act of Parliament; thereby visiting upon our commercial rival the evils of her own policy, and making a strong appeal to her interests and convenience.*

Your memorialists therefore pray your honorable body that such law may be passed; or that your honorable body, as well with a view to the future military defence as to the permanent prosperity of this frontier, will adopt such other measures as shall, by affording an interior communication with the markets of the United States, produce the desired relief to this suffering section of the Union. And your memorialists, as in in duty bound, will ever pray.

JABEZ WILLES, *Chairman.*

DAVID C. JUDSON, *Secretary.*

OGDENSBURG, *January* 1, 1827.

19TH CONGRESS.] No. 450. [2D SESSION.

COMMISSIONS OF AMERICAN MINISTERS TO THE CONGRESS AT PANAMA.

COMMUNICATED TO THE SENATE JANUARY 24, 1827.

To the Senate of the United States:

In compliance with a resolution of the Senate of the 23d instant, I transmit herewith a report from the Secretary of State with the accompanying documents.

JOHN QUINCY ADAMS.

WASHINGTON, *January* 29, 1827.

DEPARTMENT OF STATE, *January* 26, 1827.

The Secretary of State, to whom has been referred the resolution of the Senate of the 23d instant, requesting the President to communicate to the Senate a copy "of the commission and credentials granted to John Sergeant, Esq., as Envoy Extraordinary and Minister Plenipotentiary of the United States to the Assembly of American Ministers, said to be transferred from Panama to Tacubaya, in Mexico; also, any information he may possess tending to show what are the objects proposed to be accomplished by the said Assembly, whether the United States have been invited to be represented by a minister at the same, and if so, for what purposes," has the honor to report herewith a copy of the commission and letter of credence desired, and also copies of certain documents which have been communicated to the House of Representatives* during its present session, relating to the Congress at Panama, and which may be acceptable to the Senate. These documents, together with those heretofore communicated to Congress, furnish all the information in this Department (except the instructions which have been prepared for the ministers intended to represent the United States at the contemplated Congress) tending to show its objects and purposes. Those instructions originally destined to be used at Panama are equally applicable to the Congress at Tacubaya. No invitations to the Government of the United States to send ministers to the proposed Assembly, other than those which were communicated to the Senate at its last session, have been received at this Department.

All which is respectfully submitted.

H. CLAY.

John Quincy Adams, President of the United States of America, to Richard C. Anderson and John Sergeant, greeting:

Reposing especial trust and confidence in your integrity, prudence, and ability, I have nominated and by and with the advice and consent of the Senate, do appoint you, jointly and severally, Envoys Extraordinary and Ministers Plenipotentiary of the United States, to the Assembly of American Nations at Panama, or at such other place on the continent of America as it may adjourn to or convene at; authorizing you hereby, jointly and severally, to confer and treat with ministers duly empowered from all or any of the nations of America, of peace, friendship, commerce, navigation, maritime law, neutral and belligerent rights, and all other matters interesting to the American nations, or which may be duly given you in charge hereafter; and the said office to hold and exercise during the pleasure of the President of the United States for the time being.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given [L. S.] under my hand, at the city of Washington, the fourteenth day of March in the year of our Lord one thousand eight hundred and twenty-six, and of the Independence of the United States of America the fiftieth.

JOHN QUINCY ADAMS.

By the President:
H. CLAY, *Secretary of State.*

[Credential and full power.]

John Quincy Adams, President of the United States of America, to all whom these presents shall concern, greeting:

From the especial trust and confidence reposed in the integrity, prudence, and ability of Richard C. Anderson, minister plenipotentiary of the United States to the Republic of Colombia, and of John Sergeant, a distinguished citizen of the United States, I have nominated and, by and with the advice and consent of the Senate thereof, have appointed them, jointly and severally, Envoys Extraordinary and Ministers Plenipotentiary of the said United States to the Assembly of American Nations at Panama, or any other place on the continent of America at which the said Assembly may convene, or to which it may adjourn; and I have authorized them, jointly and severally, to confer and treat with ministers of

* For the documents communicated with this report *vide* antecedent No. 443, communicated to the House of Representatives December 26, 1826.

that Assembly, duly empowered, from all or any of the nations of America, of peace, friendship, commerce, navigation, maritime law, neutral and belligerent rights, and all other matters interesting to the American nations, or which may be duly given them in charge; and I do hereby give them, jointly and severally, full power and authority to conclude with the said ministers, jointly or severally, who may be furnished with the like full powers, a treaty or treaties, convention or conventions, touching the premises, transmitting the same to the President of the United States for his final ratification, by and with the advice and consent of the Senate of the said United States. I have, therefore, to pray all whom it may concern to give full credence to whatsoever the said ministers of the United States, jointly or severally, shall do or say in the name and on the behalf of this Government; more especially when they shall declare and make known its earnest desire to cultivate and promote the friendship of all the other Governments and nations of America.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given [L. S.] under my hand, at the city of Washington, the eleventh day of May, A. D. 1826, and of the Independence of the United States of America the fiftieth.

JOHN QUINCY ADAMS.

By the President:
H. CLAY, *Secretary of State.*

19TH CONGRESS.] No. 451. [2D SESSION.

CLAIMS OF AMERICAN CITIZENS ON FRANCE, NAPLES, HOLLAND, AND DENMARK, ON ACCOUNT OF SPOLIATIONS SINCE THE YEAR 1805.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 31, 1827.

DEPARTMENT OF STATE, *Washington, January* 30, 1827.

SIR: I have the honor herewith to transmit a report prepared in obedience to a resolution of the House of Representatives of the 19th of May, 1826, and to be, with the highest respect, your obedient servant,

H. CLAY.

JOHN W. TAYLOR, Esq., *Speaker of the House of Representatives.*

DEPARTMENT OF STATE, *January* 30, 1827.

In obedience to a resolution of the House of Representatives of the 19th May, 1826, directing the Secretary of State to submit to the House, at the present session of Congress, "a schedule of the claims of American citizens which have been or shall, previous to October 1, 1826, be filed in his Department, on the Governments of France, Naples, Holland, and Denmark, for illegal captures, spoliations, confiscations, or any other illegal acts, since the year 1805, in such manner as to present, in a tabular statement, the name of the claimant, the date of the act complained of, the name of the vessel which was the subject of the injury, the amount of the loss sustained, and any other circumstance essential to the understanding of the general nature of the claims, discriminating, as far as practicable, between such cases as were, and such as were not, subjected to adjudication in the courts of the aforesaid Governments," the Secretary of State has now the honor to report a digest prepared accordingly. He respectfully requests a reference to an explanatory memorandum by which it is preceded. The execution of the work has been delayed by the inattention of claimants to the punctual transmission of their claims to the Department of State by the time (the 1st of October last) specified in the resolution of the House. They continued to forward their claims some time after that day, and up to within a few days past. It would not be safe to assume that the digest comprehends all the claims comprehended in the terms of the resolution. Others no doubt exist which have not, from accident, inattention, or other causes, been transmitted to the Department of State.

All which is respectfully submitted.

H. CLAY.

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MEMORANDUM.

DEPARTMENT OF STATE, *January* 30, 1827.

Many claims of American citizens on the Governments of France, Naples, Holland, and Denmark, were transmitted to the Department subsequently to the day limited by the resolution of the House of Representatives under which the following schedules are prepared. It being supposed, however, desirable to the House as well as to the claimants themselves, that a view, approaching to being complete, should be exhibited of their losses, such claims are stated in the form of supplements to the schedules of claims on the foreign Governments on which respectively they are made. For the same reason, such claims as have been filed for losses arising from acts of those Governments committed prior to 1805 are stated in the form of an appendix.

Some claimants advance the same claim against more than one Government, and others against one or another Government in the alternative. In such cases, though the description of the claim is preserved, it is generally reported in the schedule of claims against that Government only of which the name is first mentioned by the claimant.

In stating "the date of the act complained of," the date is given, generally, of the original act only which led to the loss; and the dates of interventing acts are, when material, mentioned in the column of explanatory remarks, or in some other part of the record of the claim.

Under the column headed "name of the vessel captured or injured," the name of the vessel is given with which the loss is connected, though the loss may not involve capture of, or injury to, such vessel.

In stating the "amount of loss sustained, and value of property captured, and where," some claimants mention the original cost of their property, others its value or its proceeds in market, and others both such amounts. In transferring one of these amounts to the index, it has been endeavored to select that one on which the claimant himself seemed to rely. Some claimants add interest on the amount of original loss, and others claim without extending such interest. In these cases, though the charge for interest is inserted in the report, only the amount of original loss is transferred to the alphabetic indexes of the different schedules, as some claimants do not claim interest at all; and the design of those indexes is to exhibit, as nearly as possible, an aggregate, founded on uniform grounds, of the claims against each Government. This aggregate must, however, be regarded as only approximating to accuracy; the number of parties interested in a particular loss, and a want of precision in their statements, sometimes (and especially where insurance offices are concerned) rendering it doubtful whether a claim for it is not urged oftener than once. When claims for the same loss are evidently repeated, only one is transferred to the index. It may be remarked that any errors in the aggregates, arising from defective information, do not perhaps increase them beyond what would appear the true amount of the losses of American citizens, if all their claims had been filed. Many papers referred to by some of them as being in this Department have at different time been forwarded to our ministers abroad. In fixing, when necessary, on the foregoing principles the amount of loss in any case, in order to transfer it to the index, such calculations as may have been used do not appear in the record of the claim; that record exhibiting for the most part only the statement of the claimant himself.

The entries under the column "subjected or not to legal adjudication, &c.," are made on the supposition that the House of Representatives contemplated decisions under judicial forms. Proceedings mentioned merely as "condemnations," &c., are, therefore, generally referred to in the explanatory column. Under this column the remarks of the claimants are preserved, except in particulars obviously superfluous, or otherwise immaterial; and throughout the record their language, especially when doubtful in its meaning, is preserved. The most frequent imperfection of their papers is the omission to state whether the claim arises from an interest in the vessel, or in her cargo, or shipments. When it has been found advisable to place any statement under some other than its appropriate head, reference is made, under this head, to the column containing that statement.

Index to the names of vessels, referring to their numbers, in the following schedules.

Name of vessel.	Claims on France.	Supplement, &c., on France.	Claims on Naples.	Supplement, &c., on Naples.	Claims on Holland.	Supplement, &c., on Holland.	Claims on Denmark.	Supplement, &c., on Denmark.	Appendix.
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William Wilson	178,227	155					2		
William	185	152	11,15					33	
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Amory, Jonathan, surviving, &c	80	5,214 44
Do do	81	11,654 03
Armistead, William, and others	148	1,066 67
Brown & Ives	1	44,652 00
Do	3	109,875 20
Branu, Robert P	12	24,844 25
Belknap, John	14	967 30
Beall, Elijah	37	7,000 00
Boyle, estate of Thomas	106	4,082 20
Boston Marine Insurance Company	158	15,000 00
Do do	159	14,694 28
Do do	160	7,436 65
Do do	161	13,720 23
Do do	162	1,000 00
Do do	163	1,747 35
Do do	164	8,000 00
Do do	165	10,000 00
Do do	166	3,120 00
Blackler, William, and others	173	21,000 00
Bernadon, John B	238	18,909 42
Byerly, Andrew, &c	243	15,579 59
Bell, Joseph, and others	271	1,090 11
Do	272	1,312 05
Do	273	5,000 00
Bradbury, Charles, for self and others	287	6,854 00
Do do	288	5,500 00
Do do	289	10,000 00
Do do	290	2,713 48
Do do	291	3,000 00
Do do	292	3,400 00
Do do	293	1,000 00
Do do	294	3,000 00
Do do	295	7,000 00
Do do	296	7,000 00
Do do	297	260 70
Do do	298	2,178 80
Do do	299	552 51
Bell, representatives of John	312	9,450 00
Briggs, Jeremiah	325	13,137 00
Barker, George	358	18,495 88
Barker, George, administrator	359	10,144 58
Do do	360	303 60
Bartlett, Hannah, administratrix	361	16,559 55
Baltimore Insurance Company	362	30,180 84
Do do	363	17,140 00
Do do	364	26,410 00
Do do	365	5,319 92
Do do	366	5,208 50
Barney, John	396	10,000 00
Coolidge, Samuel F., and others	15	14,000 00
Caton, Richard, and others, assignees, &c	22	52,509 28
Chesapeake Insurance Company of Baltimore	23	14,826 93
Do do	24	15,000 00
Chase, Theodore, and others	29	13,802 80
Coursault, G	45	32,900 00
Coursault, G., (see No. 42)	46	36,050 00
Coxe, D. W., (see No. 42)	47	8,600 00
Curcier, A	62	1,156 87
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Do	64	57,042 20
Crowninshield, John	97	35,000 00
Curtis, Henry B., and others	112	10,500 00
Clarke, Jacob B	114	7,000 00
Chenborough, Ephraim	117	1,702 40
Cooke, Francis	123	11,416 10
Coxe, Daniel W., and others	241	80,005 64
Carpentier, executors of Lewis D	244	5,900 00
Cooke, James	321	1,963 27
Do	322	500 00
Do	323	2,000 00
Clapp, Asa, and another	337	188,620 50
Day, William	10	1,800 00
Dutelh, heirs of Stephen, (see No. 42)	48	14,100 00
Duval, James S	49	10,590 00
Dubarry, John	69	3,738 18
Dumas, John F	73	15,495 83
Do	74	34,411 15
Delano, Abisha, and others	75	$7,300 00
Delafield, executor of John	107	5,188 21
Do do	108	5,000 00
Do do	109	6,521 95
Do do	110	8,000 00
Dickson, executors of William	147	1,722 25
Delaware Insurance Company of Philadelphia	368	3,000 00
Do do	369	14,149 92
Do do	370	15,606 77
Do do	371	11,384 00
Do do	372	3,920 00
Do do	373	6,020 15
Do do	374	2,113 59
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Do do	376	5,140 42
Do do	377	4,900 00
Do do	378	9,037 94
Do do	379	1,845 90
Dodge, Pickering, and others	380	38,454 34
Dutch & Deland	385	8,363 29
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Elderkin, Eleazar	7	2,502 44
Ellicott, T., and others	65	1,681 52
Do	167	33,450 00
Do	168	11,446 00
Fettyplace, William	20	14,000 00
Faxon, Richard	21	18,000 00
Fournier, H	68	24,323 54
Fournier, H., assignee of Anthony Laussat	70	19,033 71
Do do	71	6,245 00
Do do	72	2,415 98
Fogerty, heirs of Butler	338	24,966 25
Do	339	1,200 94
Do	340	16,532 87
Do	341	14,323 07
Graf, Frederick C	8	2,992 35
Gray, estate of William	84	5,000 00
Do	85	1,000 00
Do	86	5,043 00
Do	87	860 00
Do	88	6,450 00
Do	89	6,000 00
Do	90	30,000 00
Do	91	60,000 00
Do	92	500 00
Do	93	10,905 45
Gilmor, Robert, and Sons, and another	99	720 00
Do do	100	5,028 93
Gilmor, Robert, and Sons	101	5,993 00
Gilmor, Robert, and Sons, and others	102	7,191 00
Gilmore, Robert, and Sons, and another	103	3,298 00
Do do	104	3,741 00
Gilmor, Robert, and Sons, and others	105	13,386 87
Gray, Henry	198	1,000 00
Do	199	1,000 00
Gray, heirs of Samuel	254	7,971 68
Gray, William R	282	10,963 57
Do	283	4,100 00
Do	284	500 00
Do	285	1,540 00
Do	286	1,800 00
Hatch, Henry, administrator, &c	13	19,649 20
Henderson, legal representatives of R. A	16	8,000 00
Head, James W	38	10,921 40
Hollingsworth, William, and others	39	49,913 37
Harlow, Winslow, (see No. 42)	51	2,150 00
Hollins, Robert S., and others, (see No. 167)	66	
Higginson, Stephen, and others	113	17,357 30
Hattin, Robert	154	3,276 45
Hooper, John, jr	169	19,500 00
Hooper, Robert	170	12,000 00
Hooper, R. and J., and others	171	25,000 00
Horton, Samuel	174	44,000 00
Hooper, Robert	176	26,000 00
Hutchinson, George, agent	336	40,000 00
Hedge, Barnabas	395	20,000 00
Jones, Samuel W., surviving partner, &c	44	15,000 00
Insurance Co. of North America and others	77,78,79	479,350 60

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Do.....do	344	2,450 00
Do.....do	345	1,716 60
Do.....do	346	5,006 88
Do.....do	347	3,920 00
Do.....do	348	686 00
Do.....do	349	490 00
Do.....do	350	1,926 88
Do.....do	351	980 00
Do.....do	352	12,824 73
Do.....do	353	980 00
Do.....do	354	19,600 00
Kurtz, John, surviving partner, &c., (see Marine Insurance Company of Alexandria)	2	21,189 47
Karthaus, Peter A	4	7,217 73
Keith, Samuel	367	1,158 00
Long, George, and another	9	15,255 55
Lathrop, executors of Daniel, and others	43	6,645 62
Lowder, Jonathan, estate of	76	17,290 00
Laval, John, and another	118	2,300 00
Lancaster and Susquehannah Insurance Co	232	3,400 00
Do.....do	233	7,000 00
Do.....do	234	1,000 00
Do.....do	235	5,000 00
Do.....do	236	10,000 00
Do.....do	237	8,000 00
Laval, John	245	19,000 00
Lenox, Robert, and another	307	20,000 00
Mactier, Alexander	11	30,940 59½
McKim, Isaac	18	6,216 00
Marine Insurance Company of Alexandria	25	5,500 00
Do.....do	26	8,000 00
Do.....do	27	10,000 00
Do.....do	28	12,000 00
Maine Fire and Marine Insurance Co. of Portland	53	5,000 00
Do.....do	54	10,000 00
Do.....do	55	1,000 00
Mayer & Brantz	67	3,158 68
Meade, R. W	94	14,000 00
Do	95	10,000 00
Morgan, Jacob	127	10,444 00
McLellan, Arthur, and others	128	21,825 55
Marine Insurance Company of Norfolk	142	6,000 00
Do.....do	143	2,466 00
Do.....do	144	3,137 55
Do.....do	145	4,028 40
Do.....do	146	2,904 31
Do.....do	151	1,104 95
Myers, Moses, and Sons	150	24,530 73
Do	153	4,687 50
McPherson, Hugh	239	6,407 39
Massachusetts Fire and Marine Insurance Company of Boston	248	3,465 00
Do.....do	249	5,440 53
Do.....do	250	4,950 00
Do.....do	251	3,603 30
Do.....do	252	3,401 15
Do.....do	253	6,430 00
Maryland Insurance Company, assignees, &c	300	36,000 00
Do.....do	301	30,000 00
Do.....do	302	18,100 00
Do.....do	303	36,240 00
Do.....do	304	2,170 00
Do.....do	306	.....
Marblehead Social Insurance Company	308	2,000 00
Do.....do	309	4,000 00
Do.....do	310	4,000 00
Do.....do	311	150 00
Murray, John B	313	52,849 90
Marine Insurance Company	326	1,000 00
Do.....do	327	14,545 00
Do.....do	328	7,100 00
Do.....do	329	6,000 00
Do.....do	330	8,000 00
Do.....do	331	13,749 00
Do.....do	332	8,375 00
Do.....do	333	800 00
Do.....do	334	800 00
Marine Insurance Company	335	$2,500 00
Marine Insurance Company of Philadelphia	355	4,000 00
Do.....do	356	6,300 00
Do.....do	357	10,000 00
Nichols, William, and another	98	1,358 68
New England Marine Insurance Company	134	4,500 00
Do.....do	135	8,029 60
Do.....do	136	10,000 00
Do.....do	137	5,733 33
Do.....do	138	8,000 00
Do.....do	139	15,517 50
Do.....do	140	10,000 00
Do.....do	141	13,000 00
North, William, and another	242	21,440 00
Neale, Jonathan, and others	381,384	55,816 82
Oliver, Robert and John, and others	394	95,407 60
Phelps, Elisha	19	5,691 22
Paul, Gabriel	42	10,686 79½
Paul, Gabriel, (see No. 42)	50	12,060 00
Pedrick, John, 3d	57	30,238 47
Do	58	1,920 23
Do	59	3,520 00
Do	60	2,500 00
Do	61	6,533 33
Piesch, Abraham	119	48,097 45
Do	120	19,204 45
Do	121	52,534 20
Do	122	69,358 35
Pepin, Augustine	130	12,700 37
Parrot, John F., and others	133	27,277 89
Prince, Henry, and another	314	17,603 25
Ralston, Robert	32	139,308 32
Roberts, Edmund	30	19,096 29
Roberts, executors of Robert	31	30,793 85
Do.....do	32	28,670 44
Renwick, William	83	16,161 16
Roulet, John S., and others	131	67,130 74
Roulet, J. S., and others	132	69,272 93
Reed, William	172	30,000 00
Ritchie, James S., and another	240	3,805 00
Russell, Nathaniel P., agent	255	.....
Do.....do	256	4,500 00
Do.....do	257	4,400 00
Do.....do	258	2,000 00
Do.....do	259	7,300 00
Do.....do	260	7,000 00
Do.....do	261	5,000 00
Do.....do	262	3,000 00
Do.....do	263	9,000 00
Do.....do	264	9,600 00
Do.....do	265	6,200 00
Do.....do	266	2,200 00
Do.....do	267	600 00
Do.....do	268	7,000 00
Do.....do	269	6,500 00
Do.....do	270	3,000 00
Stiles, George, (see Union Bank of Maryland)	.....	.....
Stocker, administrator of E., and others	33	114,723 35
Sheafe, James, and another	35	16,060 00
Sheafe, James	196	7,575 70
Do	197	19,031 20
Schieffelin, Jacob, and Son	246	2,223 00
Do.....do	247	14,670 00
Silver, James, and others	324	20,000 00
Social Insurance Company of Salem	387	8,000 00
Do.....do	388	8,000 00
Do.....do	389	1,500 00
Do.....do	390	1,500 00
Do.....do	391	4,153 46
Thorndike, Israel	192	40,000 00
Do	193	19,445 00
Taylor, trustees of Lemuel	315	42,542 25
Do.....do	316	50,000 00
Do.....do	317	102,812 50
Do.....do	318	250,000 00
Do.....do	319	57,000 00
Do.....do	320	10,000 00
Union Bank of Maryland and others	17	50,059 50
Union Insurance Company of New London	34	1,700 00
Do.....do	82	2,565 00

INDEX—Continued.

Names of claimants.	Number.	Amount.
Union Insurance Company of Maryland	177	$13,000 00
Do.....do	178	5,000 00
Do.....do	179	9,063 28
Do.....do	180	23,540 10
Do.....do	181	21,779 20
Do.....do	182	20,000 00
Do.....do	183	25,500 00
Do.....do	184	13,000 00
Do.....do	185	16,000 00
Do.....do	186	17,400 00
Do.....do	187	18,000 00
Do.....do	188	19,400 00
Do.....do	189	2,252 00
Do.....do	190	5,356 22
Do.....do	191	4,366 59
Union Insurance Company of Boston	194	8,144 47
Do.....do	195	10,000 00
United States Insurance Co. of Philadelphia	200	9,800 00
Do.....do	201	580 00
Do.....do	202	2,254 00
Do.....do	203	11,613 00
Do..... do	204	5,932 80
Do.....do	205	9,800 00
Do.....do	206	8,330 00
Do.....do	207	1,078 00
Do.....do	208	14,700 00
Do.....do	209	11,760 00
Do.....do	210	5,009 47
Do.....do	211	1,960 00
Do..... do	212	7,500 00
Do.....do	213	13,047 13
Do.....do	214	8,475 56
Do.....do	215	13,660 59
Do.....do	216	11,308 98
Do.....do	217	9,600 00
Do.....do	218	9,280 59
Do.....do	219	6,619 25
Do..... .....do.....	220	6,174 00
Do.....do	221	16,170 00
Do.....do	222	1,470 00
United States Insurance Co. of Philadelphia	223	$3,500 00
Do.....do	224	26,342 00
Do..... .....do	225	11,760 00
Do.....do	226	21,163 44
Do.....do	227	7,056 35
Do.....do	228	10,000 00
Do.....do	229	15,000 00
Do.....do	230	5,000 00
Do.....do.... (see No. 77–79)	231	....
Union Insurance Company of Philadelphia	274	2,673 26
Do.....do	275	5,477 40
Do.....do	276	3,287 85
Do.....do	277	1,106 14
Do.....do	278	1,857 06
Do.....do	279	8,783 68
Do.....do	280	959 20
Do.....do	281	5,880 00
Union Marine Insurance Company of Salem	392	10,000 00
Do.....do	393	8,200 00
Van Kapff & Brune	155	11,956 66
Van Kapff & Brune and others.	156	24,929 93
White, Joseph, and others	36	23,279 18
Watson, Benjamin F	40	653 94
Watson, John	41	37,400 00
Waterman, Stephen	52	27,000 00
Wheeler, Moses, surviving, &c	56	36,644 00
Welsh, Francis	96	5,100 00
Williams, William	115	8,000 00
Williams, William, and others	116	13,484 72
Winchester, David, surviving partner	129	69,325 18
Whittle, Conway and F., and others	149	108,000 00
Waln, William, and others	175	32,100 00
Walter, Lynde	305	18,402 00
Young, Joseph	111	71,606 97
Yeaton, William, and another	124	12,220 76
Do.....do	125	16,789 50
Do .....do	126	10,378 59
Young, James	152	2,250 00
Total	.....	6,005,648 99

CLAIMS ON FRANCE.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
1. Brown & Ives, of Providence, Rhode Island.	France	May 1, 1812	The ship and cargo were scuttled and sunk at sea by a French squadron, commanded by Commodore Feretier.	Ship Isis, James Donnison master.	Value of cargo, as per invoice. $26,652 Value of ship..... 12,000 Freight ..... 6,000 $44,652 The loss took place in lat 36° N. and long. 15° 10′.	No legal adjudication	The ship sailed, on March 30, 1812, from Providence, bound for Gibraltar, fell in with and was captured by a French squadron. The cargo consisted of flour and rice. Tonnage 318 40-95, and no insurance.
2. John Kurtz, surviving partner of Bowie & Kurtz, of Georgetown, D. C.	....do	Jan. 14, 1813	The ship was sunk at sea by the French national frigate La Gloire.	Ship Citizen, of Georgetown, D. C., James Crowdhill master.	The value of the ship and cargo, sunk at sea, was $24,189 67, exclusive of $12,000 insured on the ship by the Marine Insurance Company of Alexandria, and by them since paid. See last column.	No legal adjudication appears...	The ship Citizen was, at the time of her capture and destruction, coming from St. Ubes, loaded with salt, and bound for Alexandria, D. C. The French commander said that his orders were to destroy every American vessel either going to or coming from any port belonging to the enemies of France. The burden of the ship was 303 15-95 tons.
3. Brown & Ives, of Providence, Rhode Island.	....do	The seizure was made Feb. 28, 1810.	The ship and cargo were sequestrated and condemned, after seizure by the French custom-house officers.	Ship Robert Hale, Charles Randall master.	Value of cargo, as per invoice. $80,880 00 Value of ship ..... 12,000 00 Expenses incurred in defending the property before Prize Courts, at the rate of 40 cents per guilder..... 8,995 20 Freight ..... 8,000 00 109,875 20 The capture was made on the side of the river Jahde, opposite Rusterzeil.	Condemnation, on October 24, 1810, by the Prize Court at Paris, whose sentence was, on July 14, 1811, confirmed by the Council of State.	The ship Robert Hale was loaded with a full cargo of cotton and coffee, and sailed from Providence, December 27, 1809, bound for Rusterzeil, a permitted Dutch port, on the river Jahde. After she had commenced discharging, she was driven from her moorings to the opposite side of the river by stress of weather, and seized by the French custom-house officers. There was no insurance. The tonnage was 291 36-95.
4. Peter A. Karthaus, of Baltimore, Md.	....do	The capture was made Jan. 24, 1808.	The ship and cargo were captured by the French privateer L'Incomparable.	Ship Aurora	The cost of the goods shipped at Baltimore was $2,377 04. Their gross proceeds, when sold at Morlaix, were as follows, viz: 2 bales of snakeroot..... frs. 10,351 22 2 bales of seneca root ..... 8,747 64 4 bales of deer skins..... 4,806 80 16 hhds. of tobacco, about.. 14,587 00 38,492 66 The capture was made off St. Malo.	Proceedings in this case were had before the Tribunal of Commerce at Morlaix and the Commission of Prizes at Brest, and were referred to the Council General of Prizes at Paris. That council decreed condemnation on June 8, 1808, and the Emperor final condemnation on December 8, 1810, after an appeal to him in his Council of State.	The ship Aurora left Baltimore December 14, 1807, three days before the date of the Milan decree. The vessel was captured on January 24, 1808, and carried into Morlaix, where, in September and October, 1808, the ship and cargo were sold for the sum, in gross, of frs. 885,303 83.
5. Elisha Abbe.....	....do	Feb. 21, 1808	The vessel was captured by a French frigate; the principal part of the cargo taken out, and the residue thereof, together with the vessel, were burnt.	Schr. Windham....	$19,354 65. The capture and destruction took place at sea, lat. 26° N., long. 68° W. from London.	No legal adjudication	The captain, mate, and one mariner, were, at their request, taken aboard the capturing frigate, and carried to France, for the purpose of obtaining redress. On their arrival, they handed their papers to Aaron Vail, Commercial Agent for the United States at the port of L'Orient, giving him a full power of attorney to make the necessary protests, and pursue the other means proper to obtain redress. But this has never yet been granted. The remainder of the crew were sent to Halifax. The tonnage of the schooner was 117.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
6. Robert Ralston, of Philadelphia, for himself and others.	France.....	In the spring of 1808.	Seizure by the officers of the French customs, and subsequent sale, by the French authorities, of the vessel and cargo.	Brig Sally, Michael Brown master.	The cargo was sold by the French authorities at Antwerp, and produced, by account of sales, dated June 30, 1808, francs 726,977 72. The value of the brig was $6,000. The seizure was made at the mouth of the river Scheldt, the brig having been obliged by stress of weather to put in there.	The only adjudication in this case was a decision of the Emperor Napoleon, ordering the vessel and cargo to be disposed of.	The cargo was held by separate shipments, as follows, viz: about one-half by the claimant, and the remainder by James and John Hemphill, Joshua and Thomas Stroud, W. and J. Leedom. On the entire cargo there was a recovery of £2,895 sterling, the amount of insurance effected in London. A cession to this amount was there made to the underwriters by the claimant out of his part; as a reimbursement for which the other three shippers made a cession to him of their interest in the recovery, to the amount of £1,492 15s. 7d. The amount, therefore, of the original investments of the other three shippers, and about one-half of frs. 726,977 72, are claimed by Robert Ralston for himself. The brig was bound to Rotterdam.
7. Eleazar Elderkin, of Providence, R. I.	....do.....	March —, 1808	Capture by the French frigates La Harmoine and Hortense, of forty guns each, burning at sea.	Ship Brutus, Jonathan Smith master.	£563 1s. sterling, the cost of the goods in Liverpool, equal to $2,502 44. The capture was made about lat. 48° N. and long. 16° W.	No legal adjudication.....	The cargo consisted of one hundred crates of earthenware, and was shipped by the claimant, at Liverpool, aboard the ship Brutus. The ship, when taken, was bound for Boston.
8. Frederick C. Graf, of Baltimore Md.	....do.....	The capt're was made Jan. 24, 1808.	Capture by a French privateer, and subsequent sale of the vessel and cargo.	Ship Aurora.....	The cost of the goods shipped at Baltimore was $2,992 35. The gross proceeds, at Morlaix, of 45 hhds. of tobacco, were about 41,000 francs. The capture was made off St. Malo.	In this case proceedings were had before the Tribunal of Commerce at Morlaix and the Commission of Prizes at Brest. On a reference to the Council General of Prizes at Paris, there was a decree of condemnation on June 8, 1808, from which an appeal was taken to the Emperor, in his Council of State. Final condemnation was decreed by the Emperor on December 8, 1810.	The ship Aurora left Baltimore on December 14, 1807, three days before the date of the Milan decree, under which she was condemned. On January 21, 1808, she was boarded by the British sloop-of-war Rose, which put one officer aboard her, with orders to carry her to Plymouth. She was taken on January 24, 1808, by the French privateer L'Incomparable, and carried to Morlaix, where the ship and cargo were, in September and October, 1808, sold. They produced, in gross, francs 885,303 83.
9. Geo. Long and Titus Salter, of Portsmouth, N. H.	....do.....	Aug. 9, 1809	Capture and condemnation.	Brig Equator, Wm. Tullock master.	Value of the brig..... $8,000 00 Value of the freight, £1,462 19s. 10d. sterling, or..... 6,502 21 Value of stores belonging to the owners of the vessel, &c.... 200 00 Captain's expenses while waiting at Amsterdam; his wages for one year, and passage home..... 553 34 $15,255 55 On this sum, the claimants claim interest from the date of the injury. The capture was made at the entrance of the Texel.	Condemnation at Paris, but the date of it is not stated.	The Equator was laden at New York with a cargo of rice and tobacco, belonging to Messrs. Lawrence & Whiting, on freight and staves, belonging to the claimants, her owners. She was captured by the French armed cutter L'Hebe, Captain Jolie, at the entrance of the Texel, and carried to Amsterdam, whither she was bound. The master was dispossessed of the vessel and her papers, which were sent to Paris; and there the whole property was eventually condemned on the ground that the vessel was denationalized in consequence of passing the English coast.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
10. Wm. Day, of Philadelphia.	France	Sept, 8, 1811	The sloop was met by a French frigate, which forcibly took from her $1,500, (Spanish,) and took and destroyed other property on board to the value of $300.	Sl'p Express (plundered.)	$1,800. The loss was sustained in lat. 30° 26′ N. by observation, eastward of the Azores.	No legal adjudication known of.	The plundering frigate was supposed to be the Clorinde, and to be one of the vessels which had escaped from the Isle of France. She was filled with troops; was first seen to the southward; and after showing English colors, ordered on board the papers of the sloop.
11. Alexander Mactier, of Baltimore, Md.; Chesapeake Insurance Co.; Marine Insurance Co.	....do.....	April 23, 1805	Capture	Schooner Imperial, Nicholas Everson, now dec'd, master.	$8,444 09½ on the vessel; $22,496 50 on the cargo—amount, $30,940 59½. The capture was made off the coast of North Carolina.	No legal adjudication.....	The schooner Imperial, a new vessel, coppered and copper fastened, was, on her first voyage, captured on her return from Jeremie to Baltimore, at the custom-house of which city she had been cleared. She was captured by a French privateer, called the Matilda, Captain Crassen, and carried into Guadaloupe.
12. Robert P. Branu, of Philadelphia.	....do.....	The seizure was made February 5, 1810.	Seizure, sale and appropriation.	Ship Hawk, Mich'l Brown master, was the vessel aboard which was claimant's property.	24 boxes Havana sugar..... $2,741 00 20 boxes of indigo..... 15,139 25 — $17,880 25 To this sum the claimant adds his commission as supercargo, including premium of insurance thereon; which amount was not paid by the insurers, the insurance being against sea risks only..... 6,964 00 24,844 25 The whole cargo of the Hawk was sold for francs 557,156 56, or $104,465. The claimant's property was seized at Port Passage.	No legal adjudication.....	The claimant's property was seized aboard the ship Hawk, in consequence of an order from the Emperor Napoleon, issued December 22, 1809, and afterwards sold along with the cargo of said ship, on December 11, 12, and 13, 1809, by the Collector of the custom-house at Bayonne, agreeably to the imperial decree of Rambouillet, dated March 25, 1810, and the proceeds of the sale were deposited in the sinking funds at Paris.
13. Henry Hatch, administrator of Crowell Hatch, dec'd.	....do.....	July —, 1809	Capture	Ship Weymouth, Shubael Gardner master.	$19,649 20. The capture and recapture were made in the Mediterranean.	The ship was condemned at Malta to pay one-eighth part of her value and of that of her cargo as salvage. The date of the condemnation is not stated.	The ship Weymouth left Boston, on a voyage to Palermo, in the year 1809, and, in July of that year, was captured by a French privateer. She was afterwards recaptured by the English frigate Hydra, George Mundy commander, and carried into Malta, where, after being detained a considerable time, she was condemned to pay, as salvage— One-eighth part of $12,000, the value of the ship..... $1,500 00 One-eighth part of the value of the cargo, which consisted of 474 boxes of Havana sugar, and cost, in Boston, $20,325 69 .... 3,149 20 4,649 20 To this sum the claimant adds the total loss arising from the capture and detention of the freight, at half profits, as to the residue of the cargo, estimated at..... 15,000 00 19,649 20

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
14. John Belknap.....	France	Jan. 27, 1808	Capture and detention....	Ship Grace, R. T. Lunzee master.	$967 30. The capture was made in the Mediterranean.	A decree of condemnation, under the Berlin and Milan decrees, was made at Paris on July 6, 1808.	The ship Grace was captured by the French private armed vessel Cosmopolite, and carried into Porto Ferrajo, in the island of Elba, where she was detained. Four hhds. of coffee had been shipped aboard her, for Leghorn, on account and risk of the claimant, the amount of the invoice being $926 76. To this sum he adds charges paid after the capture, viz: $14 04 on May 6, 1809, and $26 54 on March 5, 1812. No insurance had been effected.
15. Samuel F. Coolidge and others.	....do.....	Jan. 31, 1812	The vessel was captured by three French privateers.	Brig Pallas, of Boston, Benj. Hollbrook master.	The vessel was valued in the policy at..... $8,000 00 The value of the freight was near..... 6,000 00 ——— $14.000 00 The capture was made near San Lucar.	The claimants state that it is understood the vessel was condemned at San Lucar.	The brig Pallas sailed from Baltimore on December 12, 1811, with a cargo belonging to citizens of that place, and after being captured by the three French privateers was carried into San Lucar. She was never restored, but became entirely lost to the parties. When captured the brig was bound for Cadiz. In this case a claim was made under the treaty with Spain, February 22, 1819, but rejected as being a proper claim against France. Samuel F. Coolidge was the owner of the brig. It was insured by the North American Insurance Company, of which Jesse Putnam was President. Benjamin Rich, Thos. B. Wailes, Francis Welsh, and others, were insurers on freight; and Henry Orne, of Boston, is agent for the claimants.
16. R. A. Henderson, legal representative of Robt. Henderson, deceased.	....do.....	June, 1811, and Jan., 1812.	The vessel was totally lost by shipwreck, while passing from Boulogne to Dunkirk by order of the French Government.	Brig Pocahontas ...	$8,000, the value of the brig. The loss took place by the shipwreck of the vessel, on January 21, 1812, between Calais and Gravelines.	There was no legal adjudication.	The brig Pocahontas was purchased by the late Robert Henderson at Boulogne, whither she had been carried by the captors, and where, by a compromise with them, she had been released. Mr. Henderson, who purchased her as a means of conveying his family out of France, where they had been detained longer than two years for want of a conveyance, fitted her out, and prepared to sail for the United States in June, 1811, when orders were issued to detain the vessel. By the intervention of the American minister at Paris a promise of release was procured, and the vessel was, meanwhile, ordered to proceed to Dunkirk. She left Boulogne on January 20, 1812, in charge of a French pilot and French crew, which the authorities of Boulogne obliged Mr. Henderson to receive, the vessel being still considered as detained. On the succeeding night she perished.
17. The President, Directors, and Company of the Union Bank of Maryland, John S. Stiles, legal representative of G. Stiles, dec'd, and Christ. Ueshon.	France or Spain.	The date of the loss is not stated by the agent of the claim'ts, but it was shortly after November, 1809. The property was sold August 1, 1810.	The vessel was taken possession of at St. Sebastian, in Spain, by the French authorities, and, with her cargo, transported to Bayonne and sold.	Schooner Trim	The cost of the cargo, as per invoice, was..... $29,682 41 The cost of the vessel..... 13,372 09 Premiums of insurance on vessel and cargo..... 7,005 00 ——— $50,059 50 The loss was sustained at St. Sebastian.	There does not appear to have been any legal adjudication.	The schooner Trim left Baltimore in November, 1809, bound for St. Sebastian, in Spain, where she arrived in safety. After her seizure there by the French authorities, and the transportation of herself and cargo to Bayonne, they were at the latter place sold. The cargo produced 231,635.25 francs, and the vessel was taken at a valuation of 50,000 francs, making, in the whole, 281,635.26 francs. This property was owned by Hollins & McBlair, George Stiles, and Christopher Deshon, each party being one-third owner. Hollins & McBlair subsequently transferred their interest to the Union Bank of Maryland. W. H. Murray, assistant Cashier of that bank, is the agent for all the claimants.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
18. Isaac M'Kim, of Baltimore, Maryland.	France	Dec., 1807.....	One hundred and forty-one chests of Company and Souchong tea were seized by the French custom-house officers at Hamburg and sold, and the proceeds of the sale retained by the French authorities at that place.	The tea which was seized was shipped aboard the ship Elenora, William Taylor master.	The value of the property lost to the claimant was 18,648 marcs banco, which, at 33½ cents, are equal to $6,216 of the money of the United States. The loss took place at Hamburg.	There was no legal adjudication.	One hundred and eighty-one chests of tea were shipped by the claimant, about June 23, 1807, on board the Elenora, bound for Tonningen. The ship arrived there in August, 1807, consigned to L. H. Van Hollen, of Hamburg, who kept it for safety in the Danish territory adjoining to Hamburg. In December, 1807, the French douaniers crossed the line and seized one hundred and forty-one chests of tea, which were kept and sold by the French authorities at Hamburg, and the claimant has received nothing for them.
19. Elisha Phelps.....	....do..	Not stated.....	Capture.....	Sloop America, of New York, John Smith master.	Value of cargo..... $3,691 22 Value of vessel ..... 2,000 00 5,691 22 Place of capture not stated.—See last column.	The vessel and cargo were condemned 11 Pluviose, sixth year of the Republic, by the Tribunal of Commerce, at Guadaloupe.	The vessel on her voyage from Newbern, North Carolina, to Marigalante, was captured by three privateers.
20. William Fettyplace..	....do..	January, 1808.	The vessel and cargo were captured on the high seas by the English brig Conflict, and afterwards recaptured by a French privateer and carried to Paros, a small port on the coast of France.	The schooner Reward, of Marblehead, Wm. Soss master.	The value of the vessel and cargo at the time of departure from the United States are stated by the claimant to have been about $14,000, but he supposes that they were sold for not less than $25,000. The recapture was made near the coast of France.	There was no legal adjudication, except a rejection by the Council of Prizes of the claim of the owners of the privateer.	The scoooner Reward sailed from Marblehead December 6, 1807, bound direct for Rochelle, her cargo consisting of codfish, cod oil, potash, Georgia cotton, all of the produce and manufacture of the United States, accompanied with regular documents from the French Consul. At the time of her sailing neither the French decrees nor the British orders in council were known in the United States. On the 1st of January, 1808, the Reward was captured, near the coast of France, by the English Government brig Conflict, and on the ninth day of the same month was recaptured by a French privateer. The vessel and cargo were sold by order of the French government, and no compensation made to the claimant.
1. Richard Faxon, formerly of Boston, and now a resident merchant at Bordeaux, in France.	....do..	Seizure made in Feb., 1812, and the property sold in June, 1812.	Seizure made by French authorities, and sale of 215 cases of white Havana sugar which had been imported into Santander or St. Andero, in Spain, by the American ship Globe, Capt. Wm. Austin, and purchased from him by the claimant; and of four sacks of cocoa also purchased by him there.	The property was seized on land.	The amount claimed is 356,713 reaux 16 maravedis, equal to $——, the proceeds of the sale, and the value of 43 quintals of sugar deficient, making, together, the sum of $18,000. Interest from the date of the seizure is also claimed. The seizure was made at Santander.	There was no legal adjudication.	Payment for the property was demanded of the French Government, and refused on the presumption that it might have been the property of Spaniards; but on the books of the receivers of the contributions of the province of Santander the sum of 52,811 francs 79 centimes is credited, as arising from a part of the sales of sugar and cocoa belonging to Mr. Richard Faxon, American merchant, seized in the store of Mr. Joachim Murat, at Santander, February 13, 1812. This store had been broken open by the French authorities, in order that they might seize the property.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
22. Richard Caton and George Tyson, assignees and trustees, and James McFadon, assignee and trustee.	France.....	Dec. 29, 1809...	The vessel and cargo were seized and sequestered.	Schooner Exchange.	The cargo was sold at Bayonne, at public auction, for 201,936.16 francs, to which the claimant adds 14,113.38 francs, the cost of 1,043 bars of iron, amounting together to 280,049.54 francs, or $52,509 28. He also claims nearly $2,000 for the expenses of the vessel and crew during the sequestration. The seizure appears to have been made at Passage, a port of safety.	There was no legal adjudication.	The schooner Exchange was fitted out at Baltimore in October, 1809, laden with a cargo of cotton, tobacco, and logwood, bound to St. Sebastian, in Spain, where she arrived about the 9th of December following; and after performing the usual quarantine was discharged, ballasted with iron, and sent round to Passage, there to wait until a return cargo could be procured. With the exception of twenty-one hogsheads of tobacco, which had been previously sold, the whole cargo was seized by the French Government and disposed of as aforesaid. The vessel was taken into the French service at a valuation of 64,000 francs, and afterwards attached in Philadelphia by the original owners, but finally released by a decision of the Supreme Court of the United States. Caton and Tyson claim, as assignees of Greetham and Devereaux, original part owners of the vessel and cargo; and James McFadon, as assignee of John McFadon, the other original part owner of the same.
23. Chesapeake Insurance Company of Baltimore.	....do.....	The capture was made January 25, 1808.	Capture and condemnation.	Ship Aurora, Levin Dashiel master.	Loss on ship..... $10,054 45 Loss on cargo..... 4,772 48 $14,826 93 The place of capture not stated.	Condemnation by the Council of Prizes at Paris, June 8, 1808; and, on an appeal to the Emperor, the sentence was, on December 8, 1810, approved under the Milan decree.	The ship Aurora left Baltimore on December 14, 1807, and on January 3, 1808, in a gale, the captain was lost, and the command devolved on William Bowen. On the 21st of January the ship was overhauled by a British sloop-of-war, which put an officer on board and ordered her to Plymouth, and on the 25th was taken by the French privateer L'Incomparable, who carried her to Morlaix. The cargo, insured by the claimants, and paid for by them, produced the gross sum of $12,195 24.
24. Chesapeake Insurance Company of Baltimore.	....do.....	Seizure was made October 21, 1807.	Seizure, sale, and appropriation.	Ship Julius Henry, James D. Woodside master.	$15,000 on the cargo. The seizure was made at Cushaven.	There was no legal adjudication; but the seizure was confirmed by the Emperor, who ordered the Council of Prizes not to take cognizance of the case.	The ship Julius Henry sailed from Baltimore for Tonningen on August 23, 1807, and on October 20, off Heligoland, was boarded by a British sloop-of-war, and warned not to proceed to Tonningen. She sailed to Cushaven, where she was taken possession of by the French douaniers about the 21st of October, and finally discharged at Hamburg. Part of the cargo, as it was verbally, but officially stated, by order of the Emperor, was sent to Paris, to be sold there for consumption. The claim of the company is the sum which they paid for insurance made on the cargo; but, from the state of the markets at the time of the loss, it might be properly estimated at $30,000.
25. Marine Insurance Company of Alexandria.	....do.....	May 31, 1805...	Capture.....	Schooner Young Lion, Daingerfield master.	$5,500. The capture was made in the West Indies.	No legal adjudication.....	The schooner Young Lion was taken by the French privateer Superb, and carried into Buracoa. The captain and crew were detained prisoners aboard the privateer until shipped in a vessel bound to Baltimore.
26. Marine Insurance Co'y of Alexandria.	....do.....	September, 1806	Capture.....	Brig Washington, Crowdhill master.	$8,000. The capture was made in the West Indies.	No legal adjudication.....	The brig Washington was taken by the French Government schooner Dolphin, and afterwards lost on the French Keys.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
27. Marine Insurance Company of Alexandria.	France.....	October, 1810..	Sequestration and sale, by order of the French Government.	Ship Hawk.....	$10,000. The vessel was sequestered and sold at St. Sebastian.	No legal adjudication.....	None.
28. Marine Insurance Company of Alexandria.	....do.....	Jan. 14, 1813...	The vessel was sunk at sea.	Ship Citizen, Crowdhill master.	$12,000. The loss was sustained at sea.....	No legal adjudication.....	The ship Citizen was on her passage from Lisbon to the District of Columbia, and was boarded by the French national frigate La Gloire, which, after taking out her ship stores, provisions, sails, rigging, &c., scuttled and sunk her.
29. Theodore Chase, estate of Joseph Chase, deceased, and John Riley.	....do.....	The capture was made Feb. 2, 1808.	Capture	Brig Tarantula, of Portsmouth, N. H., John Riley master.	The value of the vessel was 44,000 francs, to which add 29,970 francs for freight, primage, and gratifications, and the amount of loss sustained is 73,970 francs, or $13,802 80. The place of the capture is not stated.	Condemnation by the Council of Prizes at Paris, July 6, 1808.	The brig Tarantula was captured by the French privateer Le Pere de Famille. The capture and condemnation were made under the first article of the Milan decree, on the ground that the brig had been visited by a British vessel-of-war.
30. Edmund Roberts	....do.....	Sept., 1807, date of the seizure.	Seizure and condemnation.	Ship Victory, of Portsmouth, N. H., Caleb Hopkins master.	The claimant claims the insurance, the premium, and the expenses of a lawsuit instituted to recover the insurance; part of freight not insured, $598 50; the expenses at Cherbourg and Paris of the trial, and of maintaining the captain and crew, amounting to $1,297 79, and the value of the vessel, $16,500. These several items he states to amount to $19,096 29, on which he claims also 19 years' interest, at 6 per cent., making, in the whole, the sum of $40,865 92. The seizure was made at Cherbourg.	Condemnation under the Berlin and Milan decrees, at Paris, in 1808.	The ship Victory sailed from New York in July, 1807, bound for Cherbourg, in France. On her passage she was captured by a British vessel-of-war and sent into Plymouth, England, and, after a few hours' detention there, was released. She then proceeded on her voyage. On her arrival at Cherbourg she was quarantined four days; at the expiration of which time she was seized for having come from a British port, and, after nearly a year's detention, was condemned under the Berlin and Milan decrees. The ship was partly insured, *out* only; and in consequence of her not having been seized within twenty-four hours after her arrival the claimant lost the insurance, was obliged to pay the premium and the expenses of a lawsuit instituted for the purpose of recovering the insurance. The freight was partially insured, and the deficiency amounts to $598 50.
31. Robert Roberts' executors.	....do.....	Jan. 7, 1808....	Capture and detention....	Brig Mercury.....	Loss on cargo ..... $21,416 14 Freight..... 4,650 75 Detention of the vessel for 130 days .... 3,900 00 Expenses..... 826 96 ——— $30,793 85 The capture was made in the Bay of Alicante.	No legal adjudication.....	The brig Mercury and her cargo were, at the time of their capture, owned by Robert Roberts, of Plymouth, Massachusetts, since deceased, of whom Nathaniel Curtis and Isaac Clapp were the executors. They were captured by the French privateer Josephine, Captain Babistro, and the cargo, with the exception of thirty boxes of sugar, was sold at Alicante. The brig was, after one hundred and thirty days' detention, delivered up to the captain, empty, and in a very bad condition. On October 29, 1807, Mr. Roberts had insured, at the New England Marine Insurance Office, at Boston, $5,000 on the vessel and $10,000 on the cargo. He having afterwards received from the office $10,000 on the loss of the cargo, the office is to that amount interested in the present claim.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
32. Robert Roberts' executors.	France	Jan. 15, 1811	Capture	Schr. Zebra, John Burgess master.	Cost of cargo at Boston ..... $3,207 22 Expenses ..... 316 30 Vessel and outfits ..... 4,000 00 Freight ..... 2,872 00 Detention of vessel 793 days .. 19,825 00 — $30,220 52 Deduct $1,211 65, received from Messrs. Daumas, and $338 43, received from the sale of the vessel ..... 1,550 08 Amount of loss ..... 28,670 44 The capture was made in the Mediterranean, about seven leagues from Cape St. Martin.	After a detention of two years and seventy-three days the vessel and cargo were, by legal adjudication at Paris, ordered to be restored in 1813.	The schooner Zebra and her cargo were captured by the privateer Jean Bart, owned by Messrs. Daumas Brothers, of Marseilles, and carried to that place. When she was restored, her crew had left her, and she was in such a condition as to make it necessary that she should be sold at Marseilles. She was accordingly sold by the agents of the owners, and produced the sum of $338 43. The cargo had previously, while in the hands of the captors, been sold by order of the legal tribunals. At the time of the capture, Alanson Tucker, of Boston, owned half of the vessel and cargo, and he is interested in the same portion of the present claim.
33. Ebenezer Stocker's administrator and others, enumerated in the last column.	....do	The seizure was made March 10, 1810.	Seizure and confiscation..	Ship Franklin, (was seized,) Chas. L. Hyatt master.	Value of ship and freight ..... $49,376 90 Value of cargo ..... 65,346 45 Amount of loss ..... 114,723 35 The seizure was made at St. Sebastian.	No legal adjudication	The ship Franklin was an American vessel, and, together with her cargo and freight, belonged to citizens of the United States. She sailed from Boston, February 7, 1810, for the port of St. Sebastian, where she arrived on the 10th of March following, not having violated the laws of neutrality. She was, however, seized by order of the French Government, sent round to Bayonne, and there sold at public auction in August, 1810, without any trial, under the Rambouillet decree. The cargo alone was sold for francs 845,164 89, which sum was paid into the French Treasury. The cargo was owned as follows, viz: Richards & Jones, Oliver Putnam, Judah Hayes, Thomas C. Amory & Co. } tobacco and cotton. $23,135 00 John and Samuel Welles ..... cotton ..... 5,465 26 James and Thomas H. Perkins ..... tobacco ..... 3,394 08 Benjamin Bussey ..... tobacco ..... 1,910 58 Ebenezer Stocker & Lem'l Pope, jr.. cotton and logwood. 2,156 72 John C. Jones ..... cloves ..... 660 00 Peter Wainwright ..... tobacco ..... 2,299 48 Cornelius Coolidge ..... cotton ..... 3,391 13 Ezra Davis ..... cotton ..... 5,965 09 Abraham Touro ..... tobacco ..... 525 00 William Coffin ..... tobacco and cotton .. 3,727 71 J. and S. D. Harris & Co ..... potash and logwood. 5,583 00 Oliver Keating ..... cigars 559 44

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
33. Continued	.....	.....	.....	.....	....	.....	Colburn & Gill.....cotton and tobacco.. $3,017 80 John Jones and Joseph H. Pope.....indigo..... 496 20 Charles L. Hyatt..cotton, tobacco, indigo, and whalebone. 3,059 95 65,346 45
34. Union Insurance Company at New London, Conn.	France	The capture was made in August, 1808.	Capture and condemnation.	Brig George, Josiah Douglass master.	$1,700. The place of capture is not stated.....	Condemnation at Guadaloupe, under a French decree. The date of the condemnation is not stated.	The ship and freight were owned by Ebenezer Stockton, Lemuel Pope, jr., and John Gray. The brig George sailed from New London, August 11, 1808, bound for St. Lucia, Antigua, and Turk's Island. On her passage she was captured and carried into Guadaloupe, where she was condemned for having been bound for an English port. The claimants had insured, and have since paid, on the above brig, $1,300 for J. Huntington, and $400 for Henry Trueman.
35. James Sheafe and the estate of Matthew S. Marsh.	....do	The capture was made August 15, 1809.	Capture	Brig John Adams...	Value of the brig..... $10,000 00 Value of freight..... 6,060 00 Amount, &c..... 16,060 00 The expenses of the master and crew and charges in France are also claimed, but not stated. The capture was made in the English channel.	Condemnation of vessel and cargo by the Council of Prizes at Paris, May 23, 1810.	The John Adams sailed from Richmond, Virginia, June 28, 1809, with a cargo of tobacco, bound for Hamburg and a market, and was captured by the French privateer the Grand Duke of Berg, Drosier master. Without any examination of papers she was ordered for France, and arrived at the port of Dieppe on the 17th of August. She was condemned on the alleged ground that she was bound for England, and on English account. The money arising from the sale of the vessel and cargo was ordered to be deposited in the chest of the invalids of the marine, no part of it being allowed to the captors, on the ground of their imputed misconduct in capturing the brig under English colors. The owners appealed to the Council of State, which made no final decision. Against the supposition that the John Adams was bound for England, the claimants remark that she had aboard 33 hogsheads of broken tobacco, which, in such case, would, on her arrival in that country, have subjected both vessel and cargo to condemnation.
36. Joseph White, estate of Robert Stone, Robert Stone, and Nathaniel Silsbee.	....do	About July 30, 1809.	Seizure	Schooner Salem ...	Cargo, per invoice ..... $13,279 18 Vessel and outfits..... 4,500 00 Freight .... 4,000 00 21,779 18 Counsellor's fee ..... 1,500 00 Amount, &c..... 23,279 18 Seizure made at St. Sebastian.	Condemned by the Commander of Marines at St. Sebastian; sentence annulled by the tribunal at Madrid, March 27, 1810.	This vessel was seized on her arrival at St. Sebastian, about July 30, 1809. In August she was condemned by the Commandant of Marine at St. Sebastian, in consequence of her having been visited at sea by a British frigate. From this decision an appeal was made to the tribunal at Madrid, by which the sentence of condemnation was annulled, and an order issued March 27, 1810, to the Commandant of Marine at St. Sebastian to liberate the vessel and cargo, and to deliver the same into the custody of the captain; but the French general, Thouvnot, then military commandant of the province, acting

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
36—Continued							under the authority of the Emperor of France, would not allow this order of the court of Madrid to have any effect, and gave directions for the removal of the property to Bayonne, in conformity, as he alleged, with orders which he had received from the Director General of Custom-houses at Paris. This order for the removal of the property was put in execution in June, and the cargo was sold at Bayonne some time in September, 1810, and the proceeds of both vessel and cargo retained by persons acting under the authority of the Government of France. The cargo of this vessel consisted of 213 bales of cotton, which weighed 58,071 pounds, and sold for 37 cents per pound ..... $21,486 27 Twelve hogsheads of tobacco, 14,300 pounds, sold for 40 cents per pound ..... 5,720 00 Twenty-four casks of rice, 16,026 pounds, at 8¼ cents per pound ..... 1,377 51 Sales of cargo ..... 28,583 78 The vessel, although new, of about 107 tons, was sold (in consequence of the impracticability of using vessels, either under the French or Spanish flags at that time) at the trifling price of 6,500 francs, equal to 1,238 00 29,821 78
37. Elijah Beall, of Hingham, Massachusetts.	France	September 19, 1811.	Piratical plunder	Brig Factor, Elijah Beall master. (Was plundered.)	Specie dollars ..... $6,000 00 Other property ..... 1,000 00 Amount, &c ..... 7,000 00 The loss was sustained at sea.	The claimant knows of no legal adjudication.	Joseph White is interested one-third in this claim; the estate of Robert Stone and Robert Stone one-third, and Nathaniel Silsbee one-third. Property belonging to the claimant of the kind and value hereinbefore mentioned, aboard the brig Factor, was forcibly taken from her, on her passage from Lisbon to Boston, by the French frigate L'Orient, under English colors.
38. John W. Head, of Warren, Maine.	....do.....	About the 18th of Feb., 1811.	Capture and destruction ..	Brig Sumner	Value of the brig ..... $7,500 00 Amount of the freight of wheat ..... 3,000 00 5 per cent. premium on the wheat ..... 150 00 Value of ten tierces of rice on claimant's account ..... 251 40 Freight of ten tierces of rice ..... 20 00 Amount, &c ..... 10,921 40 Add 15 years' interest, from February, 1811, to February, 1826 ..... 9,829 20 20,750 60 The loss was sustained on the passage of the brig from Liverpool to Lisbon, but it is not stated where.	No legal adjudication	The cargo of the brig Sumner consisted of wheat and ten tierces of rice. On her passage from Liverpool to Lisbon she was captured by three French frigates, La Benommee, La Nereide, and La Clorinde, which were from Brest, about eight days out, and had troops on board. It was understood that they were bound to the Isle of France. The boarding officer came into the cabin of the Sumner, took her papers and scattered them about the table, knocked off the gripes of the long-boat, and took off the hatches. The Sumner being a deep waisted vessel, with a low deck, soon filled and sunk.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
39. Wm. Hollingsworth and others, named in the last column.	France	Dec. 28, 1809	Seizure and sequestration.	Schooner Postboy, (seized,) Alex. Adams master.	Value of the vessel..... $17,000 00 Value of the cargo..... 32,913 37 49,913 37 Add freight. The loss was sustained at St. Sebastian.	No legal adjudication.....	The schooner Postboy belonged to John F. Kennedy, of Baltimore. Her cargo consisted of 30 hhds. of tobacco, which were sold before the seizure, and 146 bales of cotton. The schooner was, together with her cargo of cotton, seized and sequestered at St. Sebastian, by order of the French Government. The cotton was owned by the following persons, and in the following proportions, viz: William Hollingsworth, of Elkton, Md., four-tenths, equal to $13,165 34; Levi Hollingsworth, now dec'd, of Baltimore, five-tenths; Briscoe & Partridge, one-tenth; the captain, six bales of cotton. William Hollingsworth is the executor of Levi Hollingsworth, and represents the interest of Briscoe & Partridge; James Mosher and Lemuel Taylor, both of Baltimore, represent the interest of John F. Kennedy. Captain Adams is believed to be dead. The freight on the cargo was to be one-half thereof to John F. Kennedy, on its safe delivery at St. Sebastian. No insurance had been made by the shippers. The 146 bales of cotton were sold after the seizure for 175,538 francs, equal to $32,913 37, and weighed 44,487 lbs. Spanish weight.
40. Benjamin F. Watson, of Boston.	....do.....	Dec., 1807, or Jan., 1808.	Capture and confiscation..	Schooner Reward, Wm. Goss master.	The captured and condemned property, consisting of 15 bales of Georgia cotton, net weight 4,571 lbs., at 14 cents per lb., was worth $653 94. The claimant is unacquainted with its value at the port of destination, or with the proceeds of its sale. The vessel was captured on her passage from the United States to La Rochelle, but it is not stated where.	No legal adjudication.....	The schooner Reward, having on board an adventure of 15 bales of Georgia cotton, owned by Fettyplace & Watson, merchants, of Boston, of which firm the claimant is the representative, sailed in December, 1807, bound for La Rochelle, in France. She appears to have been captured by a British cruiser, recaptured by a French privateer, and carried into the port of Paros, in France. The cotton was sold under a decree of the Emperor Napoleon, and the proceeds of the sale placed in the caisse d'amortissement.
41. Jno. Watson, of East Windsor, Conn.	....do.....	The vessel was captured Feb. 22, 1811.	Capture and plunder.. ...	Brig Harriet, of East Windsor, Conn.	The amount of the loss sustained and the value of the property captured are $37,400. The capture was made on the high seas, lat. 32° 50′ E., long. 20° 48′.	No legal adjudication.....	The brig Harriet was captured, on her homeward bound passage from Lisbon to New York, by the French frigates Renomme, Nereide, and Clorinde, each carrying 40 guns, and robbed of 66 of the Merino sheep, which constituted her cargo; also of her small stores, most of her provisions, her sails, spars, rigging, furniture, money, spy-glasses, &c., &c. The commanders of the French frigates forcibly put on board the Harriet Captain Malcolm and crew of the brig Sumner, and Captain Powers and crew of the brig Endeavor, said commanders having sunk the vessels of these captains. There being then thirty souls on board the Harriet, and only three barrels of bread and three barrels of beef, the captain of the Harriet was, in order to prevent starving, obliged to kill most of the Merino sheep which had not been captured; and these were then worth, in New York, more than $200 a head.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
42. Gabriel Paul, for himself and others.	France.....	Oct. 30, 1810	The vessel and cargo were seized and confiscated.	Brig Good Friends, Winslow Harlow master.	The value of the property confiscated, as paid for in Philadelphia, was..... $6,733 89 Premium of insurance..... 750 00 Expenses of suit, &c..... 1,309 53 Claimant's commission, as supercargo, of 5 per cent. on amount of sale..... 1,893 37½ 10,686 79½ The loss was sustained at Morlaix.	There was no special legal adjudication in this case, the property being sold under a decree of the Emperor Napoleon, confiscating a number of American vessels, including the Good Friends.	The brig Good Friends, owned by Edward Coursault, a citizen of the United States, and merchant of Philadelphia, was loaded with 49 hhds. brown sugar, 42 cases of white sugar, 76 bags of coffee, 4 seroons of indigo, 99 bales of cotton, 20 hhds. of tobacco, 46 tons of logwood, 20 tierces of cocoa, 71 bags of gum, 30 seroons of Peruvian bark, 5 hhds. of cassia, 19 quarter chests of tea, 100 bags of pepper, and 1,800 lbs. of Brazilletto wood, shipped by citizens of the United States. On December 8, 1809, the Good Friends cleared from Philadelphia for Tonningen, and, after thirty-five days of a very boisterous passage, was, in consequence of her leaky condition, obliged to take refuge in the port of Bas, near Morlaix. She entered this port on January 19, 1810; and the claimant, as supercargo, (he being also part owner,) informed the Commissary of Marine of said port of the causes which had compelled the vessel to take refuge in it, and requested to be permitted to unload the cargo, repair the vessel, and proceed to her port of destination. The supercargo's communication was despatched to the Maritime Prefect at Brest, who answered it on January 22, directing that every assistance which he might need should be given to him. The captain went ashore, and made his declaration of distress before the Collector of the custom-house, on the 24th, and began to unload on the 6th of February, when orders were received by the Inspector of Customs at Morlaix, from the Director General at Paris, to seize on the vessel and cargo as American property; which was accordingly done. After various attempts, on the part of the claimant and captain, to obtain justice from the French tribunals, and after the ineffectual interposition of the American minister, the vessel and cargo were sold at Morlaix, August 20, 1810; and the Emperor, to whom the Minister of Finances had made a favorable report of the case, confiscated, on the ensuing 30th of October, a number of American vessels, including the Good Friends. Besides others, not mentioned by Mr. Paul, Daniel W. Coxe, Stephen Dutilh, James S. Duval, and the claimant, were shippers of the cargo.
43. Daniel Lathrop's executors and others, for the Norwich Marine Insurance Company.	....do.....	Feb. 21, 1808	A part of the cargo was seized, and the residue, together with the vessel, was destroyed by two French frigates, under the Berlin and Milan decrees.	Schr. Windham, Berachiah Paine master.	The loss on the vessel was ..... $2,500 00 The loss on the cargo was..... 2,500 00 5,000 00 These were the sums insured on the vessel and cargo, respectively. One half of the aggregate was paid	The claimants know of no legal adjudication.	The schooner Windham was owned by Elisha Abbe, a citizen of the United States, who subsequently abandoned to the Norwich Marine Insurance Company. She sailed from Demarara, bound for Norwich, Connecticut, February 4, 1808, laden with 106 hhds. of rum, 40 hhds. of molasses, 1,000 lbs. old copper, sugar, coffee, &c. On February 17, was spoken off St. Croix by the British frigate Stag, who permitted her to proceed without endorsing her papers. On

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
43. Continued	.....	.....	.....	.....	by the office to Elisha Abbe, August 21, 1808, and the other half December 21, 1808. The claimants claim also, for the master's expenses home, $219 72; for notarial expenses in France, $25 90; for wages of master and crew, $1,400. The loss was sustained at sea, about 26° N. lat., and 66° W. long.	.....	February 21, was captured by the French frigates La Italienne and La Syren, who had sailed from St. Maloes, in France, December, 1807, bringing with them the Milan decree. After taking on board the rum, masts, &c., they burnt the vessel and the residue of the cargo. Redress was afterwards, but ineffectually, sought before the Council of Prizes at Paris. The claim appears to be made for the Insurance Company, by Charles Huntington, Cushing Eells, and F. T. Lathrop, executors of Daniel Lathrop, deceased, and Joseph H. Strong, Joseph Williams, and Benjamin Coit.
44. Sam'l W. Jones, surviving partner of James Smith & Co.	France	Dec. —, 1809	Seizure and sale of sugar and cotton, under the Rambouillet decree.	The property seized, &c., had been shipped in the ship Hawk.	Eighty boxes of white sugar, seized in port, sold at 113 francs, free of duty; 120 bales of fine cotton, seized in port, sold at 295 francs, free of duty. The aggregate of these sums is $15,000, and constitutes the present claim. The cargo was sold by the custom-house at Bayonne, and the proceeds placed in the sinking fund.	There does not appear to have been any legal adjudication.	None.
45. G. Coursault, for himself, and as administr'r of Amable Coursault, dec'd.	....do.....	Dec. 14, 1809	Seizure and confiscation .	Triphena, of Philadelphia.	$32,900. This amount appears to be claimed for the vessel, and for the whole or a part of her cargo, but the respective values of the same are not stated. The loss was sustained at Cherbourg.	There was no legal adjudication.	The Triphena cleared at Philadelphia for Tonningen, and in December, 1809, put into Cherbourg in distress, where she was seized and sequestered. She was afterwards confiscated under an imperial order, dated October 30, 1810, and, on January 16, 1811, was publicly sold at Cherbourg.
46. G. Coursault, for himself, and as administr'r of Amable Coursault, dec'd.	....do.....	Jan. —, 1810	Seizure and confiscation .	Brig Good Friends, Winslow Harlow master.	$36,050. The loss was sustained at Morlaix.	There was no legal adjudication.	This claim appears to be connected with that numbered 42 in this schedule. See explanatory remarks of No. 42.
47. Daniel W. Coxe.....	....do.....	Jan. —, 1810	Seizure and confiscation..	Brig Good Friends, Winslow Harlow master.	$8,600. The loss was sustained at Morlaix.	There was no legal adjudication.	See No. 42, explanatory remarks. G. Coursault is the agent for the claimant.
48. Step'n Dutilh's heirs.	....do	January, 1810..	Seizure and confiscation..	Brig Good Friends, Winslow Harlow master.	$14,100. The loss was sustained at Morlaix.....	There was no legal adjudication.	See No. 42, explanatory remarks. G. Coursault is the agent for the claimants.
49. James S. Duval, for himself and another.	....do	January, 1810..	Seizure and confiscation..	Brig Good Friends, Winslow Harlow master.	$10,590. The loss was sustained at Morlaix.....	There was no legal adjudication.	See No. 42, explanatory remarks. G. Coursault is the agent for the claimants.
50. Gabriel Paul.....	....do	January, 1810..	Seizure and confiscation..	Brig Good Friends, Winslow Harlow master.	$12,060. The loss was sustained at Morlaix.....	There was no legal adjudication.	See No. 42, explanatory remarks. G. Coursault, the claimant's agent, states no particulars in regard to this claim; but it is probably the same as the claim numbered 42 in this schedule, though there is some difference in the amounts, as estimated by the two claims.
51. Winslow Harlow....	....do	January, 1810..	Seizure and confiscation..	Brig Good Friends, Winslow Harlow master.	$2,150. The loss was sustained at Morlaix.....	There was no legal adjudication.	See No. 42, explanatory remarks. G. Coursault is the claimant's agent.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
52. Stephen Waterman.	France	March, 1808....	The vessel was captured by two French frigates, and after being plundered of her cargo was burnt.	Ship Mentor of New York, the claimant master.	The value of the vessel when burnt was... $16,000 The value of the part of her cargo belonging to claimant ..... 4,000 The freight, &c., on about 310 tons of goods. 7,000 27,000	There was no legal adjudication.	The ship Mentor was boarded by the British frigate Guerriere about the 20th of February, 1808; but as she had left the United States before the date of the orders in council she was released. About the 2d of March, 1808, she was taken by the French frigates Hortensie and Hermione, plundered and burnt. Captain Waterman was taken from Brest to the prison at Verdun, where he was confined about four months.
53. Maine Fire and Marine Insurance Co., of Portland.	....do	Feb. 11, 1811...	The vessel was captured, scuttled, and sunk, by three French frigates, called Renomme, Nereid, and Clorinda.	Brig Sumner, of Warren, State of Maine.	The place where the loss was sustained is not stated. $5,000 was the amount insured on the vessel. The capture and loss took place in 47° 30′ north latitude, and 13° west longitude.	There was no legal adjudication.	None.
54. Maine Fire and Marine Insurance Co., of Portland.	....do	Feb. 8, 1811....	The vessel was captured by a French privateer and carried into a port in France.	Ship Mary Ann, of Portland, Maine.	$10,000 was the amount insured on the vessel. The vessel was captured in the British channel, on her voyage from Charleston, South Carolina, to London.	There was no legal adjudication.	None.
55. Maine Fire and Marine Insurance Co., of Portland.	....do	April 19, 1812..	The vessel was captured by a French cruiser and sent into the port of St. Mark's, in the island of Hispaniola.	Brig Lydia, of Cape Elizabeth, Maine.	$1,000 was the amount insured on the cargo. The place of capture is not stated.	The vessel and cargo were condemned April 22, 1812. The place (which was probably St. Mark's) of condemnation is not stated.	A prizemaster and three men were put aboard the Lydia, and the captain, mate, and most of the crew, were taken out.
56. Moses Wheeler, surviving partner of Stackpole & Wheeler.	....do	Jan. 28, 1808...	The vessel was captured by the armed French vessel the Cosmopolite, and carried into Porto Ferrajo, in the island of Elba.	Ship Grace, R. J. Linzee master.	Value of the ship..... $12,000 Value of the freight..... 5,355 Value of the merchandise belonging to Stackpole & Wheeler..... 18,117 Their proportion of expenses in endeavoring to recover the property..... 1,172 36,644	The claimant states that this case was adjudicated by the Council of Prizes July 6, 1808, and registered at Paris October 5, 1808.	The ship Grace sailed from Boston November 20, 1807, for Leghorn. She was owned and freighted by American citizens residing in Boston, and her voyage and acts were legal. An appeal was claimed from the decision at Paris, but no new trial was had.
57. John Pedrick, 3d	....do	The capture was made August 8, 1811.	The vessel was captured by a French privateer.	Schooner Hero, of Marblehead, Hen. Blackler master.	The place of capture not stated. The value of the vessel and cargo was $30,238 47, including freight and premium of insurance. Of this sum $12,000 were insured. The cargo sold for $35,233, as the exchange stood in England at the time of the sale. The precise place of capture is not stated.	The vessel and cargo were subjected to legal adjudication by the Consular Prize Court of Paris at Copenhagen. Its decision, dated September 25, 1811, was confirmed by the Emperor Napoleon January 17, 1812.	The Hero sailed from Marblehead June 26, 1811, bound for St. Petersburg, with a cargo of coffee, cotton, logwood, and indigo. She was not boarded on her passage by any vessel, and on the 29th of July arrived at the quarantine ground of Gottenburg, whither she had been ordered for information. She sailed on the 1st and arrived at Elsinore on the 5th of August; sailed thence on the 6th but was obliged, by bad weather, to put back. She sailed again on the 8th at 5 p. m., and at 8 p. m. of the same day was captured by the French privateer La Minute. In this and the four following cases E. Copeland, jr., is the claimant's agent.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
58. John Pedrick, 3d.....	France	The capture was made July 1, 1810.	Capture.....	Schooner Eleanor, of Marblehead, Thos. Williams master.	The invoice cost of cargo was $10,477 78. The claimant owned one-sixth part of all the cargo, except the pepper, making..... $1,572 35 He owned also one-third part of the pepper, making..... 347 88 1,920 23 The cargo sold at Seville for $38,345 53. The capture was made at sea, 9 or 10 miles from St. Lucar.	The vessel and cargo were subjected to legal adjudication, August 7, 1810, by the Commission of Sequestration and Prizes at Seville.	The Eleanor sailed from Marblehead May 22, 1810, bound for Tangiers and a market, but intended to go to a port in France, or to one occupied by the troops of France, if the commercial regulations of the Empire should, meanwhile, have become such as to allow her to do so. Her cargo consisted of coffee, cotton, tobacco, pepper, and dyewood. At the time of her capture she had not, after leaving Marblehead, been visited, nor had she touched at any port.
59. John Pedrick, 3d.....	....do.....	The capture was made Dec. 26, 1809.	The vessel was captured by a French privateer.	Schooner Joseph, of Marblehead, Samuel Stacy master.	The invoice value of 100 bags of cocoa was $2,596 65. It sold in France for $3,520. The claimant states that it would have brought in Spain, to a port in which it was destined, $80 per cwt. at the time of the capture. The vessel was captured on her passage from St. Anthony's to Bilboa.	The vessel and cargo were condemned by the Prize Court of Paris July 4, 1810.	The Joseph sailed from Marblehead November 11, 1809, with a cargo of sugar, coffee, cocoa, pepper, and fish. She cleared for Gigon, in Spain; met with bad weather at sea and put in to repair leaks, &c., and for shelter, to St. Anthony's. Hence her papers were sent to St. Andero, and there examined by the French general, who sent them back with permission that she should go to Bilboa. For this place she sailed from St. Anthony's on the 26th of December at 4 o'clock p. m., and about 10 o'clock of the same day was captured by the French privateer L'Entreprenant and sent into St. Jean de Luz.
60. John Pedrick, 3d.....	....do.....	The date of the act complained of is not stated.	The claimant's property was sequestrated.	Schooner Two Sons, of Marblehead, John Warner master.	Two thousand five hundred dollars.....	There does not appear to have been any legal adjudication.	The property of the claimant, consisting of pepper, sugar, and tobacco, was sequestered at Bilboa after it had been landed and partly sold, but not delivered. The tobacco was worth 46¼ cts. per pound in Bilboa, and the pepper much more than it brought in France. The sugar was worth about the same in both places. The claimant claims as assignee of Joseph Lindsey & Co
61. John Pedrick, 3d.....	....do.....	May, 1810.....	The vessel was captured and detained a long time.	Brig Joseph, of Marblehead, Jos. Pedrick master.	The indemnification claimed by the claimant appears to be for the loss of a return freight from the Baltic, estimated at 1,200 pounds sterling, and for expenses in procuring the release of the vessel, estimated at $1,200. The injury was sustained at Forsand, in Norway.	There does not appear to have been any legal adjudication.	The brig Joseph was chartered to go to Gottenburg from Charleston, S. C. On her passage she was captured and carried into Forsand, Norway, where she was detained a long time. Her voyage was thus broken up and she lost the opportunity (being too late in the season) of proceeding to the Baltic for a return freight. The property of the claimant consisted of logwood, sugar, and cotton.
62. A. Curcier, of Philadelphia.	....do.....	October, 1810..	Sequestration and confiscation.	Ship Hawk, M. Brown master, (property seized was on board.)	Value of shipment..... $1,156 87 Interest to October 1, 1826..... 1,105 19 Amount, &c..... 2,262 06 The loss was sustained at Bayonne.	No legal adjudication.....	The property of the claimant on board the ship Hawk was sequestrated under the Rambouillet decree, and sold by order of the Collector of Customs at Bayonne.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
63. A. Curcier, of Philadelphia.	France	January, 1810	Sequestration and confiscation.	Claimant's property which was seized and sold was on board the brig Anderson, Isaac Coggins master.	Value of shipment..... $2,275 76 Interest to October 1, 1826..... 2,276 52 Amount, &c..... 4,552 28 The loss was sustained at Bayonne.	No legal adjudication.....	The property of the claimant on board the brig Anderson was sequestrated under the Rambouillet decree, and sold by order of the Collector of Customs at Bayonne.
64. A. Curcier, of Philadelphia.	....do	Nov., 1809	Seizure and detention....	Schooner Spencer, D. Maffit master.	Value of vessel and freight.. $20,000 00 Value of shipment..... 37,042 20 $57,042 20 Interest to October 1, 1826..... 57,631 64 Amount, &c..... 114,673 84 The place of seizure is not stated, but was probably St. Sebastian.	No legal adjudication.....	The schooner Spencer was seized with her cargo, detained in port upwards of twelve months, and finally given up to the owner on condition of serving as a transport. But she had been so much stripped and injured by the detention as to be, on her arrival in New York, of no more value than the estimate of her freight.
65. T. Ellicott and J. Meredith, trustees of Smith & Buchanan, for themselves and others interested in the claim.	....do	Jan. 27, 1808	Seizure and confiscation..	The Julius Henry, Capt. Woodside, had on board the cargo which was seized.	$1,681 52. The loss was sustained at Cuxhaven roads.	No legal adjudication.....	The Julius Henry sailed from Baltimore for Tonningen, which port she found blockaded. Having no pilot to carry her to another Danish port on the coast, and having suffered much damage by severe weather, she went into the river Elbe, and anchored in Cuxhaven roads, which he deemed her nearest port of safety. There she purposed refitting for sea, and obtaining a coast pilot to take her, after being repaired, to some Danish port on the coast. On her anchoring, however, though without the lines of the French custom-house, she was seized by its officers, and, with her cargo, taken to Hamburg, where the cargo was confiscated by the Emperor.
66. Robert S. Hollins, David Hoffman, Benj. C. Howard, and Charles F. Mayer, trustees of Hollins & McBlair, of Baltimore. See No. 167.	....do	Jan. 27, 1808	Seizure and confiscation..	The Juniata, Capt. Mazick, had on board the cargo which was seized.	Value of sugars and coffee..... $13,946 00 Value of teas..... 19,130 00 Amount, &c..... 33,076 00 This amount is the cost of the articles. Their value at their port of destination is estimated at $52,000. The seizure was made near Cuxhaven roads.	No legal adjudication..	The Juniata left Baltimore for Tonningen in October, 1807, and arrived in December off the river Eyder in distress. She was there, for the first time, apprised of the blockade of that river, and that, of course, she could not be admitted to her port of destination. Being unable to find a pilot for any other Danish port, she was, on that account, and in consequence of her disabled condition, compelled to put into the river Elbe, where she anchored at three leagues from Cuxhaven, and at a considerable distance without the French custom-house lines. Nevertheless, while she was providing herself with a pilot, in order, so soon as she should have repaired her

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
66. Continued	.....	.....	.....	.....	.....	.....	damages, to go to some Danish port on the coast, she and her cargo were seized by French custom-house officers and carried to Hamburg. The cargo was there confiscated by the Emperor.
67. Mayer & Brantz, of Baltimore.	France.....	Jan. 27, 1808	Seizure and confiscation.	The ship Eleonora, William Taylor master, had carried the property which was seized.	$3,158 68. The seizure was made at Humburg Berg, a suburb of Hamburg.	No legal adjudication.....	The Eleonora left Baltimore in June, 1807. The claimants' property, consisting of 54 boxes white and 17 boxes brown Havana sugars, was stored at Hamburg Berg, which was considered as being without the French custom-house lines. The consignee at Hamburg, L. H. Von Hollen, refused to deliver the keys of the warehouses, but they were forcibly taken from him, and the French custom-house officers seized the goods; which were afterwards confiscated by the Emperor.
68. H. Fournier, of Philadelphia.	....do	January, 1810	Seizure and confiscation..	Brig Roebuck, William Sloan master.	Value of vessel and freight..... $10,800 00 Value of shipment..... 13,523 54 Interest to October 1, 1826 ..... 24,331 65 Amount, &c..... 48,655 19 The seizure was made at Port Passage.	No legal adjudication.....	The claimant's property was sequestered under the Rambouillet decree, and on August 20, 1810, the cargo was sold at Bayonne by the Collector of the Customs. The cargo produced 206,297.36 francs, equal to $39,294 73.
69. John Dubarry, of Philadelphia.	....do	December, 1809	Seizure and confiscation..	Brig Fox, Thos. Cullen master, had carried the property which was seized.	Value of shipment..... $3,738 18 Interest to October 1, 1826 ..... 3,758 12 Amount, &c..... 7,496 30 This amount includes charges and insurance. The seizure was made in the port of St. Sebastian.	No legal adjudication.....	The claimant's property was sequestered under the Rambouillet decree. It was sold at Bayonne by order of the Collector of Customs.
70. H. Fournier, assignee of Anthony Laussat.	....do.....	December, 1809.	Seizure and confiscation..	The property seized had been carried by the brig Fox, Thomas Cullen master.	Value of shipment..... $19,033 71 Interest to October 1, 1826 ..... 19,128 87 Amount, &c..... 38,162 58 This amount includes charges and insurance. The seizure was made in port.	No legal adjudication.....	The property was sequestered under the Rambouillet decree, and was sold at Bayonne under the order of the Collector of Customs.
71. H. Fournier, assignee of Anthony Laussat.	....do.....	January, 1810..	Seizure and confiscation..	The property seized had been carried by the brig Andrew, Isaac Coggins master.	Value of shipment..... $6,245 00 Interest to October 1, 1826..... 6,245 00 Amount, &c..... 12,490 00 This amount includes charges and insurance. The seizure was made in port.	No legal adjudication.....	The property was sequestered under the Rambouillet decree, and was sold at Bayonne under the order of the Collector of Customs.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
72. H. Fournier, assignee of Anthony Laussat.	France.....	November, 1809	Seizure and confiscation..	The property seized had been carried by the schooner Spencer, David Maffet master.	Value of shipment..... $2,415 98 Interest to October 1, 1826..... 2,440 13 Amount, &c..... 4,856 11 This amount includes charges and insurance. The seizure was made in port.	No legal adjudication.....	The property was sequestered under the Rambouillet decree, and was sold at Bayonne under the order of the Collector of Customs.
73. John F. Dumas, of Philadelphia.	....do.....	January, 1810..	Seizure and confiscation..	The property seized had been carried by the brig Andrew, Captain Coggins.	Value of the property..... $15,495 83 Interest for 16½ years..... 15,340 87 Amount, &c..... 30,836 70 The seizure was made at St. Sebastian.	No legal adjudication.....	About November 24, 1809, the claimant shipped, on board the brig Andrew, bound from Philadelphia to St. Sebastian, a cargo of cotton, containing 48 bales. On the arrival of the brig at her port of destination she and her cargo were seized, under the authority of the French Government, and, after lying there a considerable time, were carried to Bayonne. The claimant's shipment was there sold at public auction, and the proceeds of sale deposited in the caisse d'amortissement. The cotton had weighed at Philadelphia 15,766 pounds, from which, if 10 per cent. be deducted for difference of weight, &c., a balance remains of 14,190. This was sold, on an average, at 588 francs per hundred, and produced, according to the duties on cotton existing in France when the Andrew arrived at St. Sebastian, 81,253.45 francs, or $15,495 83. But, about two months after the arrival of the Andrew at St. Sebastian, the French Government ordered a new duty of 300 francs per hundred, instead of the former, which, if admitted, will reduce the present claim to $7,782 28, exclusive of interest.
74. John F. Dumas, of Philadelphia.	....do.....	February, 1810.	Seizure and confiscation..	The property seized had been carried by the ship Hawk, Captain Michael Brown.	Value of the property ..... $34,411 15 Interest for 16½ years..... 34,072 00 Amount, &c..... 68,483 15 The seizure was made at St. Sebastian.	No legal adjudication.....	The claimant's property was, about December 9, 1809, shipped aboard the Hawk, bound from Philadelphia to St. Sebastian. The circumstances of seizure, detention, and sale, in this case, are the same as those in the next preceding case. The property consisted of 117 bales of cotton, which, after a deduction of 10 per cent. from the weight in Philadelphia, &c., weighed 32,997 pounds, and was sold at an average of 565 francs per hundred. The proceeds of sale, according to the duty on cotton existing in France when the Hawk arrived at St. Sebastian, were 180,658.58 francs, or $34,411 15. If the new duty of 300 francs per hundred, substituted by the French Government, be admitted, the present claim will be only $13,665 62, exclusive of interest.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
75. Abisha Delano, Andrew Swain's estate, B. Hammond, and Sam'l Benney.	France or Spain.	1805.....	Capture	Schooner Betsey, B. Hammond master.	Value of vessel..... $2,100 00 Value of claimants' property ..... 3,650 00 Value of freight..... 1,550 00	The claimants know of no legal adjudication.	The schooner Betsey and part of her cargo were owned by the claimants. She was chartered in New York for Savannah la Mer, in Jamaica, and back to New York. She arrived at Savannah la Mer, discharged her cargo, reloaded, having on board 13 hogsheads of old Jamaica rum and a quantity of logwood, sailed for New York, and on her passage was captured by a French privateer fitted out at the Havana, and was sent into Port Cabannas, in the island of Cuba; there her cargo was taken out, the captain detained about the privateer two months and twenty days, and then put aboard a schooner bound for Alexandria. The fate of the Betsey is unknown to the claimants. Abisha Delano claims four-sixteenths of the vessel and cargo; the estate of Andrew Swain seven-sixteenths; B. Hammond two-sixteenths; and Samuel Benney three-sixteenths. But such amounts as are stated do not correspond with those proportions. This case was presented to the Commissioners under the Florida treaty, (article 4th,) and by them rejected.
76. Jonathan Lowder's estate.	France	Jan. 27, 1808	Capture and condemnation.	Ship Charlotte, of Trenton Maine.	Value of vessel ..... $10,000 Freight ..... 5,000 2,290 gallons of wine..... 2,290 Amount, &c., (exclusive of interest,).. 17,290	Condemnation by the Council of Prizes at Paris, under the Berlin and Milan decrees, on August 10, 1808.	The ship Charlotte was laden, when captured, with salt on freight, and with wine. The ship and wine were owned by Jonathan Lowder, now deceased. She was bound from Plymouth to Gottenburg, and was captured by the French privateer Revanche, Cap.ain Fourmentier, and carried into Ostend.
77. 78. 79. The Insurance Co. of North America, and others, enumerated in the last column, all of Philadelphia. (See No. 231.)	....do	Spring of 1807	Confiscation	The property confiscated had been carried in the ship Bourdeaux Packet, Jacob Spofford master; in the brig Diamond, Capt. Manson; and in the ship Helena, Capt. Smith.	The capture was made in the British channel. 77. The sales of the cargo of the ship Bourdeaux Packet amounted to 920,380.62 francs, equal, at 18¾ cents per franc, to $172,571 36. 78. The sales of the cargo of the brig Diamond amounted to 1,005,090.62 francs, equal to $188,454 49. 79. The sales of the cargo of the ship Helena amounted to 631,065.28 francs, equal to $118,324 74. The amount of loss sustained in those three cases (exclusive of interest) is $479,350 60. The loss in each case was sustained at Antwerp.	No legal adjudication	The cargo of the ship Bourdeaux Packet was shipped by James Smith & Co., Montgomery & Newbold, George Smith, Watson & Paul, Coates & Randolph, James Kitchen, Smith & Wood, Richard Smith, Craig & Simmons, Thomas C. Wharton, Levi Hollingsworth & Son, T. English & C. Holland, Joshua Clibborn, Samuel Hayes, Ralph Peters, John Brown, and the master; mostly insured. The insurers were the Union Insurance Company, the Phenix Insurance Company, the United States Insurance Company, and the Insurance Company of North America. The cargo of the brig Diamond was shipped by James Smith & Co., Smith & Wood, Montgomery & Newbold, George Smith, Joseph Summere, James Olden, jr., T. English & C. Holland, Joshua Clibborn, Jacob Clement, and Benjamin R. Smith; mostly insured. The insurers were the same as in the case of the cargo of the ship Bourdeaux Packet. The cargo of the ship Helena was shipped by James Smith & Co., Montgomery & Newbold, and Barker & Annesley; mostly insured. The insurers

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
79. Continued	.....	.....	.....	.....	.....	.....	were the United States Insurance Company and the Insurance Company of North America. The voyage of the Bourdeaux Packet, and that of the Diamond, was from Philadelphia to Antwerp. The voyage of the Helena was from Charleston to Antwerp. Two of these vessels were, on their outward passage, captured by British cruisers, and sent into England, but being there immediately released, proceeded for and arrived at Antwerp, their destined port. The other put into England in distress, refitted, pursued her voyage, and arrived at Antwerp. The Government permitted their cargoes to be landed and deposited in the public stores, and the vessels to return to the United States. The property thus obtained possession of by the French authorities at Antwerp was held for nearly three years, in opposition to the reiterated demands of the consignees, Messrs. Ridgway, Mertens & Co., for its restoration, and at length sold at public auction. The proceeds of sale were deposited in the caisse d'amortissement, and thence transferred to the public treasury.
80. Jonathan Amory, of Boston, surviving partner of Thomas C. Amory & Co.	France	July, 1810, date of the capture.	Capture and condemnation.	The property captured was aboard the barque Zeno, Stone master.	The amount of loss sustained by the claimant, or the firm of which he is the surviving partner, after crediting the sums received from the insurers, appears to be $5,214 44. The place of capture is not stated.	Condemnation at Paris. The date of it is not stated.	The property lost by Thomas Amory & Co. was captured by the French privateer Figarro, and carried into Christiansand.
81. Jonathan Amory, of Boston, surviving partner of Thomas C. Amory & Co.	....do	Jan. 28, 1808, date of the capture.	Capture and condemnation.	The captured property was aboard the ship Grace, R. J. Linzee master.	The claimant's proportion of the loss sustained, including expenses, is $11,654 03. The place of capture is not stated.	Condemnation by the Council of Prizes at Paris, July 6, 1808.	The ship Grace sailed from Boston November 20, 1807, for Leghorn. She was owned and freighted by American citizens; her voyage was legal, and she committed no illegal act. The principal cause assigned for her condemnation was her alleged violation of the Milan decree. She had, however, sailed near —— days before, nor did she violate that decree. An appeal was claimed, but no further trial was ever had.
82. Union Insurance Company at New London, Conn. (See No. 5.)	....do	Feb. 21, 1808	Capture and burning at sea.	Schr. Windham, Burachia Payne master.	$2,565, the amount insured by the claimants on Elisha Abbe's shipment aboard the schooner Windham, and after her capture paid by them to him. The loss was sustained at sea.	No legal adjudication.....	The schooner sailed from Demarara, for New London, February 4, 1808, and, on the 21st of the same month, fell in with two French frigates, who took out part of her cargo, and the crew, and then burnt her.
83. William Renwick, of New York.	....do	1807....	Seizure and confiscation..	The property confiscated was shipped in the brig Perseverance, Glover master.	The value of the property confiscated is, by the invoice, dated New York, December 5, 1806, $16,161 16. The seizure was made at Antwerp.	No legal adjudication.....	The claimant's shipment consisted of 300 boxes of teas, consigned to D. Parish & Co., of Antwerp. They were seized by the French authorities at that port, and sold by their order. The proceeds of sale, amounting to 106,548 francs, were deposited in the caisse d'amortissement.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
84. Estate of William Gray, of Boston.	France	July 31, 1805...	Destruction of the vessel and cargo.	Schooner Alpha, Sergeant master. (Destroyed.)	Amount paid by the decedent to John Hooper 4th, insured for him, was ..... $5,000 00 Interest for 20 years..... 6,000 00 Amount, &c..... 11,000 00 The injury was committed on the passage of the vessel from Marblehead to Bilboa, whither she was bound, but the place is not designated.	Commissioners were appointed by the French Government to assess damages for the vessel and cargo, and they awarded .....frs. 104,042 34 Deduct payment of wages due the crew..... 2,802 60 101,239 74 Equal to $19,283.	The schooner Alpha and her cargo were totally destroyed by a French squadron under Admiral Allemand, which afterwards returned to Rochefort. Nothing has been received for the damages awarded. Of the amount insured and paid by the decedent, $1,250 were on the vessel and $3,750 on the cargo.
85. Estate of William Gray, of Boston.	....do.....	February, 1810.	Sequestration and confiscation.	Ship Hawk, Brown master.	Loss to decedent, who paid so much insured on the cargo..... $1,000 00 Interest for 16 years..... 960 00 Amount, &c..... 1,960 00 The loss was sustained at Passage.	No legal adjudication.	The ship Hawk arrived at Passage February 5, 1810, and, with her cargo, was confiscated in that month by order of the French Government. The principal sum claimed was issued for Dominick Lynch, jr., and Robert Kearney, of New York.
86. Estate of William Gray, of Boston.	....do.....	December, 1809	Sequestration and confiscation.	Schr. Two Sons, Warner master.	Loss to decedent, who paid so much insured on vessel ..... $1,400 00 Loss to him as part owner of cargo ..... 3,643 00 5,043 00 Interest for 16 years..... 4,841 28 Amount, &c..... 9,884 28 The seizure was made at Bilboa.	No legal adjudication.....	The schoorner Two Sons was seized by the French authorities at Bilboa, and, together with her cargo, sold at Bayonne. Joseph Lindsey, of Marblehead, was the owner of the vessel, and the decedent insured on it for him $1,400.
87. Estate of William Gray, of Boston.	....do.....	January, 1810..	Sequestration and confiscation.	Schooner Perseverance, Messervy master.	Loss to decedent, who paid so much insured on vessel and cargo..... $860 00 Interest for 16 years..... 825 60 Amount, &c..... 1,685 60 The sequestration was made at Bilboa.	No legal adjudication.....	The schooner Perseverance and her cargo were confiscated at Bilboa by the French authorities. Mark Messervy and Thomas Haskell, of Marblehead, were owners of half the vessel and cargo. The decedent had insured for them $1,000 and paid partial loss.
88. Estate of William Gray, of Boston.	....do.....	December, 1809	Sequestration and confiscation.	Schooner Hette, Woodberry master.	Loss to decedent as owner of two-thirds of the vessel..... $1,350 00 His proportion of the cargo, freight, and expenses ..... 5,100 00 6,450 00 Interest for 16 years..... 6,192 00 Amount, &c..... 12,642 00 The loss was sustained at St. Sebastian.	No legal adjudication.....	The schooner Hette and part of her cargo were confiscated at St. Sebastian by order of the French Governor. The claim was derived to the decedent from a sale and transfer to him from Messrs. Dutch and Deland, of Salem, the original owners of the property.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
89. Estate of William Gray, of Boston.	France.....	December, 1809	Sequestration and confiscation.	Brig Enterprise, Brown master.	Value of the vessel..... $6,000 00 Interest for 16 years..... 5,760 00 Amount, &c..... 11,760 00 The seizure was made at St. Sebastian.	No legal adjudication.....	The brig Enterprise, of which the decedent was owner, was seized, after her cargo was landed, by order of the French Government, and sent to Bayonne. The Inspector of Customs at Bayonne certified the sale of the vessel.
90. Estate of Wm. Gray, of Boston.	....do.....	December, 1809	Sequestration and confiscation.	Ship Wells, Lamson master.	Value of vessel..... $6,000 00 Value of cargo and freight, including expenses..... 24,000 00 30,000 00 Interest for 16 years..... 28,800 00 Amount, &c..... 58,800 00 The seizure was made at St. Sebastian.	No legal adjudication.....	The ship Wells, of which and of her cargo and freight the decedent was owner, was seized and confiscated by order of the French Government, together with her cargo, except 111 bales of cotton and ten tons of logwood, which had been landed before the act of seizure, and are not included in the present claim.
91. Estate of Wm. Gray, of Boston.	....do.....	August 8, 1811, date of the capture.	Capture and condemnation.	Brig Radius, Lander master.	Value of the vessel..... $6,000 00 Value of cargo, including expenses..... 48,000 00 Freight..... 6,000 00 Amount, &c..... 60,000 00 Interest for 15 years..... 57,600 00 Amount, &c..... 117,600 00 The capture was made at sea.	Condemnation by the Council of Prizes at Paris, September 25, 1811.	The brig Radius sailed from Newport, Rhode Island, June 28, 1811, bound for St. Petersburg; was captured by the French privateer La Minute, No. 2, and sent into Copenhagen for adjudication. The decedent was the owner of the vessel, cargo, &c.
92. Estate of Wm. Gray, of Boston.	....do.....	1809.....	Capture and condemnation.	Schooner Joseph, Stacey master.	Loss to decedent..... $500 00 Interest for 16 years..... 480 00 Amount, &c..... 980 00 The capture was made on the schooner's passage to Bilboa.	Condemnation by the French Government. The time and place of it not stated.	The schooner Joseph sailed from Marblehead to Bilboa in November, 1809; was captured by a French privateer and sent to St. J. de Luz, and thence to Socoa. The amount claimed is for insurance made by decedent to George Barker, of Marblehead, to whom a total loss was paid.
93. Estate of Wm. Gray, of Boston.	....do.....	The capture was made Aug. 1, 1810.	Capture and condemnation.	Schooner Lydia, Cheever master.	Loss to decedent as insurer on the cargo. $10,000 00 Expenses for detention, &c..... 905 45 10,905 45 Interest for 15 years..... 9,814 50 Amount, &c..... 20,719 95 The capture was made on the passage of the vessel from St. Petersburg to Salem.	Condemnation by decree of the Emperor, at Paris, September 14, 1811.	The schooner Lydia was captured by the French privateer Figaro and sent to Christiansand, Norway. The claim arises from the decedent's insurance, in the sum of $10,000, for Samuel Gray, and from general average expenses of detention, &c.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
94. R. W. Meade.....	France	December 27, 1807, the date of the capture.	Capture and confiscation..	Ship Catharine, Captain Thomas Todd.	$14,000. The place of capture is not stated. The loss was sustained at St. Malo's.	No legal adjudication.....	The ship Catharine was owned in Philadelphia by Messrs. Thomas Clifford & Son, and sailed from Baltimore on or about November 1, 1807, bound for Cadiz, having aboard American property consigned to the claimant, at Cadiz. On the 18th of December, being off the Western islands, she was boarded and taken possession of by men from a vessel which they stated to be a British privateer, or private armed ship. On the 27th of December she was recaptured by the privateer Caress, Captain Dupris, and carried to St. Malo's, where the cargo was discharged and stored. On the 27th of April, 1808, it was sold by order of the French Government, and the proceeds of the sale ordered to be deposited in the chest of the marine.
95. R. W. Meade.....	....do.....	Not stated.....	Seizure and appropriation.	The property seized, &c., had been carried by the ship Eliza.	About $10,000. The loss was sustained at Port Royal, on the bay of Cadiz.	No legal adjudication.....	During the claimant's residence at Cadiz, at the commencement of the year 1810, he deposited at Port Royal a cargo of wheat, landed from the American ship Eliza. This property was lying in store as Mr. Meade's, when the French army, which invaded Spain and laid siege to Cadiz, seized it for the use of their troops. The quantity was 5,000 bushels.
96. Francis Welsh, of Boston, on behalf of the late firm of Minchin & Welsh.	....do.....	The capture was made January 28, 1808.	Capture and condemnation.	The property lost was captured in the American ship Grace, R. J. Linzee master.	$5,100. The place of capture is not stated.....	Condemned by the Council of Prizes at Paris July 6, 1808, and registered at Paris October 5, 1808.	The ship Grace sailed from Boston November 2[illegible], 1807, for Leghorn, owned and freighted by American citizens residing in Boston. She was captured by the armed French vessel the Cosmopolite and carried into Porto Ferrajo, in the island of Elba. The principal cause assigned for the adjudication at Paris was her alleged violation of the Milan decree. She had, however, commenced her voyage, which was legal, twelve days before the date of that decree, and did not violate it. The property lost by Minchin & Welsh was 100 boxes Havana sugars.
97. John Crowninshield, of Salem, Mass.	....do.....	The capture was made Aug., 1809.	The claimant's property was captured.	The capture was made in the ship Margaret, Wm. Fairfield master.	$35,000 or $40,000. The capture was made near Tunis.	There does not appear to have been any formal legal adjudication.	The ship Margaret was captured by a French privateer, carried to Gaeta, Naples, and taken possession of by the French Consul August 16, 1809. A compromise was made, sanctioned by the French Government, according to which the French Consul took one-half of the net sales of the cargo. The whole sales amounted to $70,000 or $80,000, and the present claim is for the other half. The Margaret was wrecked at sea; all her papers lost; twenty-eight passengers and seamen perished; and the captain and a few only were saved.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
98. William Nichols & John R. Hudson.	France.....	Capture was made January 31, 1808.	Capture.....	Brig Sally Ann, William Nichols master.	Value of property in Amsterdam, per sales..... $2,038 02 Deduct amount received by compromise with captors..... 679 34 1,358 68 Add interest to October 1, 1826, eighteen years and eight months..... 1,521 72 Amount, &c..... 2,880 40 The capture was made in or near Texel.	No legal adjudication.....	The brig Sally Ann was captured on a voyage from Boston and Beverly to Amsterdam by the French privateer La Dunkerquois, Captain Verbrugge, and carried to Amsterdam, where the master and crew were turned on shore. The adventure belonging to the claimants, with the rest of the cargo, were taken out, the whole remaining in the hands of the captors. About eighteen months after the capture Captain Nichols and the consignees, seeing no prospect of a restoration of the vessel and cargo, and with a view to save some part of the property, consented to a compromise with the captors, by which the whole property should be sold at auction, the captors retain two-thirds of the proceeds of the sale, the owners of the vessel and cargo have one-third, and each party pay its own costs. In this distribution the claimants received the amount credited in a preceding column.
99. Robert Gilmor and Sons and Richard Dorsey, of Baltimore.	....do.....	1810 or 1811....	Oppressive mode of levying an exorbitant tariff.	The shipment on which the loss stated arose was made in the ship Indian Chief, Captain West.	$720. The loss was sustained at Hamburg.....	No legal adjudication.....	The claimants were owners, in a moiety each, of a shipment of 32 bales of cotton, made by the Indian Chief, to Gottenburg and a market, in the year 1810. The vessel arrived out safe, and was ordered by Messrs. Parish & Co., of Hamburg, who had the direction of her, to Kiel, in Holstein, for a market, where she arrived about the last of July or first of August. There being no sale at that place for the cotton, it was ordered to Hamburg, and sold in 1811. On its arrival 21 bales were taken by the French Government to satisfy the tariff of two-thirds, leaving only 11 bales to pay freight and all other charges on the whole parcel. By the magnitude of this tariff, and the manner in which it was exacted, the loss of the claimants was produced.
100. Robert Gilmor and Sons and Richard Dorsey, of Baltimore.	....do.....	1810 or 1811....	Oppressive mode of levying an exorbitant tariff.	The shipment on which the loss stated arose was made in the ship Virgin, Captain Auld.	$5,028 93. The loss was sustained at Hamburg....	No legal adjudication.....	In April, 1810, the claimants shipped aboard the ship Virgin, bound to the island of Sylt and a market, 92 hhds. of Maryland tobacco. In June she arrived at Sylt, and in April, 1821, the cargo was ordered, by a French decree, to Hamburg, where 54½ hhds. were taken to pay the French tariff, leaving only 37½ hhds. to pay the charges on the whole parcel. By this proceeding not only the whole cost of the 92 hhds. was sunk, but the owners were brought in debt to the consignees in the sum of $515 33.
101. Robert Gilmor and Sons, of Baltimore.	....do.....	1810 or 1811....	Oppressive mode of levying an exorbitant tariff.	The shipment on which the loss stated arose was made in the ship Virgin, Captain Auld.	$5,993. The loss was sustained at Hamburg.....	No legal adjudication.....	The claimants shipped 108 hhds. of tobacco aboard the same ship and under the same circumstances as in the preceding case. Of these hhds. 64½ were taken for the tariff, and only 43½, therefore, left to pay all the charges on the whole parcel. The claimants thus lost their whole shipment of 108 hhds., and were brought in debt to the consignees in the sum of $493.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
102. Robert Gilmor and Sons and Richard Dorsey, of Baltimore, and the estate of the late Washingt'n Bowie, of Georgetown, D. C.	France	1810.....	Oppressive mode of levying an exorbitant tariff.	The shipment on which the loss stated arose was made in the schooner Ladson, Capt Child.	$7,191. The loss was sustained at Hamburg.....	No legal adjudication.....	In April, 1810, the claimants, Robert Gilmor & Sons and Richard Dorsey and Washington Bowie, now deceased, shipped 181 hhds. of tobacco, partly in whole hhds., partly in half hhds., and residue in bulk to make storage, aboard the schooner Sarah Ladson, bound for Tonningen. She arrived there in the ensuing June, and the tobacco was, under the authority of the French Government, ordered thence to Hamburg, where two-thirds were taken for the French tariff, one-third only being left to pay charges on the whole cargo. The shippers thus lost the whole cargo, and were brought in debt to the consignees in the sum of $1,592. Each of the three parties claiming is interested one-third in the loss and in the claim thence arising.
103. Robert Gilmor & Sons and Richard Dorsey, of Baltimore.	....do	1810.....	Oppressive mode of levying an exorbitant tariff.	The shipment on which the loss stated arose was made in the ship Grotius, of Baltimore, Captain Sheaffe.	$3,298. The loss was sustained at Hamburg.....	No legal adjudication.....	In February, 1810, the claimants shipped aboard the ship Grotius, bound for Tonningen, 56 hogsheads of tobacco; she arrived at that port in the ensuing April, and in May the cargo was ordered to Altona. It was afterwards sold at Hamburg, two-thirds being taken for the French tariff, and one-third only being left to pay all charges on the whole. The claimants thus not only lost the 56 hogsheads, but were brought in debt to the consignees in the sum of $191. Each of the two parties claiming is interested one-half in the loss and in the claim thence arising.
104. Robert Gilmor & Sons and Richard Dorsey, of Baltimore.	....do	The capture by the French privateer was made January 29, 1808.	Capture and condemnation.	The property of the claimants was captured aboard the ship Aurora, Captain Dashiel.	$3,741. The place of capture is not stated by these claimants; but it appears from preceding numbers of this schedule to have been off St. Malo.	Condemnation by the Council of Prizes at Paris, in June, 1808, and final condemation, on December 8, 1810, on appeal to the Emperor, in his Council of State.	The parties claiming were equal owners of 53 hogsheads of tobacco shipped in the Aurora, in December, 1807, bound to Amsterdam. In January, 1808, she was captured by the British ship-of-war Rose and ordered to Plymouth. She was afterwards boarded by the French privateer L'Incomparable, which took possession of her and carried her to Morlaix.
105. Robert Gilmor & Sons and Richard Dorsey, of Baltimore, and the estate of Washington Bowie, deceased, of Georgetown, D. C.	....do	Sept., 1807	Sequestration and appropriation.	The property of the claimants sequestrated had been carried in the ship Louisa, Capt. Cunningham.	$13,386 87. The loss was sustained at Leghorn....	No legal adjudication.....	The ship Louisa sailed from Baltimore in August, 1807, bound to Leghorn, with a cargo of East India piece goods, 970 bags of sugar, and 316 bags of pimento and other articles. On her arrival there in September her cargo was lodged in the lazaretto, where it was sequestered by a commission under the French general, Miollis, to pay a contribution assessed on the sugar and pimento (alleged to be the produce of British colonies) of 45 per cent. This contribution was exacted under the guaranty of the Tuscan Government that it should be repaid, which has never been done by either it or the French Government, though applications for that purpose have been made to both by the consignees at Leghorn. The sum taken was 14,874.6 pezzos, equal to the amount of loss stated. The parties claiming are interested each one-third in the loss sustained and in the claim thence arising.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
106. Estate of Thomas Boyle, of Baltimore, deceased.	France.....	The capture was made January 24, 1808.	Capture and condemnation.	The property of the decedent was captured in the ship Aurora.	The cost, at short price, at Baltimore, of the decedent's property, was $4,082 20. The proceeds of the sales, at Morlaix, were 100,086.72 francs. The capture by the French privateer was off St. Malo.	Proceedings were had before the Tribunal of Commerce at Morlaix and the Commission of Prizes at Brest, and referred to the Council General of Prizes at Paris. On June 8, 1808, condemnation was decreed by that council, and on December 8, 1810, final condemnation was decreed by the Emperor, on an appeal to him in his Council of State.	The ship Aurora left Baltimore December 14, 1807, three days before the date of the Milan decree, under which she was condemned. On January 21, 1808, she was boarded by the British sloop-of-war Rose, who put aboard her one officer with orders to carry her to Plymouth. On the ensuing 24th of January she was taken by the French privateer L'Incomparable and carried to Morlaix, where the ship and cargo were sold in September and October, 1808. The captured property of the decedent consisted of 81 boxes of white Havana and 20 boxes of brown sugars.
107. John Delafield's executors.	....do	January, 1810..	Seizure and confiscation..	Schooner Prosper, John Selby master, was seized, &c.	$5,188 21, exclusive of interest. The loss was sustained at St Sebastian.	No legal adjudication.....	The schooner Prosper sailed from New York to St. Sebastian, where she was seized and confiscated, by order of the Emperor Napoleon, under a decree dated April 11, 1810. The present claim is founded on a policy of insurance, effected and paid by the decedent, on account of certain underwriters of the city of New York.
108. John Delafield's executors.	....do	January, 1810..	Seizure and confiscation..	Brig Rose in Bloom, J. Olcut master, was seized, &c.	$5,000, exclusive of interest. The loss was sustained at St. Sebastian.	No legal adjudication.....	Same as in No. 107.
109. John Delafield's executors.	....do	January, 1810..	Seizure and confiscation..	Schooner Young Connecticut, J. W. Rollo master, was seized, &c.	$6,521 95, exclusive of interest. The loss was sustained at St. Sebastian.	No legal adjudication.....	Same as in No. 107.
110. John Delafield's executors.	....do	January, 1810..	Seizure and confiscation..	Brig Tantivy, Purley master, was seized, &c.	$8,000, exclusive of interest. The loss was sustained at St. Sebastian.	No legal adjudication.....	Same as in No. 107.
111. Joseph Young, of Charleston, S. C.	....do	The capture was made Dec. 12, 1812.	Capture and condemnation.	The claimant's property was captured in the brig Mariana, Frederick Ehlers master.	The invoice cost of the property taken was $18,739 21. The amount of loss sustained, according to the account of the sales at Brest, is 372,903.84 francs; add 9,000 francs for charges on suit, and the aggregate is 381,903.84 francs, equal to $71,606 97. On this sum the claimant demands interest from the date of the sales. The place of capture is not stated.	Condemnatian by the Council of Prizes at Paris in 1813.	The Mariana was a Dutch brig, owned by the master, who, with the whole of the crew and the papers of the vessel were also Dutch. She was freighted by the claimant in Charleston, in October, 1812, laden with 405 bales of cotton, 304 tierces and 49 half tierces of rice, and 2,000 staves. She sailed from Charleston, October 28, 1812, for Nantz, and on December 10, 1812, was captured by the French privateer brig Junon, Captain Debone, and sent into Brest, the captors taking all her papers. The vessel was condemned at Paris on the alleged but unfounded supposition that she was British property, and, on the principle that the character of the cargo is determined by the character of the flag, the cargo was condemned. On application to the Emperor Napoleon to reverse the decree, he ordered the proceeds of the sales of the cargo to be paid to the French Government, instead of the captors, and to be a subject of settlement betwen it and the United States.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
112. Henry B. Curtis, surviving partner of H. B. and Chas. Curtis, Nathaniel Curtis, and Caleb Curtis.	France	March 23, 1812.	Capture and destruction..	Brig Adventure, Caleb Curtis master.	Value of the vessel from $3,500 to..... $4,000 00 Value of the cargo..... 7,000 00 Amount, &c., from $10,500 to..... 11,000 00 The loss was sustained at sea, but the latitude and longitude are not stated.	No legal adjudication.....	The brig Adventure was captured, scuttled, and sunk by a French squadron, commanded by Com. Feretier, and consisting of two frigates, L'Andromache and L'Arianne, and the Mameluke, of 16 guns. Nathaniel Curtis and Caleb Curtis, for whom Henry B. Curtis is agent, had adventures aboard her.
113. Stephen Higginson, Sam'l G. Perkins, and the estate of George Higginson.	....do	Nov., 1810, date of the capture.	Capture and consequential loss.	Brig William King, Atkins master.	Cost at Boston of the brig and outfits.... $9,926 69 Cost of cargo aboard her when captured. 11,649 36 Extra cost and expenses in France and England .... 3,260 25 24,836 30 Deduct amount received by H. Higginson for seven-eighths sales of vessel and cargo in London ..... 11,479 00 13,357 30 Add interest from November, 1810, to November, 1826, 16 years..... 12,823 00 26,180 30 Add freight of brig, estimated at..... 4,000 00 Add interest on this sum from November, 1810, to November, 1826, 16 years..... 3,840 00 Amount, &c ..... 34,020 30 The capture was made on the high seas on the voyage of the brig to the Mediterranean for a market.	No legal adjudication.....	The brig William King, belonging to Stephen Higginson & Co., of Boston, sailed therefrom on or about the 15th of August, 1810, with a cargo of tobacco, cotton, wool, rice, and logwood, belonging entirely to that firm. Her orders were to proceed to Cork, and there wait the orders of Henry Higginson as to her final destination. On or about the ensuing 12th of November she was ordered to proceed to the Mediterranean for a market, and was proceeding thither when she fell in with the French private armed cruiser the Rodeur, Captain John Huret, owned by Messrs. Moleux, Crouy & Co., of Boulogne, who captured her, took out the captain, all the crew and papers, put a French crew aboard, and ordered the brig to France. She fell in, however, with the British sloop-of-war Gosshawk, James Lilburn commander, which recaptured her and sent her to England, where the brig and cargo were sold by order of court. The greater part of the proceeds were consumed in expenses and salvage, the voyage was broken up, and the captain, unable to procure his passports, was detained in France, at a heavy expense, from December, 1810, until March, 1811.
114. Jacob B. Clarke, of New York.	....do	The capture was made in July or Aug., 1809.	Capture and confiscation..	Ship Ann, Richard Prendergast master.	$7,000. The capture was made at the entrance into the harbor of St. Sebastian.	Condemnation by the Council of Prizes at Paris. Date not stated.	The ship Ann cleared out at New York, her invoice being accompanied with a certificate of American origin, for Fayal, but she did not stop there, the French ports being declared by the British to be under blockade. On being captured the ship and cargo were carried over to St. Juan de Luz, where the papers and the character of the voyage seemed so clear that the ship and cargo were given up to the captain, who then sold the cargo. Orders then came from Paris to sequester the funds, which was done. The cargo of the ship Ann was cotton and beeswax. She had sailed from New York June 20, 1809.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
115. Wm. Williams, of Stonington, Conn.	France.....	The capture was made August 20, 1809.	Capture and condemnation	Schooner Fortitude, of New London, Conn.	Value of the vessel..... $6,000 00 Expenses of a suit instituted in a United States circuit court against the possessor of the vessel in 1811..... 2,000 00 Interest for seventeen years on the value of the vessel, and for fifteen years on the expenses..... 7,920 00 Amount, &c..... 15,920 00	Condemnation in December, 1809, by the Court of Admiralty at Gaudaloupe, then in the possession of the French Government.	The schooner Fortitude was captured two days out from St. Pierre, Martinique, and carried into the Dutch part of the island, off St. Martin's, by the French privateer Le Trepon, fitted out from Guadaloupe. The schooner was immediately sold by the captors. Charles D'Wolf, jr., of Bristol, Rhode Island, claimed the vessel as her purchaser under the French decree of condemnation, and the Supreme Court of the United States decided in his favor. The alleged ground of the condemnation at Guadaloupe was that the schooner had been and traded at an English island.
116. Wm. Williams and Jonathan Phelps, of Stonington, Conn.; Elisha Dennison, Thos. W. Williams, and Ephraim Chenborough, of New London, Conn.	....do.....	The capture was made August 21, 1809.	Capture and condemnation	Schooner Fortitude was the vessel aboard which the property of the claimants was captured.	The capture was made under the island of Dominique. Value in the West Indies of the captured part of the cargo, and the part shipped to the United States, including ship stores and provisions..... $11,494 72 Expenses of a suit in the United States for the recovery of the sirup, part of her cargo..... 2,000 00 Interest for seventeen years on the value of the cargo, and for sixteen years on the expenses..... 13,644 56 Amount, &c..... 27,139 28	Condemnation by the Admiralty Court of Gaudaloupe, in December, 1809, of part of the cargo.	See remarks, &c., in No. 115. The cargo of the schooner, at the time of her capture, consisted of 97 hhds. and 3 barrels of sirup; 40 hhds. and 32 boxes of codfish; 3 hhds., 1 tierce, and 23 barrels of whale oil; 50 boxes of candles; 3 tierces of smoked hams; 17 firkins of lard; 10 firkins of butter; 21 barrels, 17 half barrels, and 30 quarter barrels of mess beef; 4 barrels of pork, and 71 cheeses. On the schooner's arrival off St. Martin's the sirup was taken out of her and shipped in the brig St. Croix, packet, to George Armroyd & Co., of Philadelphia, against whom the claimants brought suit for the recovery. The French decree of condemnation included only this part of the cargo, and the suit was decided against the present claimants. The residue of the cargo was probably divided among the captors.
117. Ephraim Chenborough, of New London, Conn.	....do.....	The capture was made August 21, 1809.	Capture.....	The claimant's property was captured aboard the schooner Fortitude	The capture was made within sight of the island of Dominique. Value of the claimant's adventure..... $1,592 40 Value of a chest of clothing, books, and nautical instruments..... 110 00 1,702 40 Interest for seventeen years on this sum. 1,736 44 Amount, &c..... 3,438 84	No legal adjudication.....	See remarks, &c., in No. 115. The adventure of the claimant aboard the schooner Fortitude consisted of 11 hhds. of Muscovado sugar; 4 hhds. and 7 barrels of coffee; 6 barrels of cocoa; 6 boxes of sweetmeats; 1 box of Noyeau cordial; 1 box of calabash sirup; and 3 pots of tamarinds. After the capture of the schooner by the French privateer Le Trepon, a part of her cargo was, as stated in the remarks, &c., in the next preceding case, shipped to Philadelphia. But the property for which the claimant requires compensation did not arrive in the United States, and he supposes it to have been divided among the captors.
118. John Laval and John Petray.	....do.....	The seizure was made in January, 1810.	Seizure and confiscation..	The property of the claimants was seized aboard the brig Fox, Thos. Cullen master.	The capture was made under the island of Dominique. $2,300. The seizure was made at St. Sebastian.	No legal adjudication.....	The property for the loss of which the claimant seeks compensation consisted of 72 bales of Bourbon coffee, seized in consequence of an order of the Emperor Napoleon, issued December 22, 1809, and afterwards, on August 30, 1810, sold by the Collector of the custom-house at Bayonne, agreeably to the Rambouillet decree. The proceeds of the sale were ordered to be sent to Paris, and to be there deposited in the sinking fund.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
119. Abraham Piesch....	France	Dec., 1809.....	Seizure and sequestration.	Brig Fox, Thomas Cullen master, (was seized, &c.)	Value of vessel and freight..... $33,107 36 Value of shipment..... 14,990 09 Interest to October 1, 1826..... 48,337 93 Amount, &c..... 96,435 38 The seizure was made at St. Sebastian.	No legal adjudication.....	The claimant's property was seized under a decree of the Emperor Napoleon, and was sequestered, probably at Bayonne.
120. Abraham Piesch....	....do..	January, 1810.	Seizure and sequestration.	Brig Andrew, Isaac Coggins master, (was seized.)	Value of vessel and freight..... $19,204 45 Interest to October 1, 1826..... 19,204 45 Amount, &c..... 38,408 90 The seizure was made at St. Sebastian.	No legal adjudication.....	Same as in No. 119.
121. Abraham Piesch ...	....do.....	Aug. 10, 1810..	Seizure and sequestration.	Ship Eagle, John Alston master, (was seized.)	Value of ship and freight..... $37,661 47 Value of shipment..... 14,872 73 Interest to October 1, 1826 ..... 50,695 50 Amount, &c..... 103,229 70 The seizure was made at St. Sebastian.	No legal adjudication.....	Same as in No. 119.
122. Abraham Piesch ...	....do.....	October, 1810..	Seizure and sequestration.	Ship Hawk, Mich. Brown master, (was seized.)	Value of ship and freight..... $63,524 68 Value of shipment ..... 5,833 67 Interest to October 1, 1826..... 66,237 21 Amount, &c..... 135.595 56 The seizure was made at St. Sebastian.	No legal adjudication.....	Same as in No. 119.
123. Thomas Cook	....do.....	Oct. 3, 1807, (date of the seizure.)	Seizure and partial confiscation.	The property seized had been shipped in the ship Connecticut, Captain McClure.	$11,416 10. The seizure was made at Leghorn.	No legal adjudication	The property on account of which the claimant requires compensation for loss consisted of India bale goods, sugar, and ginger. The ship left Baltimore June 18, 1807, and arrived at Leghorn, her port of destination, in August following, and was obliged by the commercial regulations of that port to perform quarantine. The cargo was landed in the Government warehouse. During the quarantine the French troops under General Meollis marched into Leghorn and took possession of American property to a large amount, among which was that of the claimant. His efforts to obtain its restoration resulted in his being compelled to pay 45 per cent. on the valuation of it which was made. This contribution is the foundation and amount of the present claim.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
124. William Yeaton, of Alexandria, D. C., and the estate of Robert Young, deceased.	France	Aug. 18, 1805	Capture	Schooner Enterprise.	Value of vessel, cargo, and freight, $12,220 76. Interest from the time of the capture is also claimed. The place of capture is not stated.	No legal adjudication	The schooner Enterprise was captured by a French privateer and carried to Baracoa, in the island of Cuba. The schooner and her cargo were afterwards sold.
125. William Yeaton, of Alexandria, D. C., and the estate of Robert Young, deceased.	....do	Sept. 21, 1805	Capture	Schooner Eleanor	Value of vessel, cargo, and freight, $16,789 50. Interest from the time of the capture is also claimed. The place of capture is not stated.	No legal adjudication	The schooner Eleanor was captured by a French privateer and carried to Samana, near the city of St. Domingo, and with her cargo was afterwards sold.
126. William Yeaton, of Alexandria, D. C., and the estate of Robert Young, deceased.	....do	March, 1807	Capture	Schooner Hiland	Short insured on vessel and freight $6,094 00 Short insured on cargo 4,284 59 10,378 59 Interest from the time of the capture is also claimed. The place of capture is not stated.	No legal adjudication	The schooner Hiland was captured by a French privateer and sent to Baracoa, in the island of Cuba, and with her cargo was afterwards sold. The interest in the vessel and freight is in the estate of the late General Young; the interest in the cargo is in Mr. Yeaton.
127. Jacob Morgan, of Alexandria.	....do	Aug. 10, 1809, (date of the capture.)	Capture and condemnation.	Ship Eliza	One-third of vessel and freight, $10,444. The capture was made off Plymouth.	Condemnation by the Council of Prizes at Paris. The date of the condemnation is not stated.	The ship Eliza and her cargo were American property, and on a legal voyage. They were captured by the French privateer Jean Bart, and were condemned on suspicion of being English property and on an alleged secreting of papers by the captain.
128. Arthur McLelan and Ebenezer McIntosh.	....do	March 8, 1811	Capture	Ship Mary Ann, Ebenezer McIntosh master.	Value of the ship $20,000 00 Deduct amount received from the Marine Fire and Marine Insurance Company 10,000 00 10,000 00 Freight and expenses 10,608 77 Sundry articles aboard belonging to the master 927 00 Staves aboard belonging to the master 112 00 Freight 177 78 Amount, &c 21,825 55 The capture was made about eight miles to the southward and eastward of Dungeness.	The claimants know of no legal adjudication.	The ship Mary Ann was captured on her voyage from Charleston, S. C., to London, by a French privateer. The captors ran the ship on shore about a cable's length from the pier at Calais. At the flow of the tide she beat off, and, by strong southwesterly winds, was blown into Calais harbor. The prize-master informed the captain he should carry her to Dunkirk, and left a pilot on board for that purpose. The master was afterwards, with his crew, under the necessity of leaving the ship in an open boat, and arrived safe in Dover, England.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
129. David Winchester, surviving partner of the late firm of J. Ogleby & Winchester.	France and Holland.	July, 1809	Sequestration.....	Brig Baltimore, was sequestered.	Actual cost, $42,768 14; valued at the time of sequestration, $69,325 18. The place of sequestration not stated.	Not subjected to legal adjudication, but in September, 1820, was delivered to French Commissioners, in pursuance of the stipulations of the treaty of the 16th March, 1810, between France and Holland, by whom it was sent to Antwerp, where it was sold, and the proceeds paid into the caisse d'amortissement.	The brig Baltimore, of Baltimore, Captain James Phillips, laden with a cargo of sugars, coffee, a few bales of cotton, and a small parcel of staves, sailed from the Chesapeake bay on or immediately after the 10th of June, 1809, bound to Amsterdam; arrived off the Texel the 10th of July; found it blockaded by a British squadron. She then stood to the northward, and meeting with a pilot boat Captain Phillips communicated with Messrs. Hope & Co., his consignees, and continued to lay off and on the coast of Holland several days, corresponding, through the medium of pilots, with the above named house. In one of his letters he mentioned to Hope & Co. that he was annoyed by a small vessel, under the French flag, that daily chased him off. In answer to this, Hope & Co. sent him off a license, granted by the King of Holland, to protect his vessel from capture, and at the same time recommended Captain Phillips to enter the Fly Passage, which was not blockaded. Captain Phillips accordingly entered the Zuyderzee through that channel, and proceeded to the town of Harlangen, where the cargo, accompanied by certificates of origin granted by the French Consul residing in Baltimore, was landed and put into the King's warehouses for examination as regarded its origin.
130. Augustine Pepin ...	France	Seizure made in January or Feb., 1808.	Seizure and condemnation.	Ship Two Marys, James Riley master.	Loss sustained, 67,735.54 francs, equal to $12,700 37. Value of the property, according to an estimate by the agents of the French Government, in June, 1808, 53,467.32 francs. The place of seizure is not stated.	Condemned by the Council of Prizes at Paris. The date of the condemnation is not stated.	On the arrival of the ship Two Marys in France the property was seized by the French Government, and afterwards finally condemned by the Council of Prizes, on the plea of the vessel having been visited at sea by a British cruiser, in violation of the Milan decree of the 17th December, 1807. While under seizure, it was delivered to the consignees on condition of their giving bonds for its estimated value, to await the decision of the Council of Prizes. The consignees were obliged to pay these bonds, amounting to..... frs. 53,467 32 The expenses, costs, and extra charges, and interest thereon 14,268 02 67,735 34
131. John S. Roulet and others.	....do	Not stated.....	Seizure and confiscation..	Ship Cados, Bunker master.	Cargo shipped in November, 1807. One-third of it belonged to the late Joseph Icard; one-third to Gurdon S. Mumford, and one-third of it to G. Rossier and Roulet. Amount of cargo stated to have been lodged with the Caisse of Invalides, 352,436.10 francs, equal to ..... $67,130 74 Interest thereon, at 6 per cent..... 76,193 38 143,324 12 The seizure was made at Marseilles.	No legal adjudication.....	The ship Cados was bound from New York to Marseilles, where, on her arrival, she was seized, and, with her cargo, taken possession of by the French authorities. Amount of cargo stated to have been lodged with the Caisse of Invalides to await the Emperor's commands. The cargo was insured in New York, but, by compromise with the underwriters, all the rights and claims against France have been relinquished to the insured. The documents and proofs of property are lodged with James B. Icard, of Paris.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
132. J. S. Roulet, Miles R. Burke, and H. C. Duerhagen.	France	Not stated.....	Seizure and condemnation	Brig Resort, Miles R. Burke master.	Value of brig..... $8,000 00 Amount not recovered on Duerhagen's shipment from the underwriters..... 31,800 00 Amount of sales of Roulet's shipment... 14,000 00 Cost of Burke's shipment..... 7,195 16 Freight of brig..... 7,777 77 Value of logwood ..... 500 00 Amount of loss, exclusive of interest, sustained by the three claimants..... 69,272 93 The claimants claim interest on their respective losses. The seizure was made as the brig was entering the Texel.	It does not appear that there was any legal adjudication.	In June, 1809, the brig Resort, owned by Miles R. Burke, was loaded at New York, bound from that port for Bremen, with liberty to go to Amsterdam if not blockaded. Captain Burke was informed off the Texel that there was no obstacle to his admission into Holland, and accordingly entered the Texel. After passing the second buoy the brig was boarded by a row boat belonging to the French privateer L'Hebe, which took possession of the Resort, carried her to Amsterdam, where vessel and cargo were condemned by the French authorities. The cargo of the brig Resort was constituted and owned as follows, viz: 150,266 pounds of coffee, valued at 26 cents per pound, $39,069 16, owned by H. Duerhagen, who recovered from the United Insurance Co. of New York $7,269 16 thereof, leaving a balance of $31,800. 151 bales of Georgia cotton, owned and shipped by J. S. Roulet; of which the cost was $7,002 76, and the sales are supposed to have amounted to $14,000. 10 tierces, 90 barrels, and 20 bags of coffee; 16 hhds. of sugar, and 15 tons of logwood, owned and shipped by Miles R. Burke; of which the cost was $7,195 16, and the amount of the sales is unknown to the claimant. 10 tons of logwood, owned by Miles R. Burke, valued at $50 each—$500.
133. John F. Parrott, of Portsmouth, N. H., Wm. W. Parrott, of Gloucester, Mass., estate of Oliver Hamilton, of Portsmouth, N. H., deceased.	....do.....	June 22, 1810...	Capture and burning	Ship Falcon	Value of the ship and freight..... $27,277 89 Interest to October 1, 1826, at 6 per cent. 26,632 31 53,910 20 The capture was made off the port of Wismar.	No legal adjudication, as far as the claimants are informed.	The ship Falcon was bound to the port of Wismar; the cargo on board was shipped at Savannah, and on the arrival of the ship at Cork she was ordered to Wismar by the consignee, and in the performance of that voyage was captured by a French cruiser in the North Sea, on the coast of Prussia, and burnt.
134. New England Marine Insurance Company, Boston.	....do.....	Sept., 1806.....	Capture	Brig Good Intent...	$4,500. The capture was made in the West Indies..	Condemned at Guadaloupe. The date of the condemnation is not stated.	This vessel sailed from Nova Scotia for Antigua. British property insured in Boston.
135. New England Marine Insurance Company, Boston.	....do	Sept., 1807.....	Seizure.....	Brig Ezra & Daniel.	$8,029 60. The seizure was made at Leghorn	No legal adjudication.....	This vessel was bound from Boston to Leghorn. The ginger, an article the French Government held subject to their order, was seized.
136. New England Marine Insurance Company, Boston.	....do	Sept., 1807.....	Capture	Brig Mercury	$10,000. The capture was made in the Mediterranean.	No legal adjudication.....	The Mercury was bound from Boston to Alicant. She was sent into the latter port. The captain was wholly dispossessed of the cargo. Papers sent to Paris.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
137. New England Marine Insurance Company, Boston.	France	Not stated.....	Seizure.....	Ship Arrow.....	$5,733 33. The place of capture is not stated.....	No legal adjudication.....	The Arrow, on her voyage from Boston to the Mediterranean, was captured by the French, carried into Frejus, and sequestered.
138. New England Marine Insurance Company, Boston.	....do.....	May, 1811.....	Capture	Brig Catharine.....	Value of property captured, $8,000. Place of capture not stated.	There does not appear to have been any legal adjudication.	The Catharine, bound from Boston to the North of Europe, was taken and carried into Denmark; she was afterwards taken by a French privateer, carried into Dantzic, and the owners dispossessed of the cargo.
139. New England Marine Insurance Company, Boston.	....do	July, 1811.....	Capture	Barque Zeno.....	$15,517 50. The capture was made in the North Sea.	Condemned at Christiansand, January, 1812.	The barque Zeno, bound from Boston to Gottenburg, was carried into Christiansand.
140. New England Marine Insurance Company, Boston.	....do	Dec., 1810.....	Capture	Ship Robinson Nova.	$10,000. The capture was made in the English channel.	There does not appear to have been any legal adjudication.	This ship was bound from Virginia to London, and carried into Dunkirk.
141. New England Marine Insurance Company, Boston.	....do.....	January, 1811..	Capture	Brig Neutrality.....	$13,000. The capture was made in latitude 50° N., longitude 22 W.	There does not appear to have been any legal adjudication.	The Neutrality was bound from Baltimore to Bristol, England; she was taken and carried into France, and lost on that coast.
142. Marine Insurance Company of Norfolk, assignees of William Dickson.	....do	1807.....	Capture	Schr. Experiment..	$6,000. Place of capture not stated.....	No adjudication is known to the claimants.	Taken into St. Jago de Cuba, and sold there.
143. Marine Insurance Company of Norfolk, assignees of Wm. Pennock & others.	....do	1807.....	Capture	Ship Juno	$2,466. Place of capture not stated	Condemned at Jamaica; the date of the condemnation not stated.	The Juno was captured by the French, recaptured by the British, and condemned at Jamaica in salvage.
144. Marine Insurance Company of Norfolk, assignees of W. A. Armistead and another.	....do	1809.....	Capture	Brig Franklin.....	$3,137 55. Place of capture not stated	Condemned at Antigua; the date of the condemnation is not stated.	The brig Franklin was captured by the French. She was recaptured by the British, and condemned at Antigua in salvage.
145. Marine Insurance Company of Norfolk, assignees of John Bohlen and others.	....do	1809.....	Capture	Ship America.....	$4,028 40. Place of capture not stated	No legal adjudication	None.
146. Marine Insurance Company of Norfolk, assignees of Theodore Armistead and others.	....do	1809.....	Capture	Ship Orion	$2,904 31. Place of capture not stated	Adjudication in England. Date not stated.	Captured by the French, recaptured by the British, and condemned in salvage.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
147. The executors of William Dickson.	France	1807	Capture	Sch. Experiment	$1,722 25. Place of capture not stated	No adjudication	Taken into St. Jago de Cuba, and sold there without adjudication.
148. William Armistead and others.	do	1809	Capture	Brig Franklin	$1,066 67. Place of capture not stated	Adjudication in Antigua. Date not stated.	Captured by the French, recaptured by the British, and condemned in salvage.
149. Conway & F. Whittle and others.	do	1809	Capture	Ship Eliza	$108,000. Place of capture not stated	Condemned in France. Date not stated.	Carried into a small island called Brehat, on the north coast of France, in the channel.
150. Moses Myers & Sons.	do	1809	Capture	Brig Fame	$24,530 73. Place of capture not stated	Adjudication at Paris, under Berlin and Milan decrees. Date not stated.	None.
151. Marine Insurance Company of Norfolk.	do	1809	Capture	Brig Fame	$1,104 95. Place of capture not stated	Adjudication at Paris, under the Berlin and Milan decrees. Date not stated.	None.
152. James Young	do	1806	Capture	Sch. Ann Ballan	$2,250. Place of capture not stated	Adjudication in St. Domingo. Date not stated.	Detained three months, and restored without costs or damages.
153. Moses Myers & Sons.	do	1806	Bill of exchange		$4,687 50		This bill was drawn for a cargo belonging to an American citizen, by General Ferrand, at St. Domingo, on his Government.
154. Robert Hatton	do	1809	Capture	Ship Susan	$3,276 45. Place of capture not stated	Adjudication in France. Date not stated.	This vessel was taken into Calais and condemned.
155. Von Kapff & Brune, of Baltimore.	do	Sept., 1807	Seizure	The property taken from the claimants had been shipped in the ship North America, Capt. Wm. A. Tucker.	$11,956 66. Seizure made at the mouth of the river Elbe.	No legal adjudication known to the claimants.	This vessel, laden with American and colonial produce, cleared, May 22, 1807, at Baltimore, for Tonningen, where she arrived on the 23d July same year. The cargo was destined to Bremen, the river Weser not being then within the line occupied by the French Douaniers. The greater part of the cargo reached the place of destination. The ship was compelled, by stress of weather, to take shelter in the river Elbe. Two of the lighters were taken possession of by the French at Cuxhaven, who took 497 bags of coffee aboard said lighters. The shipment of the claimants consisted of 637 bags of coffee—140 of them reached Bremen; and their proceeds, deducted from the cost of the whole, leaves the sum claimed.
156. Von Kapff & Brune and others.	do	Dec., 1809	Seizure	Sch. Eleanor, Capt. Gover.	Cost of 150 bales of cotton $9,209 30 Insurance 973 25 Freight, cost, and outfits of the vessel 13,136 42 Insurance 1,310 30 Payments to seamen and other expenses. 300 66 24,929 93 The seizure was made at St. Sebastian.	No legal adjudication	This schooner sailed, beginning of November, 1809, from Baltimore for St. Sebastian, with 27 hogsheads of tobacco and 150 bales of cotton; arrived in the roads of St. Sebastian 2d December following, and, after performing quarantine, discharged her cargo. The 27 hogsheads were sold by the consignees at said place. The remainder of her cargo, viz: 150 bales of cotton, and the vessel, were seized in Spain by order of the French Government, sent to France, and there disposed of. At the time of the seizure the value of the cotton at St. Sebastian was 11½ reals per pound, or 57½ cents; which, for 45,218 pounds Spanish, the weight of this country, is $26,000 35. It produced at Bayonne 91,013.28 frs. The schooner was taken possession of by the Administrator of the Marine.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
157. John James, assignee of George Smith.	France	1806 and 1807..	Capture and confiscation .	Ship James Adams.	$9,100. Captured on her voyage from Philadelphia to Amsterdam.	Condemned by the Council of Prizes at Paris July 13, 1808.	This vessel was captured on her voyage from Philadelphia to Amsterdam by a French privateer, sent into Dunkirk and condemned. $3,400 of this claim is for underwriting for goods for William Page, $5,700 for Adams & Loughry.
158. Boston Marine Insurance Company.	....do	December, 1809.	Capture	Ship Alianza, Bardell master.	Value of vessel ..... $7,000 00 Freight ..... 8,000 00 15,000 00 July 31, 1810. Capture made near Beachy Head.	No legal adjudication.....	This vessel was captured by four French privateers near Beachy Head and sent into Dieppe. The total loss was paid to Eben. Stocker, for whom it was insured, and concerned "from Havana for London."
159. Boston Marine Insurance Company.	....do	December, 1809.	Capture	Ship Arrow, Fletcher master.	$14,694 28. Place of capture not stated.....	Not adjudicated, but compromised at Paris, and the compromise confirmed by the Council of Prizes. Date not stated.	This vessel was captured by a French privateer, L'Hirondelle, and was carried to Ville Franche. She was insured from Boston to port or ports in the Mediterranean.
160. Boston Marine Insurance Company.	....do.....	December, 1811.	Capture	Brig Catharine, Ockington master.	Paid John Parker ..... $7,000 00 General average ..... 436 65 Amount, &c..... 7,436 65 Place of capture not stated.	Detained and condemned in Paris, by order of the Government. Date not stated.	This vessel was insured "from Boston to Gottenburg." After her capture she was carried into Dantzic.
161. Boston Marine Insurance Company.	....do.....	Dec. 22, 1813...	Capture	Ship Maria Louisa.	Paid T. H. Perkins $1,370 23. Ransom and jettison. Place of capture not stated.	No adjudication appears.....	This vessel was insured from New Haven to Lisbon, and the ransom was paid at Bordeaux. She was taken by a French privateer.
162. Boston Marine Insurance Company.	....do	December, 1813.	Capture	Schooner Mariner, Macy master.	$1,000 paid I. Colburn. Capture made in the Bay of Biscay.	No adjudication appears.....	This vessel was captured in the Bay of Biscay and sent into St. Andero. She was insured "from Boston to a port in France."
163. Boston Marine Insurance Company.	....do	Feb. 13, 1812...	Capture	Ship North Star, Peterson master.	$1,747 35 paid Jon. Davis. Place of capture not stated.	No adjudication appears.....	This vessel was captured by a French lugger, was recaptured by the English, and restored on salvage one-eighth. She was insured "from Georgia or Florida to England."
164. Boston Marine Insurance Company.	....do	May 2, 1812....	Sinking at sea	Schooner Sally, Lamson master.	$8,000 paid William Leach. Place of capture not stated.	No adjudication.....	This vessel was insured "from Beverley to ports in Europe, from Corunna to Gibraltar and Tangiers, inclusively." She was captured by two French frigates and a brig and sunk at sea.
165. Boston Marine Insurance Company.	....do	Nov. 14, 1811..	Capture, plunder, and burning.	Brig Three Brothers, Le Favour master.	$10,000 paid P. Dodge. Place of capture not stated.	No adjudication.....	This vessel was insured "from Salem to ports in Brazil." She was captured by two French frigates and plundered and burnt.
166. Boston Marine Insurance Company.	....do	Nov. 14, 1811..	Capture	Schooner Traveller, Prince master.	$3,120. Place of capture not stated.	No adjudication.....	She was insured from Boston to Cadiz for R. S. Hackley. Captured by the French privateer Meddlin Guerells and sent into Rota.
167. T. Ellicott and Jona. Meredith, trustees of S. Smith and Buchanan, and R. S. Hollins, David Hoffman, C. F. Mayer, and B. C. Howard, trustees of Hollins & McBlair. See No 66.	....do	Dec. 10, 1807 ..	Seizure and confiscation .	Ship Juniata, Joshua Mezick master.	Cost of shipment ..... $33,450 00 Reported sales of the cargo..... 60,000 00 Seizure made in the river Elbe.	No legal adjudication.....	The Juniata left Baltimore for Toning in October, 1807, and arrived in December off the river Eyder in distress. She there was apprised for the first time of the blockade of that river. On account of her disabled condition she put into the river Elbe, without the French jurisdiction. While the Juniata was providing herself with a pilot for a Danish port in the North Sea to refit, she and her cargo were seized by the French custom-house officers and carried to Hamburg. The cargo was thereupon, without any judicial investigation, condemned by the Emperor June 27, 1808.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
168. T. Ellicott and Jona. Meredith, trustees of S. Smith and Buchanan, and R. S. Hollins, David Hoffman, C. F. Mayer, and B. C. Howard, trustees of Hollins and McBlair.	France.....	Dec. 10, 1807...	Seizure and confiscation..	Ship Bacchus.....	Cost of shipment, $11,446. (See last column).....	No legal adjudication.....	The Bacchus sailed from Amsterdam in December, 1809. On her arrival she was refused entry, and in attempting to leave the port was lost, but the cargo was saved, and afterwards by treaty between Holland and France delivered over to the latter. The documents in this case, and that of the Juniata, are with La Calaghan, of Paris, and the particulars were given in June, 1813, to William Henry Crawford, Esq., then Minister to France.
69. John Hooper, of Marblehead, Mass.	....do.....	1805.....	Burning.....	Schooner Alpha, Sargent master.	$19,500. The burning took place at sea.....	No legal adjudication.....	The Alpha was from Marblehead to Bilboa. She was burnt by a French squadron. The claim was acknowledged just by the French Government, and the wages in full paid the captain and crew by them. The amount claimed was awarded by Commissioners appointed to assess damages in 1806.
170. Robt. Hooper, Marblehead, Mass.	....do.....	1809.....	Capture.....	Schooner Saratoga, Tucker master.	$12,000. Place of capture not stated.....	Condemned at Guadaloupe in 1809.	This vessel was from Marblehead for the West Indies. She was captured and carried to Guadaloupe.
171. R. & I. Hooper, W. & N. Hooper, W. Reed, of Marblehead, Mass.	....do.....	1810.....	Capture and sinking.....	Schooner Endeavor, Powers master.	$25,000. Place of capture not stated.....	No legal adjudication.....	This vessel was from Lisbon for Marblehead, with Merino sheep and specie. She was captured by a French squadron and sunk.
172. Wm. Reed, of Marblehead, Mass.	....do.....	1810.....	Seizure and sequestration.	Schooner Two Sons, Warner master.	$30,000. Seizure made at Bilboa.....	No legal adjudication.....	This vessel arrived in Bilboa, then in possession of the French. Property seized and used.
173. Wm. Blackler, Wm. Blackler, jr., John C. Blackler, John Pedrick, 3d.	....do.....	1811.....	Capture.....	Schooner Hero, Blackler master.	$21,000. Capture made in the Baltic.....	Condemned at Paris in 1811....	This vessel was from Marblehead for St. Petersburg. She was captured in the Baltic by a privateer and carried to Copenhagen. Papers sent to Paris.
174. Samuel Horton.....	....do.....	1810.....	Capture.....	Schooner Eleanor, Williams master.	$44,000. Place of capture not stated.....	Condemnation at Seville in 1810.	The Eleanor was bound from Marblehead for Tangier. She was captured and carried to San Lucar; whence she was ordered to Seville.
175. William Waln, — Abner, S. M. Bowden, S. Graves.	....do.....	1808.....	Capture.....	Brig Venus, Bowden master.	$32,100. Place of capture not stated.....	No legal adjudication.....	This vessel was from Boston for Leghorn. She was captured and carried to Porto Ferrajo, and there sold by order of the French general.
176. Robert Hooper.....	....do.....	1809.....	Capture.....	Schooner John, Stacey master.	$26,000. Place of capture not stated.....	Condemnation at Bayonne in 1810.	This vessel was bound from Marblehead to Dijon. She was captured and carried to Saint John de Luce.
177. Union Insurance Company of Maryland, assignees of James Craik.	....do.....	April 26, 1812..	Capture and destruction..	Brig Happy Couple.	Amount of insurance paid by the claimants to the assured, $13,000. Capture made in latitude 35° 10′ N., longitude 22° 38′.	No legal adjudication.....	The Happy Couple, in the prosecution of a voyage from Baltimore to Oporto, with a cargo of corn, rice, flour, and shipbread, was captured by a French squadron, consisting of the Ariadne 44, Andromache 44, and brig Mameluke, under the command of Monsieur Seritine. Vessel sunk after taking out the whole or part of the cargo. The brig and cargo were American property.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
178. The Union Insurance Company of Maryland, assignees of Chas. and Peter Wirgman.	France	Dec. 30, 1812...	Capture and destruction..	Ship William Wilson, Robert Hancock master.	Amount paid by the claimants to the assured, $5,000. Capture made in latitude 36° 10′, longitude 18° 20′.	No legal adjudication.....	This ship was captured on her passage from Lisbon to Baltimore, laden with salt, by the French frigate La Gloire, Captain Albert Roussein, and sunk on the day of capture. The vessel and cargo were American property.
179. The Union Insurance Company of Maryland, assignees of William Lorman.	....do	Jan. 10, 1813...	Capture and plunder	Ship Fair American, Hobson master.	Amount paid by the claimants to the assured is $9,063 28. Place of capture not stated.	No legal adjudication.....	This ship, on her voyage from Baltimore to Cadiz, was captured by the French frigate La Gloire, Captain Roussein. After plundering her and throwing part of the cargo overboard, and threatening to destroy her, the French commander was prevailed on by Captain Hobson to give the ship up to him. The present claim is for the actual loss sustained. The vessel and cargo were American property.
180. The Union Insurance Company of Maryland, assignees of Mayer & Brantz and C. F. Karthaus.	....do	Seizure made Dec. 7. 1807.	Seizure and confiscation..	Ship Juniata.....	Amount paid by the claimants to the assured, $23,540 10. Seizure made in the river Elbe.	No legal adjudication.....	This vessel was seized by a guard of French soldiers or marines and conducted to Hamburg, where the cargo was landed and afterwards confiscated by a special decree of the French Emperor, and the proceeds appropriated to the use of the French Government.—(See document in possession of the Baltimore Insurance Company, which has a like claim.) The vessel and cargo were American property.
181. Union Insurance Co. of Maryland, assignees of Mayer & Brantz, Alexander Webster & Co., G. Haskins, P. A. Karthaus.	....do	January, 1808..	Capture	Ship Aurora	Amount paid by the claimants to the assured, $21,779 20. Place of capture not stated.	Condemnation by the Council of Prizes, which was confirmed by the Emperor. Date not stated.	The Aurora was captured by a British vessel January 21, 1808, on her passage from Baltimore to Amsterdam. She was recaptured by the French privateer L'Incomparable, and conducted to Morlaix, and condemned upon the alleged ground that she had violated the Milan decree. She sailed from Baltimore the 14th of December, 1807. The Milan decree is dated subsequently to the commencement of her voyage. Vessel and cargo American property.
182. Union Insurance Co. of Maryland, assignees of Lemuel Taylor. *Mem.*—This claim is also included in the schedule of claims on Denmark, No. 25.	France and Denmark.	July, 1810	Seizure	Ship Ploughboy....	Amount paid by the claimants to the assured, $20,000. Seizure made near Sylt.	Condemnation by the Council of Prizes at Paris. Date not stated.	This vessel was bound from Baltimore to Sylt, and after her arrival near to that port, and within the jurisdiction of the Government of Denmark, she was forcibly taken possession of by the French privateer armed vessel La Reciprocite and carried into Sylt, a Danish port. The protection of Denmark was solicited in vain, and a condemnation took place at Paris, without any legal course. Vessel and cargo were American property. This claim is also made against Denmark.
183. Union Insurance Co. of Maryland, assignees of Jacob Le Roy & Sons.	France	May 22, 1809...	Capture	Schr. Bald Eagle...	Amount paid by the claimants to the assured, $25,500. Place of capture not stated.	No trial or condemnation known to the claimants.	The Bald Eagle, on her voyage from New York to Palermo, was captured by the privateer Le Constant, Captain Serra, and conducted to Bizenta, in the Regency of Tunis. The French Consul declared her to be good prize, and the captors disposed of the vessel and cargo as such. Both American property.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
184. Union Insurance Co. of Maryland, assignees of John Wilmot.	France	November 12, 1807, date of seizure.	Seizure and confiscation..	Schooner Random..	Amount paid by the claimants to the assured, $13,000. Seizure made in the harbor of St. Bartholomew.	Supposed to have been condemned at Guadaloupe.	This vessel was bound to St. Bartholomew, where she arrived on the 9th of November, 1807, with a cargo of lawful goods. On the 12th of that month, whilst at anchor in the harbor, she was boarded from the French privateer brig General Ernouf, Captain Grassin, and a French armed cutter called Victor, Captain Vealot, and forcibly conducted to Guadaloupe, where both vessel and cargo were sold as prize. The American captain and supercargo were turned ashore and treated with great indignity and severity for asserting their rights and complaining of the illegal capture and detention of their vessel. Vessel and cargo American property.
185. Union Insurance Co. of Maryland, assignees of John Wilmot.	....do	October, 1806..	Sinking at sea.....	Schooner William, Terry master.	Amount paid by the claimants to the assured, $16,000. Place of capture not stated.	No adjudication.....	This vessel, on her voyage from St. Domingo to Baltimore, was captured by a French squadron, consisting of L'Eole and other ships, commonly called Jerome Bonaparte's squadron, and destroyed. The captain, supercargo, and crew were treated with cruelty and sent to France. Property American.
186. Union Insurance Co. of Maryland, assignees of Hoskins and W. Graham.	....do	May 18, 1806...	Capture	Schooner Ariel, Jenks master.	Amount paid by the claimants to the assured, $17,400. Place of capture not stated.	No legal adjudication.....	This vessel was captured, on her voyage from Cape François to Baltimore, by the French privateer Lionaise, Captain La Loupe, and conducted to Samana, May 21, 1806, where the vessel and cargo were sold, as prize, without legal adjudication. American property.
187. Union Insurance Co. of Maryland, assignees of Jas. Caldwell and Jonathan Hudson.	....do	Oct. 24, 1806...	Capture	Schr. Exchange, Gould master.	Amount paid by the claimants to the assured, $18,000. Place of capture not stated.	No legal adjudication.....	This vessel, on her voyage from St. Thomas' to St. Domingo, was captured by the French privateer Superb, Captain Dominique, and conducted to Baracoa, where the vessel and cargo were sold and disposed of, as prize, without trial or adjudication. American property.
188. Union Insurance Co. of Maryland, assignees of Bigelow & Proud.	....do	July 5, 1806....	Capture	Schooner Trial, Arnold master.	Amount paid by the claimants to the assured, $19,400. Place of capture not stated.	No legal adjudication.....	The schooner Trial, on her voyage from Baltimore to the West Indies, was captured by the French privateer Napoleon, Captain Marie, and conducted to Samana, where she was disposed of, as prize, without trial or legal adjudication. American property.
189. Union Insurance Co. of Maryland, assignees of Robert Kearney.	....do	Oct. 12, 1809...	Capture	Brig Acteon, Mason master.	Amount paid by the claimants to the assured, $2,252. Place of capture not stated.	No legal adjudication.....	This vessel, on her voyage from New York to Tonningen, was captured by the French privateer Charles, of Rochelle, and ordered to a port in France, where she never arrived. Total loss was paid by the claimants. American property.
190. Union Insurance Co. of Maryland, assignees of B. & J. Bohlen.	....do	1811.....	Capture	Ship America, Leland master.	Amount paid by the claimants to the assured, $5,356 22. Place of capture not stated.	No legal adjudication.....	This vessel, on her passage from the river Jade to Philadelphia, was captured by a French vessel, and sent to Dunkirk for adjudication. After a long detention the captain compromised with the captors, and was permitted to depart. Proportion of compromise and expense is all that is here claimed. The sum insured was $20,000. American property.

CLAIMS ON FRANCE—Continued.

	Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
191.	Union Insurance Company of Maryland, assignees of Wm. Bobinson.	France	1810.....	Capture or seizure.....	Schr. Independence	$4,366 59. Amount paid by the claimants to the assured. Place of capture not stated.	No legal adjudication.....	The voyage of this vessel was from Baltimore to St. Sebastian. She was captured or seized by the French, and released upon compromise. The claim is for the sum paid only. The insurance was for $12,000. American property.
192.	Israel Thorndike...	....do.....	Jan. 22, 1808...	Seizure.....	Schr. Peace and Plenty, Foster master.	$40,000. Seizure was made near Marseilles.....	Condemnation at Paris. Date not stated.	The schooner Peace and Plenty, Joshua Foster master, sailed from Beverly on the 3d December, 1807, with a cargo of sugar, pepper, cotton, indigo, and codfish, for adventures. On the 22d day of January, 1808, half a mile from Marseilles, was forcibly taken possession of and carried into the port. Vessel and cargo were finally condemned and lost.
193.	Israel Thorndike..	....do.....	1807.	Capture and detention....	Schooner Augusta, Stickney master.	$19,445. Capture made near Bilboa.....	Adjudication in the French courts in the year 1809.	The schooner Augusta, Captain Joseph Stickney, belonging to the claimant, sailed from Beverly October 30, 1807, with a cargo of cocoa, sugar, pepper, &c., bound to Bilboa, in Spain. When near the port she was taken by a French privateer, carried into a port near Bayonne, and detained there, with her crew, until June 15, 1809, 19½ months, at a great expense, and a part of the cargo was condemned.
194.	Union Insurance Company of Boston.	....do.....	1809.....	Capture	Ship Arrow.....	Amount of the net loss sustained, $8,144 47. Place of capture not stated.	No legal adjudication.....	This vessel was captured, on a voyage from Boston to the Mediterranean, by the French, and carried into Frejus. The master compromised with the captors.
195.	Union Insurance Company of Boston.	....do.....	1811.....	Capture	Ship Eliza.....	Part of the cargo, $10,000. Place of capture not stated.	No legal adjudication known of.	The Eliza was captured, on a voyage from James river to Spain, by a French privateer, and carried into St. Lucar. The master and crew were turned out of the vessel. The cargo was discharged and sold, under, it is believed, the order of the French Consul.
196.	James Sheafe, of Portsmouth, N. H.	....do.....	Not stated.....	Condemnation	Brig Charlotte Murdock; was condemned.	$7,575 70. Place of condemnation not stated.....	Condemnation. Date not stated.	The papers on which this claim is founded are filed in the Department of State, among the papers of the Florida treaty, under the designation of the case of the brig Charlotte Murdock.
197.	James Sheafe, of Portsmouth, N. H.	....do.....	Not stated.....	Condemnation	Ship Apollo; was condemned.	$19,031 20. Place of condemnation not stated.....	Condemnation. Date not stated.	The papers on which this claim is founded are on the files of the Department of State, among the papers of the Florida treaty, under the designation of the case of the ship Apollo.
198.	Henry Gray, of Boston.	....do.....	August, 1811...	Capture	Brig Radius, Lander master.	$1,000. This sum was paid by the claimant for insurance on commissions. Place of capture not stated.	Condemned by the Council of Prizes, at Paris, September 25, 1811.	The brig Radius sailed from Newport, Rhode Island, June 28, 1811, bound to St. Petersburg. She was captured at sea the 8th August, 1811, by the French privateer La Minata. She was sent into Copenhagen for adjudication, and was finally condemned by the Council of Prizes, at Paris, September 25, 1811.
199.	Henry Gray, of Boston.	....do.....	July 20, 1810...	Capture	Barque Zeno, S. Stone master.	$1,000. This sum was paid for insurance by the claimant. Place of capture not stated.	No legal adjudication appears...	The barque Zeno was captured by a French lugger and carried into Christiansand. The papers were sent to Paris. The vessel and cargo were condemned, at Paris, by order of Napoleon, December 4, 1811.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
200. United States Insurance Company of Philadelphia.	France	March, 1807	Capture	Schooner Maria	$9,800. The loss took place in the West Indies	No legal adjudication appears	The schooner Maria, with a number of other vessels, was taken, under orders of General Ferrand, by French privateers, and despoiled in different ports of Cuba, St. Domingo, &c.
201. United States Insurance Company of Philadelphia.	do	May, 1807	Capture	Schooner Exchange	$588. Loss sustained in the West Indies	No legal adjudication appears	Same remarks as in the preceding case of the schooner Maria, No. 200.
202. United States Insurance Company of Philadelphia.	do	May, 1807	Capture	Schr. Good Catharine.	$2,254. This loss was sustained in the West Indies	No legal adjudication appears	Remarks on the Maria, No. 200, apply to this case.
203. United States Insurance Company of Philadelphia.	do	May, 1807	Capture	Brig Sukey & Polly.	$11,613	No legal adjudication appears	Same remarks as in No. 200.
204. United States Insurance Company of Philadelphia.	do	June, 1807	Capture	Ship George Washington.	$5,932 80	No legal adjudication appears	Same remarks as in No. 200.
205. United States Insurance Company of Philadelphia.	do	June, 1807	Capture	Brig Elizabeth	$9,800	No legal adjudication appears	Same remarks as in No. 200.
206. United States Insurance Company of Philadelphia.	do	July, 1807	Capture	Schooner Eliza	$8,330	No legal adjudication appears	Same remarks as in No. 200.
207. United States Insurance Company of Philadelphia.	do	August, 1807	Capture	Schooner Minna	$1,078	No legal adjudication appears	Same as in No. 200.
208. United States Insurance Company of Philadelphia.	do	August, 1807	Capture	Ship Three Sisters.	$14,700	No legal adjudication appears	Same as in No. 200.
209. United States Insurance Company of Philadelphia.	do	Septem'r, 1807	Capture	Schr. Clementina	$11,760	No legal adjudication appears	Same as in No. 200.
210. United States Insurance Company of Philadelphia.	do	February, 1808	Capture	Brig Joseph	$5,009 47	No legal adjudication appears	Same as in No. 200.
211. United States Insurance Company of Philadelphia.	do	August, 1808	Capture	Brig Sally	$1,960	No legal adjudication appears	Same as in No. 200.
212. United States Insurance Company of Philadelphia.	do	January, 1809	Seizure	Brig Nancy and Katy.	$7,500. Seizure made in France	No legal adjudication appears	Arrested in France, and sequestered under the Berlin and Milan decrees.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
213. United States Insurance Company of Philadelphia.	France	February, 1809	Capture	Ship James Adams.	$13,047 13. Place of capture not stated.....	No legal adjudication appears...	Condemned under the Berlin and Milan decrees.
214. United States Insurance Company of Philadelphia.	....do	June, 1809	Capture	Ship America.....	$8,475 56. Place of capture not stated.....	No legal adjudication appears...	Condemned in Holland under the Berlin and Milan decrees.
215. United States Insurance Company of Philadelphia.	....do	April, 1810	Capture and destruction..	Schooner Jefferson.	$13,660 59. Place of capture not stated.....	No legal adjudication appears...	The schooner Jefferson was burnt and sunk at sea by a French squadron.
216. United States Insurance Company of Philadelphia.	....do	May, 1810	Capture	Schooner Shadow..	$11,308 98. Place of capture not stated.....	No legal adjudication appears...	Condemned at Naples under the Berlin and Milan decrees.
217. United States Insurance Company of Philadelphia.	....do	July, 1810	Capture	Brig Molly.....	$9,600. Place of capture not stated.....	No legal adjudication appears...	Taken into Genoa.
218. United States Insurance Company of Philadelphia.	...do	February, 1811	Capture	Brig Julian	$9,280 59. Place of capture not stated.....	No legal adjudication appears...	Condemned at Dantzic by the French authorities.
219. United States Insurance Company of Philadelphia.	....do	June, 1811	Capture	Brig Clio	$6,619 25. Place of capture not stated.....	No legal adjudication appears...	The Clio was taken by a French privateer and run on shore near Cape Blanco, and lost.
220. United States Insurance Company of Philadelphia.	....do	July, 1811	Capture	Schooner Floret ...	$6,174. Place of capture not stated.....	No legal adjudication appears...	This vessel was taken by a French privateer and run on shore near Cadiz.
221. United States Insurance Company of Philadelphia.	....do	July, 1811	Capture	Ship Betsey	$16,170. Place of capture not stated.....	No legal adjudication appears...	None.
222. United States Insurance Company of Philadelphia.	....do	July, 1811	Capture	Schooner Alleghany	$1,470. Place of capture not stated.....	No legal adjudication appears...	This vessel was taken by a French privateer and despoiled in San Lucar.
223. United States Insurance Company of Philadelphia.	....do	April, 1812	Sequestration	Brig St. Michael's..	$3,500. See last column.....	No legal adjudication appears...	The brig St. Michael's was arrested in Amsterdam, sequestered under French decrees, and delivered by Holland to France.
224. United States Insurance Company of Philadelphia.	....do	May, 1812	Capture and destruction..	Ship Asia.....	$26,342. Place of capture not stated.....	No legal adjudication appears...	The ship Asia was destroyed at sea by a French squadron.
225. United States Insurance Company of Philadelphia.	....do	September, 1812	Capture	Brig Mary	$11,760. Place of capture not stated	No legal adjudication.....	This vessel was destroyed at sea by a French squadron.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
226. United States Insurance Company of Philadelphia.	France.....	February, 1813.	Capture.....	Ship Olive Branch.	$21,163 44. Place of capture not stated.....	Condemned at Paris. Date not stated.	This vessel was carried into Nyburg and condemned at Paris.
227. United States Insurance Company of Philadelphia.	....do.....	April, 1813.....	Capture.....	Ship William Wilson.	$7,056 35. Place of capture not stated.....	No legal adjudication.....	The ship William Wilson was destroyed at sea by the French frigate La Gloire.
228. United States Insurance Company of Philadelphia.	....do.....	April, 1813.....	Capture.....	Ship Asturiana.....	$10,000. Place of capture not stated.....	No legal adjudication.....	This vessel was despoiled at Santona.
229. United States Insurance Company of Philadelphia.	....do.....	April, 1813.....	Seizure and burning	Ship Apollo.....	$15,000. Place of seizure not stated,.....	No legal adjudication.....	The ship Apollo was taken possession of by French troops on the French lines, and by them despoiled with fire in Cadiz bay.
230. United States Insurance Company of Philadelphia.	....do.....	April, 1813.....	Capture.....	Ship Mentor.....	$5,000. Place of capture not stated	No legal adjudication.....	The ship Mentor was despoiled by the captors at Baracoa, in the island of Cuba.
231. United States Insurance Company of Philadelphia. See Nos. 77, 78, and 79.	....do.....	1812 and 1813..	Arrest and confiscation...	Brigs Bordeaux Packet, Diamond, and Perseverance, and ship Helena.	See Nos. 77, 78, and 79	No legal adjudication.....	See Nos. 77, 78, and 79.
232. Lancaster and Susquehanna Insurance Company.	....do.....	April, 1810.....	Capture and destruction..	Schooner Jefferson.	$3,400. Place of capture and destruction not stated.	No legal adjudication.....	This vessel was burnt and sunk at sea by a French squadron.
233. Lancaster and Susquehanna Insurance Company.	....do.....	February, 1811.	Capture.....	Brig Julian	$7,000. Place of capture not stated	Condemnation at Dantzic. Date not stated, nor whether there was any legal adjudication.	This vessel was condemned at Dantzic by the French authorities.
234. Lancaster and Susquehanna Insurance Company.	....do.....	July, 1811	Capture.....	Schooner Alleghany	$1,000. Place of capture not stated	No legal adjudication appears...	The Alleghany was taken by the French and despoiled at San Lucar.
235. Lancaster and Susquehanna Insurance Company.	....do.....	July, 1811	Capture.....	Ship Pilgrim.....	$5,000. Place of capture not stated	No legal adjudication appears...	The Pilgrim was taken by the French and despoiled at San Lucar.
236. Lancaster and Susquehanna Insurance Company.	....do.....	April, 1813.....	Burning.....	Ship Apollo	$10,000. Destruction took place at Cadiz bay.....	No legal adjudication.....	The ship Apollo was burnt by French troops.
237. Lancaster and Susquehanna Insurance Company.	....do.....	December, 1812	Burning.....	Barque General Balasteros.	$8,000. Place of destruction not stated.....	No legal adjudication.....	This vessel was burnt at sea by French vessels-of-war.
238. John B. Bernadon..	....do.....	April, 1810.....	Burning.....	Ship Apollo.....	$18,909 42. The destruction took place in Cadiz bay.	No legal adjudication.....	Same as in No. 236.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
239. Hugh McPherson...	France.....	April, 1810.....	Capture.....	Ship Ocean.....	$6,407 39. Place of capture not stated.....	Legal adjudication in 1810. Place not stated.	The ship Ocean was taken to the Isle of France and declared good prize. In 1820 the French Government awarded in favor of owners, and full compensation has been made to them. No indemnity has been allowed Captain McPherson, because, at the time of capture, no bills of lading of his property were found on board, as is required by a regulation of France of July 26, 1778.
240. James S. Ritchie and Wm. Young.	....do.....	June, 1809.....	Capture.....	Ship America.....	$3,805. Place of capture not stated.....	No legal adjudication appears...	The ship America was condemned in Holland under the Berlin and Milan decrees.
241. Daniel W. Coxe, Chas. Pleasants, Chandler Price, & G. Bryan.—See No. 136-140, Supplemental Claims on France.	....do.....	Dec., 1808.....	Capture or seizure.....	Snow Edward.....	$42,476 13 22,382 85 15,146 66 Amount, &c..... 80,005 64 Seizure made in the Isle of Rhe.	Condemned by the Court of Prizes, at Paris, December 24, 1808.	The Snow Edward put into the Isle of Rhe in distress; was taken possession of in port while seeking hospitality, and sent to Rochelle for adjudication, and condemned by the Court of Prizes at Paris, on the 21st December, 1808.
242. William North, A. Byerly, &c.	....do.....	Feb., 1810.....	Capture.....	Schooner Post Boy.	$21,440. Place of capture not stated.....	No legal adjudication appears...	The Post Boy was taken by the French, and despoiled at St. Sebastian.
243. Andrew Byerly, &c.	....do.....	March, 1810..	Burning.....	Brig Smilax.....	$15,579 59. Destruction took place at Cadiz bay...	No legal adjudication.....	The brig Smilax was destroyed by fire in Cadiz bay by French troops.
244. Lewis D. Carpentier's executors.	....do.....	Dec. 22, 1809, Mar. 23, 1810.	Seizure.....	Ship Hawk carried the property seized.	$5,900. Forty-five bales of Georgia and Louisiana cotton, sold for about $5,900, at an average price. Seizure made at Port Passage.	No legal adjudication.....	Lewis D. Carpentier shipped in the American ship Hawk, Brown master, 45 bales of Georgia and Louisiana cotton. The property was seized on board said ship, at Port Passage, February 5, 1810, by order of the Emperor Napoleon, issued December 22, 1809. It was afterwards sold, along with the cargo of said ship, by the Collector of Customs at Bayonne, on the 11th, 12th, and 13th September, 1810, under the Rambouillet decree, dated March 23, 1810, ordering the proceeds of the sale to be sent to Paris, and to be deposited in the sinking funds.
245. John Laval.....	....do.....	Dec. 22, 1809, Mar. 23, 1810.	Seizure.....	Ship Hawk carried the property seized.	$19,000. Seizure made at Port Passage.....	No legal adjudication.....	John Laval is the proprietor of this claim, under a transfer from Augustine Bousquet, the shipper of 50 bales of Sea Island cotton in the American ship Hawk, Michael Brown master, of Philadelphia. This property was seized at Port Passage, on board said ship, on the 5th February, 1810, in consequence of an order from the Emperor Napoleon, issued the 22d December, 1809, and afterwards sold, along with the cargo of said ship, by the Collector of the custom-house at Bayonne, on the 11th, 12th, and 13th of September, 1810, agreeably to the imperial decree of Rambouillet, dated 23d March, 1810, ordering the proceeds of the sales to be sent to Paris, and there to be deposited in the sinking funds. This shipment of fifty bales of Sea Island cotton, being the only one of the kind on board the ship Hawk, was sold separately from the rest of the cargo, at the average price of 350 francs per fifty kilogrammes, the duties to be paid by the purchasers, and yielded, clear, ninety to one hundred thousand francs, of which a separate entry was made in the books of the Collector of the custom-house at Bayonne. The vessel had not been visited by British cruisers.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
246. Jacob Schieffelin & Son, of New York.	France	June, 1809.....	Seizure	Brig Resort carried the property seized.	Invoice cost of cargo ..... $2,223 00 17 years' interest, from August 6, 1809, to August 6, 1826, at 7 per cent. lawful interest..... 2,637 72 4,860 72 Seizure made in the Texel.	The brig Resort and cargo were sold by an order of the Council of Prizes.	On the 16th of June, 1809, Jacob Schieffelin & Son shipped on board of the American brig Resort, Miles R. Burt master, 43 packages of drugs and medicines, amounting to $2,223, and consigned the same to Widow D. Smith, Son & Co. of Amsterdam, merchants, for sales and returns. The said brig had arrived in the Texel on or about the 6th of August, having taken a Dutch pilot on board, when two French privateers, L'Hebe, Captain Jolie, and the Tilsit, Captain Collet, seized and took possession of said brig Resort and cargo, and caused the same to be sold by an order of the Conséil de Prises, though the documents in proof of the American property were complete, and no violation of the laws by the captain, since his departure from New York, had been committed. These drugs sold for more than 100 per cent. advance on the invoice cost. The proof in support of the foregoing statement, consisting of original and authenticated copies, have been deposited by the agents of the claimants at the office of the American ministers at Paris, General Armstrong and the late Mr. Barlow, and also at the office of the Consul General at Amsterdam, the late Silvanus Bourne, Esq; and also in the hands of their agents, P. & C. Van Eeghen, Esq., Amsterdam.
247. Jacob Schieffelin & Son, of New York.	France and Holland.	1809 and 1810..	Sequestration.....	Ship Dean carried the property sequestered.	64 hhds. clayed sugar, 20 tierces and 1 barrel coffee, 10 casks of cocoa; the invoice cost..... $14,670 00 17 years' lawful interest, to June 26, 1826. 17,442 00 32,112 00 Sequestration made at Amsterdam.	The cargo of the ship Dean was deposited in the King's stores (of Holland) at Amsterdam, and placed under the decree of the 30th of June, 1809, and, by special agreement with the Government of Holland, was sequestered and surrendered to the French Government.	On the 26th June, 1809, Jacob Schieffelin & Son shipped from New York, on board the American ship Dean, Barzillai Cottle master, for Bremen, sugars, coffee, cocoa, and drugs, amounting to $20,000, and consigned the same to Hickson W. Field, then on board, for sales and returns. The said ship was compelled to enter the Texel, about the 1st of August, to repair the leak which was discovered in her, and proceeded to Amsterdam, where she was detained until the embargo was removed, about the 8th of September, when she obtained an order to that effect, and sailed for her destined port. In consequence of a dreadful storm in the Texel Roads, the ship Dean and several other vessels were cast away on the South Wall, near the Helder, where lighters were sent to save the cargo, which was carried up to Amsterdam, deposited in the King's stores, and placed under the decree of June 30, 1808, and, by special agreement with the Government of Holland, sequestered and surrendered to the French Government. The sugars, coffee, and cocoa, were sent to Antwerp and there sold, and the proceeds placed in the hands of the French Government; which proceeds exceeded more than 100 per cent. of the invoice cost. The same documents, as in the foregoing case of the brig Resort, can be referred to.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
248. Massachusetts Fire and Marine Insurance Company, of Boston.	France	Feb. 11, 1810...	Capture and condemnation	Schr. Four Brothers, Joshua F. Grozer master.	$3,465. The cost of the property in the United States exceeded the amount insured and paid for by the claimants. Capture made off Malaga.	No legal adjudication.....	The vessel was owned by Jonathan Cook and others, citizens of Massachusetts. She sailed January 4, 1810, from Provincetown, bound to Oran and a market, in the Mediterranean. When she arrived off Malaga, February 11, 1810, she was captured by the French and carried into Malaga, where the vessel and cargo were confiscated by General Sebastiani, the French commander at that place, by order of Marshal Soult.
249. Massachusetts Fire and Marine Insurance Company, of Boston.	France or Denmark.	May 2, 1811....	Capture and condemnation	Ship Hercules, Snow master.	$5,440 53. The cost of the property in the United States exceeded the amount insured and paid by the claimants. Capture made near the island of Oland.	Condemned by the Imperial Council of Prizes, September 10, 1811.	The Hercules sailed from Charleston, South Carolina, February 22, 1811, for a port in the Baltic. On the 5th of April, 1811, she was captured near Elsineur by a Danish privateer, and carried to Copenhagen, where she remained till the first day of May, when she was permitted to depart. On the next day she was taken by the French privateer Little Devil and carried to Dantzic, and was finally condemned by the Imperial Council of Prizes.
250. Massachusetts Fire and Marine Insurance Company, of Boston.	France	March 27, 1813.	Capture and scuttling at sea.	Brig Success, Babson master.	$4,950. The cost of the cargo exceeded the amount insured and paid for by the claimants. Place of capture not stated.	No legal adjudication.....	The brig Success was owned by C. Coolidge and others, of Boston, and sailed from Boston on the 8th day of March, 1813, bound for Cadiz, and on the 27th of said month was taken by the French frigate L'Arethuse, S. Bouvet commander, scuttled and destroyed.
251. Massachusetts Fire and Marine Insurance Company, of Boston.	....do	1810 or 1811....	Capture and sequestration.	Schooner Traveller, Paine master.	$3,603 30. The value in the United States exceeded the amount insured and paid by the claimants. Place of capture not stated.	The claimants know of no legal adjudication.	The schooner Traveller was owned by citizens of Massachusetts, and sailed from Boston on a voyage to Cadiz and Gibraltar in November, 1810. She was captured on her voyage by the French, carried into St. Lucar, and there sequestered.
252. Massachusetts Fire and Marine Insurance Company, of Boston.	....do	1809.....	Capture and sequestration.	Ship Arrow, Fletcher master.	$3,401 15, being the amount of net loss sustained by the claimants in consequence of the capture and sequestration. Place of capture not stated.	No legal adjudication.....	The ship Arrow, on her voyage from Boston for the Mediterranean in the summer of the year 1809, was captured by the French, carried into Frejus, and sequestered. The captain compromised with the captors.
253. Massachusetts Fire and Marine Insurance Company, of Boston.	....do	Nov., 1807.....	Seizure.....	Ship Lucy, Inglee master.	$6,430. The value of the ship in the United States was $12,000.	The claimants know of no legal adjudication.	The ship Lucy was seized in the port of Hamburg, in November, 1807, by the French Military Commandant of that place, and was confiscated by order of the French Government.
254. Heirs of Sam'l Gray, late of Boston. Samuel C. Gray, agent.	....do	Aug. 1, 1810...	Capture.....	Schooner Lydia, Cheever master.	Value of vessel..... $4,000 00 Cargo..... 22,723 28 Freight..... 1,146 67 Expenses of detention at Christiansand, &c. 765 00 Expenses of supercargo to and from Paris, sent thither to defend the case before the Council of Prizes, and expenses of employing an advocate ..... 1,993 73 30,628 68 Recovered from insurers on vessel and cargo 20,357 00 Recovered a part of expenses of detention and suit..... 2,300 00 Total..... 53,285 68	The vessel and cargo were first tried by the Council of Prizes, at Paris, who referred the case to the Emperor Napoleon, and he condemned them, September 14, 1811.	The schooner Lydia, on her passage from St. Petersburg to Salem, was captured August 1, 1810, by the French privateer Figaro. The condemnation by the Emperor Napoleon was made on the unjust pretext that the vessel had navigated under the protection of the British. Amount of balance uninsured from said vessel and cargo, which the heirs claim, is, exclusive of interest, $7,991 68.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
255. Nathaniel P. Russell, agent, &c. *Mem.*—The claimant has, subsequently to the insertion of his claim, withdrawn it, having discovered that the Betsey was captured by a Spanish, and not by a French privateer, as he had supposed.	France	1807	Capture	Schooner Betsy, Hooper master.	$2,300. Place of capture not stated	No legal adjudication	This vessel, bound from Boston to Bilboa, was captured by a French privateer and carried into Bilboa, and one half of the cargo given up to save the remainder. This and the fifteen following cases are claims made for losses sustained by the claimant as agent for the underwriters.
256. Nathaniel P. Russell, agent.	do	1808	Capture	Ship Grace, Linzee master.	$4,500. Place of capture not stated	Condemnation at Paris. Date not stated.	The ship Grace, bound from Boston to Leghorn, was captured by a French privateer, carried to Porto Ferrajo, in the island of Elba, and condemned at Paris on an allegation that she had been boarded at sea by an English vessel.
257. Nathaniel P. Russell, agent.	do	1808	Capture	Ship Science	$4,400. Place of capture not stated	Not stated	This ship, bound from London to New York, was captured by the French privateer Admiral Martin, Fortis commander, and carried to Bilboa, in Spain. Total loss paid February 13, 1810.
258. Nathaniel P. Russell, agent.	do	1809	Capture	Schooner Philander	$2,000. Place of capture not stated	Condemnation at Guadaloupe. Date not stated.	This schooner, bound to the West Indies from New Haven, was captured by a French privateer, carried to Guadaloupe, and condemned.
259. Nathaniel P. Russel.	do	1809	Capture	Brig Perseverance	$7,300. Place of capture not stated	No legal adjudication	The Perseverance, bound from Boston to the Mediterranean, was captured by a French privateer, carried to Civita Vecchia, and detained two years; she was finally acquitted. The capture and detention caused a total loss of $6,000 on the vessel and $1,300 on the cargo.
260. Nathaniel P. Russell, agent.	do	1810	Capture	Ship Exertion	$7,000. Place of capture not stated	Condemnation in France. Date not stated.	This ship, bound from Valencia to Great Britain, was captured, carried into France, and condemned.
261. Nathaniel P. Russell, agent.	do	1810	Seizure	Ship Franklin	$5,000. Seizure made at St. Sebastian	No legal adjudication	The Franklin arrived at St. Sebastian, and was immediately seized by the agents of the Emperor Napoleon. Total loss.
262. Nathaniel P. Russell, agent.	do	1810	Seizure	Ship Sally	$3,000. Seizure made at St. Sebastian	No legal adjudication	The ship Sally was seized at St. Sebastian and acquitted. The seizure caused a total loss of the freight to the underwriters and a loss on vessel.
263. Nathaniel P. Russell, agent.	do	1811	Capture	Brig Catharine	$9,000. Place of capture not stated	Condemned at Paris. Date not stated.	The brig Catharine was captured by a French privateer, carried to Dantzic, and condemned at Paris.
264. Nathaniel P. Russell, agent.	do	1810	Capture	Schooner Lydia	$9,600. Place of capture not stated	Condemned at Paris. Date not stated.	The schooner Lydia, from Russia to the United States, was captured by a French privateer, carried to France, and finally condemned at Paris.
265. Nathaniel P. Russell, agent.	do	1811	Capture	Brig Harmony	$6,200. Place of capture not stated	Not stated	This vessel was captured by the French, and carried to Leghorn. The cargo was sold by the captors. The vessel was finally acquitted, but a total loss was caused.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
266. Nathaniel P. Russell, agent.	France and Denmark.	1811.....	Capture	Brig Hannah.....	$2,200. Place of capture not stated.....	Not stated	The brig Hannah, on a voyage from England to Russia, was captured by a French privateer and carried into Copenhagen. Total loss.
267. Nathaniel P. Russell, agent.	France.....	1812.....	Capture	Brig Pallas.....	$600. Capture made near Cadiz.....	Not stated	The brig Pallas was captured by a French privateer near Cadiz, carried to St. Mary's, and was there unloaded for the benefit of the captors.
268. Nathaniel P. Russell, agent.	....do	1812.....	Capture	Schooner Mary	$7,000. Place of capture not stated.....	No legal adjudication.....	The schooner Mary was captured by the French, on her passage from Oporto to Messina, and lost at sea while in possession of the captors.
269. Nathaniel P. Russell, agent.	....do	1813.....	Destruction at sea	Brig Success	$6,500. Place of capture not stated	No legal adjudication.....	The brig Success, bound from Boston to Cadiz, and was destroyed at sea by the French frigate L'Arethuse, Captain Bouvet. Total loss of vessel and cargo.
270. Nathaniel P. Russell, agent.	....do	1810.....	Seizure	Schr. Two Friends	$3,000. Seizure made at Civita Vecchia.....	Not stated.....	This vessel arrived from the United States at Civita Vecchia, where she was seized and sequestered by the Government. Total loss.
271. Joseph Bell and Joseph Watson, for themselves and for the estate of Wm. Bell, dec'd, as his executors.	....do	May 22, 1805...	Capture	Brig Susanna, Criswell master.	$2,528 70. See last column. Place of capture not stated.	No legal adjudication.....	The brig Susanna was owned by William Bell, Joseph Bell, and Joseph Watson, of Philadelphia, who loaded her with a cargo of flour for their account, bound to Barbadoes, Martinique, Laguayra, and St. Jago de Cuba, consigned to Maurice Rogers, supercargo on board. After touching at the first three named ports, and on her voyage to the last, she was captured on the 22d day of May, 1805, by the French privateer La Eliose, Monsieur Dumaine master, and carried into St. Jago de Cuba as a prize on the next day, and the voyage thereby destroyed and broken up. Her cargo was discharged and placed in the public stores, under the cognizance of the Spanish authorities, where it remained so long as to become spoiled and deteriorated while the captors were seeking a condemnation elsewhere, and the vessel much injured by worms, plunder, &c. When the authorities permitted a sale, from the great expenses which the supercargo was compelled to pay, it resulted in almost a total loss. The brig and cargo were insured; the freight of $1,545 was not. On hearing of the capture, an abandonment of vessel and cargo was made to the underwriters, who paid the loss, and a cession thereof made to them by the assured. The amount of freight, with $1,946 70 interest, from June 1, 1805, to October 1, 1826, (21 years and 4 months, at 6 per cent. per annum,) make $3,491 70, from which deduct a credit of $454 89, received from proceeds of sale apportioned to the freight on the 19th of February, 1808, with $508 11 interest thereon to October 1, 1826, amounting to $963, and there remains the sum of $2,528 70 due to the claimants at that period by the Government of France. The claimants understood that proceedings were commenced at St. Jago de Cuba in 1805, but never finished, and by the intervention of the Spanish authorities sales were made when damaged or reduced in value.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.		Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
272. Joseph Bell and Joseph Watson, for themselves and for the estate of Wm. Bell, dec'd, as his executors.	France	Feb. 13, 1810	Seizure and confiscation	Ship Hawk	Value seized in Port Passage February 13, 1810	$1,300 00	No legal adjudication	The ship Hawk belonged to Abraham Piesch, of the city of Philadelphia, laden by various shippers for the port of St. Sebastian, amongst whom were Cranston, Alexander & Smith, who had on board 12 hogsheads of tobacco, two-thirds of which, that is, the interest of Cranston & Alexander, were purchased afloat by William Bell, Joseph Bell, and Joseph Watson, upon which they caused insurance to be effected, valued at $1,300, warranted free from seizure in port. She arrived at Port Passage on the 5th of February, 1810, to perform a quarantine of eight days, without speaking or meeting with any British or other vessels on her passage. Whilst there possession was taken of her by French soldiers, on or about the 13th of February, 1810, by order of their Government, as being sequestered. The cargo was confiscated and carried into Bayonne, where it was sold; which being a seizure in port, the underwriters were exonerated by the warranty of the assured. This claim is, therefore, made for the sum insured and $12 05 for a proportion of the supercargo's expenses, with interest thereon from the date of seizure to the 1st of October, 1826, being $1,309 37, making together $2,621 42 justly due by the Government of France to the said claimants to that period.
					Proportion of supercargo's expenses in Bayonne	12 05		
						1,312 05		
					Interest from date of seizure to October 11, 1826	1,309 37		
					Due claimants	2,621 42		
273. Jos. Bell and Jos. Watson, for themselves and the estate of Wm. Bell, deceased, as his executors.	do	May 4, 1811	Capture	Brig Julian, Abbott master.		$5,000 00	No legal adjudication appears	The brig Julian, her freight, and part of her cargo, belonged to William Bell, Joseph Bell, and Joseph Watson, who caused insurance to be effected in Philadelphia and New York "at and from Philadelphia to Gottenburg and a market." She sailed, accordingly, with all the usual documents and consular certificates of Denmark, Sweden, and France, on the 10th of May, 1810, consigned to William Bell, jr., supercargo on board. On the 21st of June she was captured by a Danish privateer and taken into Christiansand, libelled, and, after much detention, cleared by the Prize Court. From this decision the captors appealed to the High Court of Admiralty at Copenhagen, which restored the vessel and cargo December 1, 1810. On hearing of this capture, the insured abandoned to the underwriters in Philadelphia, who having paid, a cession of claim upon the captors was made to them by the assured for the amount of their respective subscriptions, with the exception of George Smith, a private underwriter in James Crawford & Co.'s office, to the amount of $5,000 on cargo, which, from his insolvency, he did not pay; nor did he get a cession, thereby leaving the property in the assured. Early in April, when the Baltic opened, Captain Abbott sailed from Christiansand for Gottenburg, and from thence on the 23d for St. Petersburg, when,
					Interest from May 4, 1811, to October 10, 1826, 15 years, 4 months, and 27 days.	4,622 50		
						9,622 50		
					Capture made in the Baltic.			

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
273. Continued	.....	.....	.....	.....	.....	....	on the 4th of May, he was captured by the French privateer Empress Maria Louisa, Foucherau, and sent into Dantzic. Complete possession was taken of vessel, cargo, and papers, by the owners or agents of said privateer, which papers they forwarded to Paris, where, on the 11th of September, 1811, the whole was totally condemned by a special decree of Bonaparte. This claim being, therefore, in the original shippers, and not in the said George Smith, is made, with interest thereon, from date of capture and dispossession of their property, to the 1st of October, 1826, at 6 per cent. per annum, amounting together to $9,622 50, due to the claimants by the Government of France to that period. The case of the Julian was represented to the Department of State on the 19th of January, and November, 1811; to which documents reference can be had. No abandonment could be made to the underwriters, in New York, until six months after capture, unless sooner condemned, on which they finally paid.
274. Union Insurance Company of Philadelphia.	France	.....	Capture	Schooner Clarissa, Townshend master.	July 1, 1806, paid loss..... $2,000 00 October 16, 1806, paid loss..... 673 26 2,673 26 Place of capture not stated.	Condemned at Baracoa. Date not stated.	This property was insured for Garrigues & Marshall January 6, 1806, from Philadelphia to St. Domingo, and back. On her homeward passage the schooner was captured by three French privateers, the schooners Napoleon and Reynard, and a felucca, called the Sierbo, and carried into Baracoa.
275. Union Insurance Company of Philadelphia.	....do.....	March, 1806...	Capture	Brig Fame.....	June 14, 1806, paid loss for insurance for James Lyle..... $901 60 May 4 and 5, 1806, paid loss for insurance for Wharton and Mifflin..... 3,880 00 Paid June 4, 1806, for insurance for John W. Swift..... 695 80 5,477 40 Place of capture not stated.	There does not appear to have been any legal adjudication.	The brig Fame, on her voyage from Cape François to Philadelphia, was captured by a French privateer and carried into St. Jago de Cuba. The insurance for Lyle had been made March 14, 1806; that for Wharton and Mifflin, March 15, 1806; and that for John W. Swift, March 17, 1806.
276. Union Insurance Company of Philadelphia.	....do.....	May 28, 1806..	Capture	Brig Rolla.....	Loss paid January 9, 1809, $3,287 85. Place of capture not stated.	The Rolla was tried at St. Domingo and acquitted. Date not stated.	The brig Rolla was insured for F. Dusar, for account of A. Marshall, May 7, 1806, on a voyage from New York to St. Jago de Cuba, and back. She was captured on the 28th of May, 1806, by the French privateer schooner Napoleon, Captain Ezart, under General Ferrand's proclamation, and carried into the city of St. Domingo. She was tried and acquitted, but had been plundered, while in the possession of the privateer, of a large part of her cargo.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
277. Union Insurance Company of Philadelphia.	France	Jan. 13, 1810	Capture	Brig Cupid	Loss paid January 19, 1809, $1,106 14	The claimants know of no legal adjudication.	The Cupid was insured for J. J. Borie, December 7, 1809, from Philadelphia to St. Sebastian, or Port Passage. She was captured on the 13th of January, 1810, by the French privateer Marshall Moncey, Captain Jean Magnes, and carried into St. Jean de Luz, and the cargo there discharged. Compromised with the captors, and the balance of loss is $1,106 14.
278. Union Insurance Company of Philadelphia.	....do	1810	Capture	Ship America	Loss paid March 31, 1812, $1,857 06. Place of capture not stated.	Some judicial proceedings appear to have been had at Dunkirk. Date not stated.	The claimants insured for B. & J. Bohlen $6,000 December 15, 1809, from river Jahde to Philadelphia. The amount claimed appears to be the claimant's proportion of expenses in defending a suit on being carried into Dunkirk, &c.
279. Union Insurance Company of Philadelphia.	....do	About May, 1806	Capture	Schr. Wilmington	Loss paid August 4 and Sept. 18, 1806 ... $4,900 00 Loss paid August 21, 1806 ... 1,715 00 Loss paid August 22, 1806 ... 980 00 Loss paid August 23, 1806 ... 1,188 68 Amount, &c ... 8,783 68	Condemnation at St. Thomas. Date not stated.	The claimants insured for J. W. Clements & Co., March 28, 1806 ... $5,000 00 January 15, 1806, for Lapsley & Wheeler ... 1,750 00 May 3, 1806, for John Bacon ... 1,000 00 January 17, 1806, for William Robertson ... 1,400 00 This schooner was captured on her passage from Port au Prince to Philadelphia, carried into St. Thomas, and condemned.
280. Union Insurance Company of Philadelphia.	....do	About May, 1807	Seizure	Brig Nancy & Katy	Place of capture not stated. Loss paid November 23, 1807, $959 20. Seizure made at Nantz.	The claimants know of no legal adjudication.	The sum claimed is the amount of expenses paid on $14,000, insured March, 1807, for James Latimer, to procure restoration of the property.
281. Union Insurance Company of Philadelphia.	....do	May 11, 1812	Destruction	Brig Mary	Loss paid August 15, 1812, $5,880. Place of destruction not stated.	No legal adjudication ...	The claimants insured $6,000 for Lewis Clapier on goods from Havana to Smyrna. The brig was captured May 14, 1812, by two French frigates, the Ariadne, Commodore Forrester, and L'Andromache, Captain Maurice, and corvette Mamaluke, Galbert, who plundered the most valuable part of the cargo and scuttled and sunk the vessel.
282. William R. Gray, of Boston.	....do	Jan. 28, 1808	Capture	Ship Grace, Linzee master.	50 bales India goods ... $10,397 69 Expenses ... 565 88 10,963 57	Condemned by Imperial Council of Prizes, at Paris, July 6, 1808.	The Grace was captured by the privateer Cosmopolite. The goods were shipped by claimant at Boston, November, 1807, for Leghorn, and carried to Porto Ferrajo, in Elba, January 28, 1808.
283. William R. Gray, of Boston.	....do	February, 1810.	Confiscation	Ship Hawk, Brown master.	Capture made off Porto Ferrajo. $4,100. Confiscation took place at Port Passage ...	No legal adjudication ...	The ship Hawk arrived at Port Passage February 5, 1810. Soon after she was confiscated by French authority. Claimant insured for Dominick Lynch and Robert Kearney, of New York. Total loss paid.
284. William R. Gray ...	....do	January 7, 1810.	Confiscation.	Schooner Perseverance, Misseny master.	$500. Confiscation took place at Bilboa ...	No legal adjudication ...	Insured for Haskell and Messeny, by Peter Lander, at Salem, agent for the claimant. Total loss paid.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
285. William R. Gray ...	France	1810.....	Capture	Brig Eliza, Macey master.	Loss paid, including premium of insurance. $1,500 00 Expenses..... 40 00 Amount, &c..... 1,540 00	There seems to be no legal adjudication.	Insured for John C. Jones, $3,000.
286. William R. Gray ...	....do	March, 1809...	Capture	Brig Carolina, Drew master.	Capture made at St. Sebastian. ..... $1,500 00 Premium ..... 300 00 Amount, &c..... 1,800 00	There seems to be no legal adjudication.	The Carolina, bound from Boston to Sicily, was captured by a French privateer and carried to Naples. One-half of the cargo was given for the release of the residue.
287. Charles Bradbury, &c.	....do	1810.....	Detention	Ship Arrow.....	Place of capture not stated. $6,854. Detention and loss took place in France....	No adjudication appears.....	Compromised with the captors.
288. Charles Bradbury, &c.	....do	1810.....	Detention	Brig Caroline	$5,500. Detention and loss took place in France....	No adjudication appears.....	Compromised with the captors.
289. Charles Bradbury, &c.	....do	1809.....	Capture and burning.....	Ship Henrietta.....	$10,000. Place of capture not stated.....	No adjudication.....	The ship Henrietta, on her voyage from Liverpool to the United States, was burnt at sea by a French vessel-of-war.
290. Charles Bradbury, &c.	....do	1810.....	Capture	Ship Mary.....	$2,713 48. Place of capture not stated	No adjudication.....	The ship Mary was captured by the French and recaptured by the English.
291. Charles Bradbury, &c.	....do	1810.....	Seizure.....	Brig Ocean	$3,000. Seizure made at St. John de Luz.....	No adjudication appears.....	This vessel was seized by the French at the port of St. John de Luz, where she was driven by stress of weather, and carried to St. Sebastian.
292. Charles Bradbury, &c.	....do	1810.....	Capture	Schooner Hope	$3,400. Place of capture not stated.....	Condemned, but the time and place not stated.	None.
293. Charles Bradbury, &c.	....do	1810.....	Capture	Ship Franklin.....	$1,000. Place of capture not stated.....	Condemned; time and place not stated.	None.
294. Charles Bradbury, &c.	....do	1810.....	Seizure.....	Schooner Morning Star.	$3,000. Seizure made at Civita Vecchia.....	No legal adjudication.....	This vessel was seized by the French and confiscated.
295. Charles Bradbury, &c.	....do	1810.....	Capture and condemnation	Brig Olive Branch..	$7,000. Place of capture not stated.....	Not stated.....	None.
296. Charles Bradbury, &c.	....do	1811.....	Capture	Schooner Friendship	$7,000. Place of capture not stated.....	No adjudication.....	This schooner was captured by the French and recaptured by the English. In consequence of her capture, a total loss was the result.
297. Charles Bradbury, for self and others.	....do	1810.....	Capture	Ship Triumphant ..	$260 70. Place of capture not stated.....	No adjudication.....	The Triumphant was captured by the French and recaptured by the English.
298. Charles Bradbury, for self and others.	....do	1810.....	Robbery.....	Schooner Trim	$2,178 80. Place of capture not stated	No adjudication.....	The schooner Trim was robbed at sea by a French privateer.
299. Charles Bradbury, for self and others.	....do	1809.....	Capture.	Ship Weymouth....	$552 51. Place of capture not stated.....	No adjudication.....	The ship Weymouth was captured by the French and recaptured by the English.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
300. Maryland Insurance Comp'y, assignees of Thos. Tenant.	France	May, 1809	Capture	Schr. Little John, Hinton master.	Cargo $26,000 00 Vessel 10,000 00 Amount, &c 36,000 00 Capture made between the islands of Cerigo and Milo.	Condemned by Jean Baptiste Fonnelly, French Consul at Navarino, in the Morea, on the 9th of June, 1809; whether by legal adjudication does not appear.	The protest states the schooner sailed from Baltimore April 14, 1809, bound for Smyrna, and was captured the 29th of May following, between the islands of Cerigo and Milo, by the French privateer Ulysses, Captain Carnagle, and carried the same day into Cerigo. On the next day sailed in company with the privateer and two other prizes, and on the 5th of June the privateer's captain, with the French Consul, opened the papers of the Little John, and after examining them took them ashore. The captain and crew were kept on board without any communication with the shore until the 18th. On the 19th condemnation was handed to Captain Hinton, dated the 9th of June, although the papers of the Little John were never opened until the 17th.
301. Maryland Insurance Comp'y, assignees of Lemuel Taylor.	France or Denmark.	August, 1810	Capture	Ship Ploughboy, Wilkins master.	Cargo, $30,000. Capture made near the island of Sylt.	Condemned at Paris, the 9th of January, 1811.	The ship Ploughboy was captured by an open French boat called La Reciprocite, commanded by Captain Masse, from Dunkirk, near the island of Sylt, in Denmark. Every exertion was made in Paris to defend the property by I. R. Wilmer, the supercargo, and others employed by him. Mr. Russel, Chargé d'Affaires, was apprised of the capture, &c., as also Mr. Barlow, minister, who, the claimants believe, communicated the circumstance to the State Department in March, 1811, or thereabouts. The papers and documents are in Paris, (where she was condemned and the condemnation confirmed by the Emperor,) probably in the hands of Mr. Luke Callaghan or Mr. Le La Grange, who was employed as counsellor for the owner of the Ploughboy. She sailed from Baltimore in June, 1810, for the port of Sylt, in Denmark.
302. Maryland Insurance Comp'y, assignees of C. F. Kalkman.	France	August or September, 1810.	Capture or seizure.	Schooner Ant, Parrish master.	Vessel $8,000 00 Cargo 10,100 00 Amount, &c 18,100 00 Seizure made near Sylt.	Condemned at Paris, January 9, 1811.	The Ant sailed from Baltimore in August, 1810, for Sylt, as the protest states. When lying off and on a boat came out of the harbor; when within two and a half miles off the shore the Ant was fired on and taken forcible possession of, and carried into Sylt by a French privateer, called La Reciprocite, Captain Masse. The captain and crew of the Ant were transported to Hussum, where, after a detention of some days, they were set at liberty, and then entered a protest. It is conjectured the condemnation took place at Paris.
303. Maryland Insurance Comp'y, assignees of Samuel Sterett, for G. Rossier and Roulet and others.	....do.....	March 30, 1810	Capture	Ship Whampoa....	Cargo $14,240 00 Freight 22,000 00 36,240 00 Place of capture not stated.	Condemnation by the Imperial Council of Prizes, at Paris, in November, 1810.	This ship sailed from New York for Tonningen in March, 1810, and was captured by the French privateers L'Hebe, Le Santour, &c., on March 30, 1810, and carried into Niewe Diep. The protest was made at the Helder the 6th of April, 1810. The cargo, as appears by a letter from W. & I. Willink, of Amsterdam, was sold at Antwerp about the middle of November, 1810. Mr. McIvers, one of the owners of the ship and cargo, being in Europe at the time of the capture, used every exertion to prevent condemnation and to get the property restored, but to no effect.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
304. Maryland Insurance Comp'y, assignees of Henry Schroeder.	France	Jan. 24, 1808, or Dec. 8, 1810.	Capture	Ship Aurora	29 hogsheads of tobacco, insured in two policies, $2,170. Gross proceeds at Morlaix, 26,439 francs, equal, at 18¾ cents in France, to $4,957 30. Capture made off St. Malo.	Proceedings were had before the tribunal at Morlaix and the Commissioners of Prizes at Brest. Condemnation at Paris June 8, 1808; and final condemnation, by the Emperor, December, 1810.	The ship Aurora left Baltimore for Amsterdam December 14, 1807. On the 21st January, 1808, she was boarded by the British sloop-of-war Rose, who put an officer on board with orders to carry her to Plymouth. On the 24th January, 1808, she was taken by the French privateer L'Incomparable and carried to Morlaix. The ship and cargo were there sold in September or October, 1808, and produced, gross, 585,303.83 francs.
305. Lynde Walter	....do	March, 1810 ...	Capture	Schr. Sally, Hollingsworth master.	Vessel and freight ..... $5,066 00 15 bags pepper, 1,200 pounds ..... 320 00 350 quintals of codfish of claimant and T. B. Wales & Co., each one-half .... 4,200 00 For Bixbly, Valentine & Co., and others, codfish ..... 8,016 00 Loss on property insured by John C. Jones and E. Hance, for T. B. Wales & Co., at 25 per cent. to be deducted from the amount claimed by claimant and T. B. Wales ..... 800 00 Amount, &c ..... 18,408 00 Capture made off Liquito.	No legal adjudication	The Sally sailed from Boston on or about February 6, 1810; arrived at Lequito, a fishing town about thirty miles to the westward of St. Sebastian. She was boarded by a fishing boat, which took possession of her and carried her in. Some days after an officer and French soldiers, from Bilboa, came on board her and carried her to St. Sebastian. She was thence carried to Bayonne, where, on the 10th of April, the cargo was discharged, and the vessel stripped and hauled up under the control of the custom-house. Finally, the Government proceeded to make sales on the 1st of August, the whole proceeds of which were placed in the French Emperor's chest of amortissement, and lost to the claimants. The claimant states that he claims for himself, as administrator of John Hollingsworth.
306. Maryland Insurance Comp'y, assignees of John Barney. *Mem.* This claim is also made by John Barney, but for the sum of $10,000. (See No. 396.)	....do	Dec., 1809	Capture	Schooner Hawk ...	$8,000. Capture made near St. Sebastian	No adjudication	The schooner Hawk sailed from Baltimore in October, 1809, for St. Sebastian, in Spain. When off that port, and very near it, she was boarded by some French privateers, or boats, carried into that port, and finally lost to the owners.
307. Robert Lenox and Archibald Gracie.	....do	Not stated	Condemnation	Ship Port Mary	$20,000. The place of loss not stated	Condemnation. Date not stated.	The agent for the claimant refers to papers on the Florida treaty, Nos. 1 to 8, filed in the Department of State.
308. Marblehead Social Insurance Company.	....do	Dec. 28, 1809..	Seizure	Schr. Two Sons ...	$2,000. Seizure made at Bilboa	No legal adjudication	The schooner Two Sons was sequestered by the Emperor Napoleon. The amount claimed was paid to J. Lindsay, the insured.
309. Marblehead Social Insurance Company.	....do	Dec., 1809....	Capture	Schooner Joseph...	$4,000. Capture made off Bilboa	Supposed to have been condemned at Paris in 1810.	This vessel was captured by a French launch and carried into St. John de Luz. The amount claimed was paid to S. Stacey, N. Bartlett, and G. Burke, the nsured.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
310. Marblehead Social Insurance Company.	France	July 1, 1810	Capture	Schooner Eleanor	$4,000. Place of capture not stated	Condemnation at Seville, in Spain, by a French commission. Date not stated.	This vessel was captured by the French privateer L'Aigle and carried into St. Lucar. The amount claimed was paid to S. Horton and T. Williams, the insured.
311. Marblehead Social Insurance Company.	do	Feb. 22, 1811	Sinking	Schooner Endeavor	$150. Place of loss not stated	No adjudication	This schooner was plundered and sunk at sea by the French frigates Renomme, Nereide, and Clorinde. The amount claimed was paid to J. Tucker, the insured.
312. Representatives of the late John Bell, of Petersburg, Va.	do	1809	Capture	Ship Susan	$9,450. Place of capture not stated	Condemned at Calais. Date not stated.	This vessel was carried into Calais, in France, and condemned.
313. John B. Murray	do	1807	Seizure	Ship Victory, Caleb Hopkins master.	$52,849 90, with interest from 1st July, 1808, till paid. Seizure made at Cherbourg.		The ship Victory, bound for Cherbourg, with 896 bags of India sugar, and consigned to Messrs. V. Homberg Freres & Co., merchants at Havre, for account of claimant and another house in New York, was taken by an English privateer and conducted to anchor off the port of Plymouth, in England, but in a very short time was liberated and allowed to proceed to her original port, where she arrived and was duly entered at the custom-house. After landing a small part of the lading, the ship, with all the cargo, was seized by the officers of Government, tried and condemned for having been in the hands of the British, and on the 27th of June, 1808, were sold at public auction, when the 896 bags of sugar, net export weight of which was cwt. 1,438 0 20, equal to 73,100 kilogrammes, brought at various prices equal to an average of 420 francs per 100 killogrammes, being ..... frs. 299,710 00 From which deduct freight for bill of lading £287 12s. sterling, at 24 ..... frs. 6,903 00 Primage, 5 per cent ..... 345 00 Auction duties paid by the purchaser, 5 per cent. ad valorem ..... 15,000 00 22,248 00 Leaving net proceeds ..... 277,462 00 Which 277,462 francs, at 5.25 per dollar, is $52,849 90
314. Henry Prince and Thomas Haskell, of Salem.	do	Jan. 2, 1810	Seizure	Schooner Perseverance.	$17,603 25. Seizure made at Bilboa	No legal adjudication	In the year 1809 the claimants were joint owners with Mark Messewy, of Marblehead, of the said schooner. The cargo, consisting of fish, was also owned by the claimants, as follows: half by Prince, quarter by Haskell, and one-quarter by Messewy. The schooner sailed from Salem 15th November, 1809, bound to Bilboa, in the Kingdom of Spain, where she arrived on the 24th December, and took preparatory measures for discharging her cargo, having requested license therefor from the proper authorities. On the 2d of January, 1810, the schooner and cargo were seized and sequestered, by order, in that city, in consequence whereof the schooner and cargo were wholly lost.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
315. Thomas Tenant and Roswell Colt, trustees of Lemuel Taylor.	France	Not stated	Bills protested		226,892 francs, at 18¾ cents per franc, equal to $42,542 25.		This claim is for bills drawn by the Colonial Prefect of St. Domingo on the Paymaster General of Marines at Paris, and protested.
316. Thomas Tenant and Roswell Colt, trustees of Lemuel Taylor.	do	1809	Capture	Brig Ohio	$50,000. Place of capture not stated	No legal adjudication	The amount claimed is for three-fifths of the brig captured, in 1809, by a French privateer, carried into a port near Tunis, and property taken without condemnation.
317. Thomas Tenant and Roswell Colt, trustees of Lemuel Taylor.	do	January, 1810	Seizure	Brig Two Friends	Sales of the cargo, 495,000 francs, equal, at 18¾ cents per franc, to $92,812 50 Value of vessel 10,000 00 Amount 102,812 50 Seizure at Amsterdam.	No legal adjudication	The cargo of this brig was seized by the French at Amsterdam, January, 1810, and taken by the French authorities, in conformity to the treaty signed between France and Holland, at Paris, 16th March, 1810.
318. Thomas Tenant and Roswell Colt, trustees of Lemuel Taylor.	do	1810	Capture	Ship Ploughboy	$250,000. See last column	Condemnation at Paris. Date not stated.	This vessel was bound for Tonningen in 1810. She was captured near Sylt by a small French privateer, sent into Husem, and claimed for owners by the Danish Government, but finally condemned at Paris. The claim is for seven-eighths of the ship, worth $20,000, and nine-tenths of the cargo, sold for upwards of $250,000.
319. Thomas Tenant and Roswell Colt, trustees of Lemuel Taylor.	do	1810	Seizure	Schooner Fawn and schooner Postboy.	The estimated value of the schooner Fawn and two cargoes is $50,000 00 Claimant's interest in the schooner Postboy is 7,000 00 Amount of loss, &c. 57,000 00 Seizure made at St. Sebastian.	Not stated	The schooner Fawn, and her two cargoes, and the schooner Postboy, were seized under the decree of 23d of March, 1810.
320. Thomas Tenant and Roswell Colt, trustees of Lemuel Taylor.	do	Not stated	Seizure	Schooner Kite	$10,000. Seizure made at Naples	Condemnation at Naples. Date not stated.	This vessel was seized at Naples and condemned. The amount claimed is the claimant's interest, being one-third, in the schooner.
321. James Cook	do	Dec. 28, 1809	Confiscation	Schooner Hette	Amount of invoice and insurance $1,963 27 Amount of sales at St. Sebastian and Bayonne 5,476 80 Confiscation at St. Sebastian.	No legal adjudication	Papers, protests, &c., with heirs of William Gray, James Cook, and others, and copies with the Secretary of the Commissioners under the Florida treaty.
322. James Cook	do	Not stated	Confiscation	Little Dromo	Amount of invoice and insurance, $500. Confiscation at Marseilles.	No legal adjudication	Papers, protests, &c., with Leonard Kimball or his attorney. The claim is for insurance by George Nickolls, assigned by him to claimant.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
323. James Cook.....	France.....	March 16, 1810	Sequestration.....	Franklin	Amount of invoice and insurance, $2,000. Sequestration at St. Sebastian and Bayonne.	No legal adjudication.....	Account of sales in the hands of Lemuel Pope, of Boston. This amount is for a policy effected by Joshua Goodale for Richards & Jones and Judah Hays, and is included in their shipment. James Cook is attorney for said Goodale.
324. James Silver and others, of Salem.	....do.....	November, 1805	Capture	Schooner Good Intent.	Value of vessel..... $5,000 00 Value of cargo..... 15,000 00 20,000 00 Place of capture not stated.	No adjudication.....	The Good Intent sailed from Salem to St Thomas, in the West Indies, thence touched off Laguayra, and was not permitted to enter that port. She sailed thence for St. Jago, and was captured on her passage by a French privateer and carried into St. Jago de Cuba. The privateer took sole possession of vessel and cargo and turned adrift the captain and crew. The property American.
325. Jeremiah Briggs, for self and others.	....do.....	April 6, 1810...	Capture	Brig Welcome Return.	Value of vessel on her departure from Salem..... $9,500 00 Cargo in specie ..... 500 00 Expenses in Bourbon and Salem..... 3,137 00 13,137 00 Capture made at Mingen.	No legal adjudication.....	The brig Welcome Return, Abner Briggs master, sailed from Salem the — day of October, 1809, for Mingen, a native port on the west coast of Sumatra, and arrived at the said port on the 6th of April following. After she had been about two hours at anchor a French privateer, the Lottery, from the Isle of France, boarded her and carried her to St. Paul's, in the Isle of Bourbon, where she arrived on the 7th of June following, and was sequestered. The island afterwards, or during the time the property remained in that state, was taken by the British, by which means the property was wholly lost to the owners.
326. Marine Insurance Company.	....do.....	Feb. 4, 1805 ...	Capture	Brig Fame.....	$1,000. Place of capture not stated	Adjudication at St. Jago de Cuba. Date not stated.	Captured at sea by the French privateer Union.
327. Marine Insurance Company.	....do.....	April 4, 1805...	Capture	Schooner Tickler..	$14,545. Place of capture not stated	Adjudication at St. Jago de Cuba. Date not stated.	Captured at sea by two French privateers.
328. Marine Insurance Company.	....do.....	April 11, 1805..	Capture	Schooner Anna....	$7,100. Place of capture not stated	Adjudication at Porto Rico. Date not stated.	This schooner was captured at sea by the French privateer Mosquito.
329. Marine Insurance Company.	....do.....	June 19, 1805..	Capture	Schooner Imperial.	$6,000. Place of capture not stated	Adjudication at Guadaloupe. Date not stated.	Captured at sea by the French privateer Matilsa.
330. Marine Insurance Company.	....do.....	July 14, 1805...	Capture	Schooner Republican.	$8,000. Place of capture not stated	Adjudication at St. Jago de Cuba. Date not stated.	Captured by the French privateer Reynard.
331. Marine Insurance Company.	....do.....	Aug. 29, 1805 ..	Capture	Schr. St. Michael..	13,749. Place of capture not stated.....	Not stated.....	Captured by two French privateers and recaptured by the British.
332. Marine Insurance Company.	....do.....	Aug. 4, 1805 ...	Capture	Schooner Satellite .	$8,375. Place of capture not stated.....	Adjudicated at Baracoa. Date not stated.	Captured by a French privateer.
333. Marine Insurance Company.	....do.....	Dec. 22, 1805 ..	Capture	Brig Luna.....	$800. Place of capture not stated.....	Adjudicated at Sesal bay, Campeachy.	Captured by a French privateer.
334. Marine Insurance Company.	....do.....	1805.....	Capture	Schooner Mary	$800. Place of capture not stated.....	Adjudicated at Guadaloupe. Date not stated.	Captured by a French privateer.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
335. Marine Insurance Company.	France	1805.....	Capture	Ship Ardent.....	$2,500. Place of capture not stated.....	Not stated	Captured by the French and recaptured by the British.
336. Claimant's name not stated, George Hutchinson agent.	....do.....	About 1810.....	Seizure.....	Not named.....	$40,000. Place of seizure not stated.....	No legal adjudication.....	About the year 1810 a vessel was chartered and loaded in Baltimore for a French port, with 300 bags of coffee and 400 boxes of Havana sugar. The premium was paid for insurance against the seas and captures thereon, at the rate of 40 per cent. She was seized in port, under some pretext, under the Berlin and Milan decrees.
337. Asa Clapp and Richard Cobb, administrator of Matthew Cobb.	....do.....	1810.....	Seizure.....	Ship North America	732 bales cotton, 279 tierces rice, 61½ do., 116 cases Havana sugar ..... $185,620 50 Detention of the ship two months, for wages, charter, and provisions..... 3,000 00 188,620 50 Interest on this sum from April 9, 1807, to October 9, 1826, 19¼ years, at 6 per cent..... 220,685 98 409,306 48 Seizure made at Antwerp.	No legal adjudication.....	The ship North America, 354 tons burden, John Dean master, laden at Savannah, in the State of Georgia, in January, 1807, sailed from that port, for Antwerp, on the 3d day of the following February, and arrived in safety at her port of destination on the 9th day of April, 1807, consigned to Messrs. J. Ridgway, Merten & Co., merchants. The officers of the custom-house declined entering the ship without a special license from the Minister of Marine at Paris. After the ship had been detained some time for the license, the cargo was landed into the Government stores under a special promise of its being returned to the consignees. The cargo was detained about three years, and sold in 1810 by order of the Emperor of France. The ship and cargo were furnished with the necessary papers to prove the neutrality and originality of the vessel and cargo. They were not libelled. They belonged to Asa Clapp and the late Matthew Cobb.
338. Heirs of Butler Fogerty.	....do.....	Jan. 4, 1810....	Capture	Schr. Britannia, Nathan'l Bunker master.	Value at St. Andero, $24,966 25. Capture made off St. Andero.	No legal adjudication appears....	The vessel was chartered, and the cargo was on account of B. Fogerty. She was captured by a launch, manned by a French officer and soldiers. She was confiscated and sold by the French Government January, 1810. The cost of the property in the United States was about $9,312 90.
339. Heirs of Butler Fogerty.	....do.....	Dec , 1809.....	Confiscation	Ship Wells, Z. G. Lamson master.	Value at St. Sebastian, $1,200 94. Seizure appears to have been made at St. Sebastian.	No legal adjudication appears....	The property was confiscated and sold by a decree of the French Government at St. Sebastian, December, 1809. The cost of the property in the United States was $1,088 89.
340. Heirs of Butler Fogerty.	....do.....	Dec., 1809.....	Confiscation	Schooner Betsey, Thomas Holmes master.	Value of vessel and cargo supposed to be, at St. Sebastian, $16,532 87. Seizure appears to have been made at St. Sebastian.	No legal adjudication appears....	The property was confiscated and sold by a decree of the Emperor of France, at St. Sebastian. The property was assigned by I. I. Knapp and Archelaus Rea to B. Fogerty. The cost of the vessel in the United States was $1,000, and that of the cargo, $4,500 36.
341. Heirs of Butler Fogerty.	....do.....	Dec., 1809.....	Confiscation	Schooner Hette, Z. Woodbury master.	Vessel and cargo supposed to be worth, at St. Sebastian, $14,327 07. Seizure appears to have been made at St. Sebastian.	No legal adjudication appears....	The property was confiscated and sold, by order of the Emperor of France, at St. Sebastian, December, 1809. The property was assigned by I. I. Knapp and Archelaus Rea to the claimant. The cost of the vessel in the United States was $1,000, that of the cargo, $4,008.
342. Insurance Company of the State of Pennsylvania.	....do.....	1805..	Capture	Brig Dyott, Sanford master.	$3,637 90. Place of capture not stated.....	Condemned at St. Domingo, 29th Firmaire, year 12.	This vessel was bound from New York to Hispaniola, and back. Insured for Elisha Kane & Co. She was captured by the French privateer L'Hirondelle.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
343. Insurance Company of the State of Pennsylvania.	France	Not stated	Capture	Ship Nancy, Chew master.	Amount paid July 23, 1805, $5,569 25. Place of capture not stated.	No legal adjudication appears	This vessel was bound from Port au Prince to Charleston. She was captured by the British frigate Desiree, recaptured by the French privateer Perseverante, and carried to St. Martin.
344. Insurance Company of the State of Pennsylvania.	do	Not stated	Capture	Schooner Antelope, Moss master.	Amount paid May 4, 1805, $2,450. Place of capture not stated.	No legal adjudication appears	The Antelope, bound from Gonaives for Philadelphia, was captured by a French privateer. Insured for Reed & Forde, November 19, 1804.
345. Insurance Company of the State of Pennsylvania.	do	Not stated	Capture	Brig Lear, Sulger master.	Amount paid August 8, 1805 $490 00 Amount paid May 22, 1801 1,226 60 1,716 60 Place of capture not stated.	No legal adjudication appears	This vessel was insured for Jacob Sulger, from Philadelphia to Hispaniola, and back. On her return from Port de Paix she was captured and sent to Baracoa.
346. Insurance Company of the State of Pennsylvania.	do	Not stated	Capture	Schooner Antelope and schooner Tickler.	Amount paid 19th July, 1806, $5,006 88. Place of capture not stated.	No legal adjudication appears	Insured for James Latimer and Welling & Cureven, from Gonaives to a port in the United States. The vessels were captured by two French privateers the day they left Gonaives.
347. Insurance Company of the State of Pennsylvania.	do	Not stated	Capture	Schooner Vigilant, Clark master.	Amount paid 14th June, 1805, $3,920. Place of capture not stated.	No legal adjudication appears	Insured for William H. Blodges, from St. Mark's to New York. The schooner was captured by a French privateer and sent to Gonaives.
348. Insurance Company of the State of Pennsylvania.	do	Not stated	Capture	Schooner Ariel, Jenks master.	Amount paid 6th September, 1806, $686. Place of capture not stated.	No legal adjudication appears	Insured for Samuel Allen, from Cape François to Baltimore. The Ariel was captured by the French schooner Lionaise and carried to Samana.
349. Insurance Company of the State of Pennsylvania.	do	Not stated	Capture	Schooner Three Brothers, White master.	Amount paid 24th November, 1806, $490. Place of capture not stated.	No legal adjudication appears	Insured for John White, from Bermuda to Cape François and Philadelphia. She was captured by the French privateer Napoleon and the goods taken out at sea.
350. Insurance Company of the State of Pennsylvania.	do	Not stated	Plunder	Brig Three Apprentices, Graves master.	Amount paid 24th December, 1806, $1,926 88	No legal adjudication appears	Insured for Fishbourn Wharton, from Jamaica to Havana and Philadelphia, 112 doubloons plundered at sea by French privateer Alexander, Dupey master, of Guadaloupe.
351. Insurance Company of the State of Pennsylvania.	do	Not stated	Seizure	Brig Andrew, Coggins master.	Paid 16th June, 1810, $980. Insured for J. S. Duval, 16th December, 1809, on 100 bags pepper. Seizure made at St. Sebastian.	No legal adjudication appears	The brig Andrew, bound from Philadelphia to St. Sebastian, was seized by the French and confiscated.
352. Insurance Company of the State of Pennsylvania.	do	Not stated	Capture	Brig Cupid, Brewster master.	Paid Sept. 3, 1810, Smith & Wood $4,410 00 Paid June 23, 1810, Joseph Donath & Co. 3,024 73 Paid Aug. 18, 1810, John M. Soulleir 5,390 00 12,824 73 Capture made near St. Sebastian.	No legal adjudication appears	The Cupid was bound from Philadelphia to St. Sebastian, was captured by a French privateer boat, Mareschal Moncey, and carried to St. Jean de Luz, and a compromise with the captors made for the sums of $1,695 90, $1,299 91, $1,520 23, amounting to $4,522 04.
353. Insurance Company of the State of Pennsylvania.	do	Not stated	Seizure	Ship Hawk, Brown master.	Paid 16th June, 1810, $980. Insured for James S. Duval on 100 bags pepper. Seizure made at St. Sebastian.	No legal adjudication appears	The ship Hawk was bound from Philadelphia to St. Sebastian, was seized by the French, and cargo sequestered.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
354. Insurance Company of the State of Pennsylvania.	France.....	Not stated.....	Capture.....	Ship Charleston Packet, Johnson master.	Paid 8th January, 1811, $19,600. Place of capture not stated.	Condemned at San Lucar. Date not stated.	Insured for M. & S. N. Lewis. Bound from Philadelphia to Cadiz. This vessel was captured by a French armed boat, carried into San Lucar and condemned.
355. Marine Insurance Company of Philadelphia.	...do.....	1810.....	Capture..	Ship Charleston Packet, Johnson master.	$4,000. Place of capture not stated	No legal adjudication appears...	This ship, bound from Philadelphia to Cadiz, was captured by the French, carried into San Lucar, and the cargo taken by the French commissary there for the use of the army; papers sent to Paris.
356 Marine Insurance Company of Philadelphia.	....do.....	1810.....	Capture.	Schr. Floret, Shearman master.	$6,300. Place of capture not stated	No legal adjudication appears...	The schooner Floret, bound from Baltimore to Cadiz, was captured by the French, carried into St. Lucar, and the cargo taken by the French commissary there for the use of the army; the papers were sent to Paris.
357. Marine Insurance Company of Philadelphia.	....do.....	1807.....	Capture	Ship America, Proctor master.	$10,000. Capture made at Rotterdam.....	Condemned by the Council of Prizes. Date not stated.	The America, from Philadelphia to Rotterdam, was captured by the French.
358. George Barker	....do.....	Nov. 29, 1809..	Capture	Schooner Abigail...	Amount of invoice..... $14,495 88 Amount of vessel..... 4,000 00 Loss sustained..... 18,495 88 Sales of schooner and cargo amounted to 187,754.45 francs. Capture made about two miles from Bilboa bar.	Condemned at Paris 13th June, 1810.	The schooner Abigail, on her voyage from Marblehead for Spain, was captured by two French launches under Spanish colors, supposed to be Spanish pilots, and carried into France.
359. George Barker, administrator.	....do.....	Nov. 26, 1809...	Capture.....	Schooner Springbird.	Amount of invoice, $10,144 58. Sales of the schooner's cargo amounted to 138,062.65 francs. Capture made about two miles from Bilboa bar.	Not subject to legal adjudication.	This vessel, bound from Marblehead to St. Sebastian, was captured by two French launches and carried into France.
360. George Barker, administrator.	....do.....	Dec., 1809.....	Confiscation.....	Schooner Two Sons	$303 60, amount of loss sustained. See last column.	No legal adjudication.....	This vessel was confiscated by the French, at Bilboa, after the cargo was partly sold.
361. Hannah Bartlett, administratrix.	....do.....	Dec., 1809.....	Capture...	Schooner Joseph...	Amount of invoice..... $14,059 55 Value of vessel..... 2,500 00 Loss sustained..... 16,559 55 Place of capture not stated.	Subjected to legal adjudication at Paris, 1810.	This vessel, bound from Marblehead to Spain, was captured by a French launch and carried into France. She had been into St. Antonio, and obtained a pass for Bilboa from the French general commanding there.
362. Baltimore Insurance Company.	....do.....	Dec. 7, 1807....	Seizure..	Ship Juniata.....	$30,180 84. Seizure made at Hamburg.....	No legal adjudication appears...	The ship Juniata, Joshua Mezick master, entered the river Elbe on the 5th December, 1807. On the 7th, a pilot, with a guard of French marines, came on board from Cuxhaven, immediately took charge of the ship, her papers, and letter bag, cut the hawser, and ran the ship into Cuxhaven, where two French douaniers came on board, who declared the ship and cargo were confiscated, and ordered the ship to Hamburg, where she arrived on the 13th of the same month. On the 14th, the French ordered Captain Mezick out of the ship. On

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
362. Continued.....	.....	.....	.....	.....	.....	.....	the 19th, a French officer came on board with laborers, broke open hatches, and commenced discharging the cargo, which they completed on the 27th. On the 28th, Captain Mezick and his crew were examined by the director of the douaniers, who then told Captain Mezick he had nothing more against the ship, but that she was still under sequestration, like the rest of the American ships. The ship sailed from Baltimore on the 7th October, 1807, laden with sugar, coffee, tea, tobacco, tobacco stems, and fustic, bound to Tonningen. $30,180 84 is the amount actually paid by the company, without interest or damages. Cargo condemned in January, 1808, by a special decree of the Emperor of France. Ship released November 18, 1808.
363. Baltimore Insurance Company.	France	Jan. 24, 1808...	Capture.....	Ship Aurora	$17,140. Place of capture not stated.....	Condemned by the Council of Prizes, at Paris, June 8, 1808. Appeal to the Emperor in his Council of State, by whom it was finally condemned, December 8, 1810, under the Milan decree, although it is dated the 17th December, 1810, and the ship left Baltimore the 14th of the same month.	The ship Aurora, Captain Levin Dashiell, laden with a cargo of tobacco and cotton, left Baltimore on the 14th of December, 1807, bound to Amsterdam. On the 21st January, 1808, was boarded by a boat from a British sloop-of-war called "Rose," Captain Pisson, who put an officer on board, and ordered her to Plymouth. On the 24th of the same month she was boarded from the French privateer La Incomparable, who took possession of her and conducted her to Morlaix, where she arrived next day. That part of the ship and cargo insured and paid for by the Baltimore Insurance Company sold for 152,374.91 francs, according to the sales now in its possession.
364. Baltimore Insurance Company.	....do.....	Jan. 31, 1812...	Capture.....	Brig Pallas.....	$26,410. Place o capture not stated.....	It is said judicial proceedings were had in this case. If there were, the claimants have been unable to procure them.	The brig Pallas, Captain Holbrook, sailed from Baltimore on December 12, 1811, bound to Cadiz, laden with a cargo of flour. On the 31st of January following, was captured by three French privateers, who carried her into the port of St. Lucar, where she arrived at 5 o'clock p. m. of the same day. The crew were immediately landed and marched as prisoners, under a French guard of soldiers, to the castle. The French army then there proceeded in their usual summary way, seized upon the entire property, saying that they would hold its value at the disposal of the captors, or whom it might belong to.
365. Baltimore Insurance Company.	....do	Jan. 10, 1813...	Destruction of property at sea.	Ship Fair American.	$5,319 92. Destruction took place about latitude 35° 20′.	Not subjected to legal adjudication.	The ship Fair American, of Baltimore, George Hobson master, laden with a cargo of flour and corn, sailed from Baltimore on the 20th December, 1812, bound to Cadiz. On the 10th January, 1813, in latitude 35° 20′, at 6 o'clock p. m., was boarded by a boat from the French frigate La Gloire, Albin Roussein commander, on a cruise. Captain Hobson and all his crew, except the first mate, steward and cook, were taken on board the frigate. At 7 o'clock next morning the commander of the frigate hailed the Fair American, and ordered the prizemaster to get everything in readiness for scuttling and

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
365.—Continued	.....	.....	....	.....	.....	.....	sinking her. He immediately commenced his operations by cutting loose and throwing overboard everything on deck, including boats. By meridian the decks were completely cleared. The captors threw into the sea the cables, hawsers, &c., and forty bags of corn, and commenced cutting away the ceiling in the steerage for the purpose of sinking the ship. On the 12th, at 10 a. m., a lieutenant was sent on board, with Captain Hobson and his crew, with verbal orders to the prizemaster not to scuttle the ship, but to throw overboard all the cargo, except 1,100 or 1,150 barrels of flour, which was left for ballast. As soon as this order was executed Captain Hobson resumed the command of his ship. Prior to Captain Hobson's quitting, Albin Roussein, her commander, required a ransom of $15,000, or £3,625 sterling, for which amount Captain Hobson drew bills of exchange, in favor of Commodore Roussein, on Messrs. Baring Brothers & Co., of London. Captain Hobson arrived at Cadiz, and immediately wrote to London to countermand the payment of the bills. The sum claimed as above is the amount paid without interest.
366. Baltimore Insurance Company.	France	Sept. 7, 1807...	Capture	Brig Joseph, Murphy master.	$5,208 50. Place of capture not stated.....	Not known	The brig Joseph, of Baltimore, Captain John Murphy, laden with a cargo of flour, bound to the island of Jamaica, was captured on the 2d September, 1807, by a French privateer, and sent into the port of St. Jago, in the island of Cuba, where the captors appropriated the property to their own use.
367. Samuel Keith, of Philadelphia.	....do	1810.....	Capture	Brig Julian	14 bales of cotton, invoice $1,158. See last column..	Condemnation by the French. See last column.	The goods were shipped by claimant 28th May, 1810. The brig was bound from Philadelphia to Gottenburg and another port. She was captured by the French, sent into Dantzic, and condemned by the French.
368. Delaware Insurance Company.	....do	Dec. 7, 1807...	Sequestration	Ship Juniatta, Messick master.	45 hogsheads of tobacco, valued at $3,000. Place of sequestration not stated.	Not stated	Insured by J. Sperry, October 19, 1807, for John Sperry, from Baltimore to Tonningen. The ship was captured by a guard of French marines and carried to Cuxhaven, and thence to Hamburg, where the cargo was forcibly taken out by the officers of the French Douane. The property of the claimants was sequestered by the French Emperor.
369. Delaware Insurance Company of Philadelphia.	....do	Dec. 31, 1807...	Capture	Ship James Adams, Bangs master.	$14,149 92. Place of capture not stated.....	Condemnation by the Council of Prizes July 13, 1808.	Vessel insured by Adams & Loughersy, for selves and James Cooper, jr., November 6, 1807. She was captured by the French privateer La Sauvage and sent to Dunkirk. The claim appears to be for the value of the vessel.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
370. Delaware Insurance Company of Philadelphia.	France	Oct. 22, 1807...	Seizure	Ship Julius Henry, Woodside master.	$15,606 77. Seizure at Cuxhaven.....	Condemnation under the Milan decree. Date not stated.	Insured by B. and J. Bohlen, August 22, 1807, for Smith & Buchanan, and C. F. Kalkman, of Baltimore, from that port to Hamburg, with liberty of Tonningen. Seized at Cuxhaven, by order of the French Emperor, by custom-house officers; carried by French officers to Hamburg, where part of the cargo was sold, and the remainder sent to France.
371. Delaware Insurance Company of Philadelphia.	....do	Aug. 2, 1809...	Capture	Brig Resort, Burke master.	Coffee; paid $11,384. Place of capture not stated....	Condemnation by Court of Prizes February 7, 1810.	Insured by B. and J. Bohlen, August 22, 1807, for H. C. Duerhagen June 20, 1809, from New York to Bremen or Amsterdam. Captured by the French privateer Hebe, Captain Jolie, and taken into the Texel, and carried by French privateer Tilsit to Amsterdam.
372. Delaware Insurance Company of Philadelphia.	....do	1810.....	Capture	Brig Julian, Abbott master.	Nankeens; paid $3,920. Place of capture not stated..	Condemnation by the French. Time and place not stated.	Insured May 31, 1810, by G. and H. Colham, Philadelphia to Gottenburg and another port. Captured by the French and sent into Dantzic.
373. Delaware Insurance Company of Philadelphia.	....do	Dec. 19, 1807...	Capture	Brig Rising Sun, Burt master.	30 casks of coffee; paid $6,020 15. Place of capture not stated.	Condemnation at Paris, June 8, 1808, under Milan and Berlin decrees.	Insured September 14, 1807, from Philadelphia to Tonningen, for B. and J. Bohlen. The brig was captured by a French cruiser and sent to Amsterdam.
374. Delaware Insurance Company of Philadelphia.	....do	June 21, 1806..	Spoliation	Schooner Caroline, Hand master.	Goods taken; paid $2,113 59. Place of loss not stated.	No proceedings	Insured by John McCara, from Alexandria to port of Spain, Trinidad, and back, May 17, 1806. The vessel was detained and goods taken out at sea for supplies by two French ships-of-the-line, Patriot and Castor.
375. Delaware Insurance Company of Philadelphia.	....do	May 22, 1809...	Capture	Schooner Bald Eagle, Hamilton master.	Goods; paid $11,760. Place of capture not stated ..	Condemnation under Berlin and Milan decrees.	Insured by G. Harrison, April 1, 1809, from New York to Palermo, in Sicily. This vessel was captured by the French privateer L'Constant, Captain Serra, and sent to Bizenta, in Tunis.
376. Delaware Insurance Company of Philadelphia.	....do	1806.....	Capture	Ship Stranger, Robinson master.	Goods; paid $5,140 42. Place of capture not stated.	Not stated.....	Insured by Savage & Dugan, August 23, 1806, from Philadelphia to Jamaica, Havana, and Philadelphia. This vessel was captured and sent into St. Domingo, and released with heavy expenses.
377. Delaware Insurance Company of Philadelphia.	....do	July 25, 1809...	Capture	Brig Jane Maria, Eldridge master.	Paid loss on vessel and goods, $4,900. Place of capture not stated.	No adjudication appears.....	Insured by Wm. Dilworth for J. G. Gottsberger, from New York to Trieste, with liberty to call on way. The brig was captured by the French privateer La Fortune, Captain Marco Anthony Bartolimi, sent to Bona, in Barbary, cargo taken out, and vessel released.
378. Delaware Insurance Company of Philadelphia.	....do	Feb. 16, 1806. .	Capture	Snow Comet, Diamond master.	Paid $9,037 94. Place of capture not stated	No adjudication appears.....	Insured by John Craig, November 4, 1805, from Baltimore to Laguayra, and back. This vessel was captured by the French and recaptured by the British.
379. Delaware Insurance Company of Philadelphia.	....do	1807.....	Capture	Ship Three Sisters, Juabson master.	Cargo sold to pay expenses of recapture; paid $1,843 90. Place of capture not stated.	No adjudication appears.....	Insured by Joseph Lea, February 20, 1807, from Philadelphia to St. Bartholomew and St. Thomas. This vessel was captured by the French privateer brig Du Quesne, and recaptured by the British ship Euthalion and sent into Barbadoes.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.		Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
380. Pickering Dodge ...	France	November, 1811	Capture and burning	Brig Three Friends, Lefavour master.	.....	$19,965 09	No adjudication.....	The brig Three Friends sailed from Salem in October, 1811. She was captured and burnt at sea the 15th of November, 1811, by the French frigates Meduse and Nymphe. The amount of claim for the brig is $4,000, and for the goods belonging to the claimants, the invoice cost and charges.
Edward Stanley....	.....	.....	.....	.....	.....	2,250 00		
Nathan Cook	.....	.....	.....	.....	.....	860 00		
Humphrey Devereux	.....	.....	.....	.....	.....	1,772 00		
William Proctor...	.....	.....	.....	.....	.....	1,680 00		
Endicott & Andrews	.....	.....	.....	.....	.....	3,000 00		
H. Pickering.....	.....	.....	.....	.....	.....	4,380 00		
Jonathan Gardner..	.....	.....	.....	.....	..... vessel,	4,000 00		
					..... goods,	211 25		
P. Dodge, for Thos. Lefavour.	.....	.....	.....	.....	..... goods,	336 00		
					Amount	38,454 34		
					Capture and burning took place lat. 7° 58′ N., long. 25° 20′ W.			
381—384. Jonathan Neal and Gam'l Hodges.	France	December, 1807	Seizure, and subsequent condemnation of vessel and cargo.	Hypsia & Jane.....	Value of vessel on sailing, per policy of insurance.....	$4,500 00	Vessel and cargo condemned by the Council of Prizes, at Paris, in November or Decem'r, 1810.	The amount of the claim for the Hypsia & Jane is $4,500, and for the goods on board her, belonging to the undersigned, the sum at which they were bonded, and which sum was paid to the French Government by their agents, J. L. Brown & Co., Bourdeaux, in December, 1810, amounting, as per schedule, to 273,689.72 francs. The Hypsia & Jane sailed from Salem, October 28, 1807, for Bourdeaux; off which port, on the 3d of December, she was boarded by a British squadron and ordered not to enter any port in France, and her papers were endorsed to that effect; but, being in want of water, the captain succeeded in getting into Bayonne, where he arrived the 5th of December, 1807, entered regularly, landed his cargo in entrepot, and was preparing to return to the United States, when, in December, 1807, or January, 1808, the vessel and cargo were sequestered under the decree of the Emperor of December 21, 1807, which directed the seizure of all vessels spoken by British cruisers, although this decree was not issued till eighteen days after the Hypsia & Jane had been spoken, and sixteen days after her actual arrival in the port of Bayonne. The cargo was given up to the consignees on their giving the bonds mentioned in these cases; which bonds were paid, on the final condemnation of the vessel and cargo by the Council of Prizes, at Paris, in consequence of a special order of the Emperor (as is believed) that the decree of the 21st of December, 1807, should have a retroactive effect.
					Amount of bonds given, and paid on condemnation, for 17 hhds. brown sugar, the property of claimant, by J. L. Brown, of Bourdeaux..... frs.	16,926 00		
Jonathan Neal.	....do	.....do	.....do.....do	.....do	Amount of bonds given, and paid on condemnation, for 1,050 bags pepper, 50 bales cotton, 10 bales frankincense, and 50 bales gum arabic.. frs.	172,052 60	.....do.....do	
Moses Townsend.	....do	.....do	.....do.....do	.....do	Amount of bonds given, and paid as above, for 65 hhds. clayed sugar, 14 bbls. same, and 35 bags coffee.. frs.	65,149 70	.....do .....do.....	
Edward Allen, J. J. Knapp, attorney.	.....	.....do	.....do.....do	.....do	Amount of bonds given, and paid as above, for 20 hhds. and 20 bbls. raw sugar ..... frs.	19,561 42	.....do .....do.....	
					Amount of loss, &c., frs. 273,689 72, equal, at 18¾ cents a franc., to	$51,316 82		
					Add value of vessel	4,500 00		
					Total.....	55,816 82		

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
385. Dutch & Deland ...	France, or Naples.	Dec. 8, 1809 ...	Seizure	Schooner Betsy, Holmes master.	Net proceeds of sales of whole stock in St. Sebastian belonging to claimants . $13,363 29 Received of insurers..... 5,000 00 8,363 29 Interest to December 31, 1826..... 8,028 75 Seizure made at St. Sebastian.	No legal adjudication appears...	For one-half of the said schooner and effects on board, which vessel and effects, on the 28th day of December, 1809, were confiscated at St. Sebastian, under the decree of the King of the Two Sicilies of March 12, 1810, without lawful cause, and without default of the assured, master, or mariners of said schooner, but by the order of the Emperor of France, whereby the same became lost to the claimants.
386. Dutch & Deland ...	....do	December, 1809	Seizure	Ship Franklin, Hyatt master.	Net proceeds of sales and effects at St. Sebastian belonging to claimants..... $961 67 Interest to December 31, 1826..... 923 20 Seizure made at St. Sebastian.	No legal adjudication appears...	Per policy dated February 14, 1810, and numbered 11, whereby said claimants assured to Richards & Jones and Judah Hayes five hundred dollars on effects on board of the ship Franklin, at and from Boston to one or more ports in the Bay of Biscay, with liberty to go to one or more ports in the North of Europe, the North and East of the Elbe, and until said effects should be safely landed. On the 27th of November, 1810, the assured abandoned to said claimants, and assigned for cause that the said ship, with said effects on board of her, at St. Sebastian were seized and confiscated without lawful cause, and without the default of the assured, or of the master or mariners, by the orders of the Emperor of France, whereby the said effects became lost to the assured. On the 22d of November, 1811, the claimants paid a total loss. The confiscation was made under the decree of the King of the Two Sicilies of March 12, 1810.
387. Social Insurance Comp'y of Salem.	France	Dec. 28, 1809 ..	Confiscation.....	Schooner Betsy....	Amount insured ..... $8,000 00 Sales..... 16,916 00 Loss sustained at St. Sebastian and Bayonne.	Not stated.....	Papers, protest, &c., with J. Cook and heirs of William Gray. Copies in the Department of State and with the Secretary of Commissioners under the Florida treaty. Dutch & Deland, &c., former owners.
388. Social Insurance Comp'y of Salem.	....do	March 10, 1810.	Sequestration.....	Franklin	Amount insured, $8,000. Sequestration made at St. Sebastian and Bayonne.	Not stated.....	Papers, protest, &c., with Lemuel Pope, J. Cook, &c. Amount sales with L. Pope. This amount included in Richards & Jones and in J. Hays' part of cargo. Richards & Jones, C. Putnam, Judah Hays, and T. C. Amory & Co., former owners.
389. Social Insurance Comp'y of Salem.	....do	Dec. 28, 1809 ...	Confiscation	Hitte	Amount insured, $1,500. Loss sustained at St. Sebastian and Bayonne.	Not stated.....	Papers, protest, &c., with heirs of W. Gray. Copies of this statement with Commissioners under the Florida treaty. Dutch & Deland former owners. This amount from J. J. Knapp & Rice.
390. Social Insurance Comp'y of Salem.	....do	Nov. 15, 1811 ..	Burning	Three Friends	Amount insured, $1,500. Burning took place 8° N. lat., 25° W. long.	No legal adjudication.....	Papers, protest, &c., with Pickering Dodge and others, owners of the cargo. This amount being part for Edward Stanley. Jonathan Gardner former owner.
391. Social Insurance Comp'y of Salem.	....do	April 6, 1810...	Capture and sequestration.	Welcome Return ..	Amount insured, $4,153 46. Capture made at Lebonajer, on the coast of Sumatra. The sequestration at Bourbon, June 6, 1810.	No legal adjudication.....	The Welcome Return was captured by a French privateer. Amount on vessel, $1,869 12, included in Jeremiah Briggs' claim. Amount on cargo, $2,284 34. Papers, protest, &c., with Js. Cook and others. Jeremiah Briggs and John Dodge, and Abner Briggs owners.

CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
392. Union Marine Insurance Company of Salem.	France	June 16, 1809..	Confiscation	Schooner Salem, Cheever master.	Insured for Robert Stone and Robert Stone, jr., $1,500 on vessel, and $3,500 on effects. $5,000 00 Insured for Nathaniel Silsbee, $1,500 on vessel, and $3,500 on effects..... 5,000 00 Amount, &c..... 10,000 00 Confiscation made at St. Sebastian.	Not stated	The claimants refer to documents in possession of the assured, whose claims they suppose may include the amount claimed by themselves.
393. Union Marine Insurance Company of Salem.	....do.....	October 18 and 27, 1809.	Confiscation.	Brig Welcome Return, Briggs master.	Insured for Jonathan Neal on effects.... $3,400 00 Insured for Jeremiah Briggs on vessel.. 3,600 00 Insured for Abner Briggs on effects..... 1,200 00 Amount, &c..... 8,200 00 Confiscation made at the Isle of France.	Not stated.	Same as in No. 392.
394. Robert and John Oliver, and Robert Gilmor and Sons.	....do.....	May, 1808	Seizure.....	Brig L'Eole.....	$95,407 60. Place of seizure not stated.....	No legal adjudication.....	The brig L'Eole was bound to France; and being chased by the British into a port in Spain, she was seized, and vessel and cargo sold by the authorities then in power.
395. Barnabas Hedge....	....do.....	March, 1810	Sequestration.....	Brig Aurora, Bartlett master.	Value of vessel and cargo, $20,000..... Sequestration made at Civita Vecchia.	The claimant has been informed that the vessel and cargo were condemned at Paris. Date of condemnation is not stated.	The brig Aurora sailed from Plymouth, December, 1809, loaded with American codfish; cleared out for Cadiz and a market. The captain having liberty to go wherever he thought the cargo would do best, touched at Malaga, Alicante, and Tarragona, and proceeded to Civita Vecchia. As the vessel was entering the harbor at that place she was taken possession of by the French authorities, who took the papers from the captain and sent them to Paris. The brig and the cargo of fish were sold by the French Government.
396. John Barney. See No. 306.	....do.....	Jan. 6, 1810	Capture.....	Schooner Hawk, Goff master.	$10,000. Capture made off St. Sebastian.....	No legal adjudication.....	The schooner Hawk sailed from Baltimore in October, 1809, and, owing to stress of weather, put back to Philadelphia, whence she sailed in December, 1809, bound to St. Sebastian. She was captured by four Spanish launches or fishing boats and carried into Bermeo, in Spain, and there sequestered by the French authorities, and transported to Bayonne, in France, where the cargo was sold by an order of the Emperor, and the vessel taken into the French service without the form of a trial of either. The claimant states that the schooner Hawk was valued and insured in the Maryland Insurance Company, at $10,000; that the office refused, in consequence of no condemnation having taken place, to pay for her; that the policy was assigned to Messrs. Falls and Brown to guaranty certain advances; and that they are now to be considered the claimants in fact.

INDEX TO SUPPLEMENT TO CLAIMS ON FRANCE.

Names of claimants.	Number.	Amount.
Baltimore Insurance Company	10	$19,174 96
Do do	11	18,000 00
Do do	12	12,000 00
Do do	13	15,000 00
Do do	14	2,000 00
Do do	15	1,000 00
Do do	16	8,000 00
Do do	17	9,348 20
Do do	18	6,975 49
Do do	19	1,480 00
Do do	20	17,000 00
Do do	21	6,056 25
Do do	22	20,000 00
Do do	23	6,000 00
Do do	24	16,000 00
Burbank, Abner, for self and others	145	15,000 00
Brand, David	159	360 00
Coster, Henry A. and John G	2	12,320 00
Clark & Co., John	8	13,134 91
Coffin, David, and another	27	8,650 00
Do do	32	31,000 00
Coffin, Samuel, and others	35	13,599 97
Cook, Zebedee	38	28,500 00
Chesapeake Insurance Company	88	7,480 00
Do do	89	3,000 00
Do do	90	14,000 00
Do do	91	10,000 00
Do do	93	6,900 00
Do do	64	16,000 00
Do do	95	2,100 00
Do do	96	6,350 00
Do do	97	15,400 00
Do do	98	11,000 00
Do do	99	1,500 00
Do do	100	300 00
Do do	101	9,600 00
Do do	102	15,000 00
Do do	103	8,696 00
Do do	104	10,000 00
Coxe, Daniel W	136 to 140	76,618 02
Duval, James S	3	7,625 52
Do	4	882 34
Do	5	972 58
Do	6	1,587 04
Delile, Francis, and others	33	6,175 39
Dutch, George	149	6,163 09
Delafield, executor of John, (see No. 107—110 on France)	65 to 68	
Forrester, John	85	2,268 00
Felt, Ephraim	150	98 00
Goodline, Jacob	151	1,376 00
Hays, Samuel	1	16,302 80
Holmes, William	134	20,166 80
Homer, Benjamin P., treasurer, &c	141	3,000 00
Do do	142	10,000 00
Do do	143	2,677 00
Do do	144	3,296 00
Jefferds, William, and others	9	24,565 94
Jenkins, George	28	2,688 49
Do	29	872 47
Johnston, George, for himself and others	152	25,000 00
Kimball, James, and others	25	10,419 00
King, W	92	29,155 92
Lunt, Benjamin, and others	37	14,169 00
Laussat, A	82	19,033 71
Do	83	2,415 98
Do	84	6,246 00
Little, Alexander, and others	86	11,590 00
Lawrence, John, for self and others	158	8,472 34
Marine Insurance Company of New York	69	4,000 00
Marine Insurance Company of New York	70	$3,300 00
Do do	71	2,500 00
Do do	72	10,000 00
Do do	73	13,700 00
Do do	74	4,500 00
Do do	75	7,500 00
Do do	76	10,000 00
Do do	77	11,000 00
Do do	78	9,000 00
Do do	79	10,000 00
Do do	80	6,600 00
Do do	81	9,000 00
Mitchell, executor of Thomas	135	15,000 00
New York Firemen Insurance Company	105	2,900 00
Do do	106	3,909 00
Do do	107	12,000 00
Do do	108	1,000 00
Do do	109	4,500 00
Do do	110	4,500 00
Do do	111	1,024 80
Do do	112	11,641 54
Do do	113	20,224 40
Phœnix Insurance Company of New York	41	33,810 00
Do do	42	24,097 26
Do do	43	8,333 33
Do do	44	9,500 00
Do do	45	5,243 63
Do do	46	21,359 20
Do do	47	29,400 00
Do do	48	8,820 00
Do do	49	5,000 00
Do do	50	1,100 00
Do do	51	4,908 05
Do do	52	19,297 92
Do do	53	2,992 99
Do do	54	1,236 06
Do do	55	4,871 37
Do do	56	13,478 26
Do do	57	37,808 64
Do do	58	4,000 00
Do do	59	17,640 00
Do do	60	6,382 24
Do do	61	2,772 50
Do do	62	623 06
Do do	63	923 75
Philippe, Joseph	114	14,177 32
Place, John L., and others	132	33,833 40
Penniman, James	133	2,000 00
Pratt & Kinsing	146	8,009 24
Do	147	17,572 92
Do	148	30,173 71
Philadelphia Insurance Company	153	12,500 00
Do do	154	3,000 00
Rice, John, and another	87	19,500 00
Riley, James	156	6,946 80
Surasey & Rogers	36	8,996 81
Sursier, Joseph	39	3,462 60
Thomas, Thomas, and others	26	66,000 00
Toppan, Edward, and others	34	22,724 89
Tenney, Samuel, and others	40	3,000 00
Union Insurance Company of Maryland	115—131	238,944 75
White, Stephen, surviving partner, &c	7	1,782 00
Wood, Abner, and another	30	37,736 00
Wheelwright, Abraham and Ebenezer	31	15,971 10
Winthrop, William	64	12,581 25
Wirgman, administrator of Charles and Peter	155	26,712 00
Watson, John R., for self and others	157	15,591 22
Total		1,775,246 88

SUPPLEMENT TO CLAIMS ON FRANCE.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
1. Samuel Hays.....	France	1807.....	Seizure.....	Ship Bordeaux Packet, Captain Jacob Spafford.	Amount per invoice..... $16,302 80 19 years 9 months interest..... 19,319 45 35,622 25 Seizure made at Antwerp.	No legal adjudication.....	Consigned to Messrs. Ridgway, Mertens & Co., of Antwerp, of whom Mr. Jacob Ridgway was the consul general of the United States. The amount was insured by private underwriters, but in consequence of no condemnation they refused payment, and before a decision could be had they all, except two, to the amount of $600, became insolvent. The property was seized under the Berlin decree. It was sold, and the proceeds put into the national chest. The voyage was from Philadelphia to Antwerp. The vessel was released and returned to the United States.
2. Henry A. and John G. Coster.	France	February, 1811.	Capture.	Brig Maria, Slater master.	Value of shipment..... $12,320 00 Interest, at 7 per cent., to Oct. 1, 1826... 13,479 78 25,799 78	Condemned at Paris by the Emperor. Date not stated.	The brig Maria was cleared from Gottenburg for New York, and stranded on the Island of Ameiland, in Holland.
3. James S. Duval.....	France	December, 1809	Sequestration.....	Brig Fox, Cullen master.	Value of shipment..... $7,625 52 Interest to October, 1826..... 7,663 65 15,289 17 Loss appears to have been sustained at St. Sebastian or Bayonne.	No legal adjudication appears...	Sequestered under a decree of Napoleon, Emperor of France. The claim includes charges and insurance.
4. James S. Duval.....	France	January, 1810..	Sequestration	Brig Andrew, Coggins master.	Value of shipment..... $882 34 Interest to October 1, 1826..... 882 34 1,764 68 Loss appears to have been sustained at St. Sebastian or Bayonne.	No legal adjudication appears ..	Same as in No. 3.
5. James S. Duval.....	France	October, 1810..	Sequestration.....	Ship Hawk, Brown master.	Value of shipment..... $972 58 Interest to October, 1826 ..... 928 81 1,901 39 Loss appears to have been sustained at St. Sebastian or Bayonne.	No legal adjudication appears...	Same as in No. 3.
6. James S. Duval.....	France	December, 1809	Sequestration.....	Schooner Post Boy, Spencer master.	Value of shipment..... $1,587 04 Interest to October 1, 1826..... 1,594 96 Loss appears to have been sustained at St. Sebastian or Bayonne.	No legal adjudication appears...	Same as in No. 3.

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
7. Stephen White, surviving partner of J. and S. White.	France	1810	Seizure	Schooner Joseph, Stacey master.	$1,782. Seizure made at or near St. Jean de Luz	No legal adjudication	This vessel was taken possession of by the French, at or near St. Jean de Luz, and the cargo sold in the winter of 1809 and 1810. She sailed from Marblehead.
8. John Clark & Co	France	May, 1807	Seizure	Brig Eliza Haley, Gregerson master.	$13,134 91. Interest on the above sum Value of brig $8,000 00 Amount of freight 2,229 18 Primage 465 73 40 bales cotton 2,440 00 Amount, &c 13,134 91 Interest on this amount. Seizure made at Cherbourg.	No legal adjudication appears	The said brig was bound from Lisbon for Cherbourg, reached her port of destination in safety, and was there seized, in May, 1807, for an alleged violation of the French decree of November 21, 1806.
9. William Jefferds, estate of John Stone, and estate of Daniel Walker.	France or Holland, or both.	February, 1808.	Capture	Ship America, John Proctor master.	Ship $14,000 00 Cargo 327 66 Freight and primage 7,105 11 Expenses 3,133 17 Total 24,565 94 Capture or seizure made at Rotterdam.	Condemnation at Paris in June, 1808.	The ship America sailed from Philadelphia September 22, 1807, with a cargo of sugar, coffee, dyewood, staves, and tobacco stems, bound for Rotterdam, in Holland. She arrived in the English channel the last of December, in the same year, where she was boarded by an English cruiser, and warned not to proceed to Rotterdam. The captain then took his vessel into Portsmouth, England, and went to London, to advise with the agents of the ship. Said agents wished the cargo to be landed in England, but the agents of the consignees of the cargo in Rotterdam insisted on the ship's proceeding to that port with her cargo. She left Portsmouth for Rotterdam January 30, 1808, on the 2d or 3d of February arrived off Rotterdam, and, after taking two Dutch pilots on board, she was captured by a French privateer and carried into that port. Ship and cargo were condemned in June following, and in November were sold at Rotterdam by order of the French Government.
10. Baltimore Insurance Company.	France	April 2, 1805	Capture	Brig Alert, Smith master.	$19,174 96. Place of capture not stated	No legal adjudication known to claimants.	This vessel, on a voyage from Jeremie to Baltimore, was captured by the French privateer Regulator, Captain John Jack, and carried into the port of St. Jago de Cuba, where she arrived on 7th April, 1805. This and the claims numbered 11, 12, 14, 15, 17, 18, 19, 20, 21 were urged under the Florida treaty, and not allowed.
11. Baltimore Insurance Company.	France	April 27, 1805	Capture	Schooner Ann, Debbin master.	$18,000. Place of capture not stated	Condemnation in Guadaloupe, 13th Thermidor, 13th year.	Captured on a voyage from Jacmel to Baltimore by the French privateer Regulator, Captain Jack, and carried into St. Jago de Cuba, where she arrived May 3, 1805.
12. Baltimore Insurance Company.	France	April 11, 1805	Capture	Sch'r Anna, Gordon master.	$12,000. Place of capture not stated	No legal adjudication appears	Captured on a voyage from Aux Cayes to Baltimore by the French privateer Masquito, and carried to a port in the island of Porto Rico.

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
13. Baltimore Insurance Company.	France	June 16, 1805	Capture	Brig Comet, Freyer master.	$15,000. Place of capture not stated.	No legal adjudication appears.	Captured on her voyage from Jeremie to Norfolk by the French privateer Matilda, and ordered for Guadaloupe.
14. Baltimore Insurance Company.	France	June 13, 1805	Capture	Schooner Defiance, Holling master.	$2,000. Place of capture not stated.	Condemned at Guadaloupe, February 5, 1806.	Captured on her voyage from Jeremie to Baltimore by the French privateer Rencontre, Captain Saunier, and carried to the port of Barracoa, where she arrived June 24, 1805.
15. Baltimore Insurance Company.	France	Feb. 4, 1805	Capture	Brig Fame, Milroon master.	$1,000. Place of capture not stated.	No legal adjudication known to claimants.	Captured proceeding from Cape François to Charleston by the French privateer Union, Captain John Jack Bonn, and ordered to St. Jago de Cuba, where she arrived February 7, 1805.
16. Baltimore Insurance Company.	France	April 16, 1805	Capture	Schooner John, Atkinson master.	$8,000. Place of capture not stated.	Condemned in the city of St. Domingo, 14th Floriel, 13th year.	Captured proceeding from Baltimore to Jeremie by the French privateer Rencontre, and carried into Samana, in the island of St. Domingo, a port in possession of the French.
17. Baltimore Insurance Company.	France	Jan. 26, 1805	Capture	Brig Hyram, Graisburg master.	$9,348 20. Place of capture not stated.	No legal adjudication known to claimants.	Captured proceeding from Cape François to Gonaives by the French privateer Renard, and ordered to St. Jago de Cuba, where she arrived on the 31st January, 1805.
18. Baltimore Insurance Company.	France	August 4, 1805.	Capture	Schooner Satellite, Hall master.	$6,975 49. Place of capture not stated.	No legal adjudication known to claimants.	Captured proceeding from Cape François to Baltimore by a French privateer, and carried to Barracoa, in the island of Cuba.
19. Baltimore Insurance Company.	France	June 11, 1805	Capture	Schooner Sophia, Winard master.	$1,480. Place of capture not stated.	Condemned in Guadaloupe, February 5, 1806.	Captured proceeding from Baltimore to Cape François by a French privateer, and carried into Barracoa, 8th Messidor, 13th year.
20. Baltimore Insurance Company.	France	April 22, 1805	Capture	Sch'r Twin Brothers, Pitt master.	$17,000. Place of capture not stated.	Condemned in Guadaloupe, 13th Thermidor, 13th year.	Captured on her voyage from Baltimore to Jacmel, in the island of St. Domingo, by the French privateers L'Incroyable and L'Aimable Aimee, and carried to St. Jago de Cuba, April 26, 1805.
21. Baltimore Insurance Company.	France	Feb. 7, 1806	Capture	Schooner Buckskin, Henry master.	$6,056 25. Place of capture not stated	No legal adjudication known to claimant.	Captured in the prosecution of the voyage from St. Jago de Cuba to one or more ports in the island of St. Domingo, and thence to Baltimore, (insured,) by a French privateer, and carried to St. Jago de Cuba, February 19, 1806.
22. Baltimore Insurance Company.	France	May 9, 1805	Capture	Schr. Mary, Bunker master.	$20,000. Place of capture not stated.	Condemned in Guadaloupe, 17th Messidor, 13th year.	Captured on her voyage from Port au Prince to Baltimore, by a French privateer, and carried to Point Petre, Guadaloupe.
23. Baltimore Insurance Company.	France	March 6, 1805.	Capture.	Ship Nancy, Brewster master.	$6,000. Place of capture not stated.	Condemned in Guadaloupe, 13th Germinal, 13th year.	Bound from Port au Prince to Charleston. Captured by the French privateer Perseverante, and carried into a port in the French part of the island of St. Martin's, March 24, 1805.
24. Baltimore Insurance Company.	France	May 9, 1805	Capture	Schr. Unity, Hardinge master.	$16,000. Place of capture not stated.	No legal adjudication known to claimants.	Captured proceeding from Port au Prince to Norfolk, by the French privateer Grand Decide, who took on board the privateer all the crew of the Unity, except the cook, and carried them to Guadaloupe, where she arrived June 13, 1805, and where the captain and crew were put in prison.
25. James Kimball, —— Lord & Ammi Smith	France	July 3, 1810	Capture and burning	Brig Fleetwood, Jeremiah Young master.	Vessel $6,000 00 Cargo 669 00 Freight 3,600 00 Expenses 150 00 Place of capture not stated. 10,419 00	No legal adjudication.	This vessel sailed from Cagliari June 16, 1810, with a cargo of salt and specie for Newburyport. She was captured by the French privateer Sebastiani, and ordered for Malaga. On her way she was stripped and burnt by the captors. The cargo was salt and specie for Newburyport, and, together with the vessel, belonged wholly to claimants.

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.		Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
26. Thomas Thomas, Jacob Little, and Jeremiah Nelson.	France	July or August, 1809.	Capture.....	Ship Arrow, Jabez Fletcher master.	Vessel.....	$36,000 00	Subject to adjudication at Paris. There was no decision. Date of proceedings not stated.	This ship, with a valuable cargo, was captured by the French privateer Herondelle, Captain Pontrouse, and carried to Nice. Proceedings were had against her at Paris. To avoid a total loss, a compromise was made, and ⅓ of the proceeds retained by the captors. The vessel was a first rate ship, new and coppered, burden 275 tons, and was the sole property of the claimants.
					Freight.....	30,000 00		
						66,000 00		
27. David Coffin & John Woodwell.	France	Feb. 20, 1808...	Capture.....	Brig George, John Eveleth master.	Vessel.....	$5,500 00	Subject to adjudication at Paris, and condemned, 1808.	The brig George was captured by the British frigate Pomona, January 31, 1808. She was recaptured by the French privateer Speculator, Captain Niquet, carried into Carequet, and condemned at Paris in the summer of 1808. The vessel was the sole property of the claimants.
					Freight.....	1,940 00		
					Cargo, in part.....	210 00		
						8,650 00		
28. George Jenkins.....	France	October 2, 1810.	Detention and appropriation.	Brig Paulina, Gray master.	Property estimated at the actual sale, $2,688 49. Loss sustained at Tonningen.		No legal adjudication.....	This property was at Tonningen, where, by a decree of the French, in agreement with the Danes, they retained, under pretence of duties, ⅓ of the goods in Holstein, in addition to 6 per cent. before paid the Danes. The French took 5,516 lbs. cotton. From the sales of the residue, the freight, Danish duties, and expenses were paid, leaving only $254 58, a sum not near sufficient to pay the outward duties.
29. George Jenkins.....	France	October 2, 1810.	Detention and appropriation.	Anna Maria, Hunt master.	Value of sales, $872 47. Loss sustained at Tonningen.		No legal adjudication.....	The remarks in the foregoing case of the brig Paulina, are applicable to this case.
30. Abner Wood and William Nichols.	France	Jan. 31, 1808...	Capture.	Brig Sally Ann, Nichols master.	Vessel.....	$10,100 00	Subjected to adjudication at Paris, but no decision. Date of proceedings not stated.	This vessel was captured by a French privateer, on her passage from Boston and Beverley to Amsterdam, and carried in there. The master and crew were turned on shore and detained. The cargo was taken out by the captors, and vessel and cargo were held by them. Eighteen months after the capture, there appearing no prospect of any restoration of the property, the claimants were induced to compromise with the captors. The vessel and cargo were sold, the captors took two-thirds, leaving one-third to the owners, out of which they had to pay costs and expenses. The vessel was first rate, new, and in complete order, burden 182 tons, and the property of the claimants.
					Property	33,871 00		
					Freight.....	2,392 00		
					Expenses.....	2,454 00		
						48,817 00		
					Interest from Jan., 1808, to Nov., 1809.	5,125 00		
						53,942 00		
					Deduct amount received in compromise,	11,081 00		
						42,861 00		
					Place of capture not stated.			
31. Abraham and Ebenezer Wheelwright.	France	March, 1806 ...	Capture	Snow Mehitable, Denney master.	Vessel.....	$3,400 00	No legal adjudication.....	This vessel was captured by a French privateer called Surneiliana, and schooner Jeune Estene, and carried into Barraçoa, and there sold, and the proceeds divided among the captors. The vessel and cargo belonged wholly to claimants.
					Cargo, freight, &c.....	12,571 10		
						15,971 10		
					Place of capture not stated.			

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
32. David Coffin	France	July 20, 1810	Capture	Barque Zeno, Stone master.	Vessel $14,000 00 Freight 14,000 00 Expenses 2,000 00 Property, &c 1,000 00 Amount, &c 31,000 00 Place of capture not stated.	Condemned at Paris, by the Emperor, December 4, 1811.	This vessel was bound from Boston for Gottenburg, with coffee, cotton, sugar, and dye-wood. She was captured by the French lugger Figaro, carried into Christiansand, and condemned at Paris by Napoleon.
David Stone							
33. Francis Delile, Anthony Francis, Amos Foreman.	France	July 20, 1810	Capture	Schooner Polly, Delile master.	Vessel $800 00 Cargo 2,738 65 Freight 1,000 00 Property 1,124 00 512 40 Amount, &c 6,175 39 Place of capture not mentioned.	No legal adjudication	This vessel and cargo were wholly the property of the claimants. She sailed from Newburyport, February 9, 1812, her cargo consisted of provisions and lumber, and some goods on freight. She was captured by two French frigates and an armed brig. The crew were taken out and made prisoners; the vessel was plundered and burned.
Anthony Francis							
Amos Foreman							
34. Edward Tappan, Nathan Hoyt.	France	November, 1809	Capture	Brig George Washington, Dawsett master.	Vessel $4,003 00 Cargo 8,611 30 Freight 1,000 00 Goods 8,613 59 Adventure 500 00 Amount, &c 22,724 89 Place of capture not stated.	Condemned at Guadaloupe. Date not stated.	This vessel, on her voyage from Marigalante, was captured by two French barges, carried to Guadaloupe, and condemned. The vessel and cargo both the sole property of the claimants. The cargo was wholly the proceeds of cargo carried out.
A. A. Caldwell and others.							
Florence Dawsett							
35. Samuel Coffin, John Kendall, Benjamin Glazier.	France	Aug. 17, 1809	Capture	Schooner Samuel, Glazier master.	Vessel $2,000 00 Cargo 4,549 17 Freight 5,000 00 Expenses 429 00 Insurance 677 50 12,655 67 Adventure 736 50 Adventure 207 80 13,599 97 Place of capture not stated.	Condemned at Guadaloupe. Date not stated.	This vessel was under charter to the claimants of the cargo. She was laden at Newburyport for the West Indies; on her passage to St. Bartholomew, she was captured by two French barges, carried into Guadaloupe, and condemned.
Benjamin Glazier							
Samuel Smith							

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
36. Surasey & Rogers...	France	Aug. 22, 1806 ..	Detention	Schooner Nancy, Glazier master.	Loss sustained..... $8,996 81 Place of capture not stated.	No legal adjudication.	This vessel, on her passage with a return cargo from Martinico, fell in with a French 74-gun ship dismasted and in distress; was compelled to assist her, and detained till she got into the Chesapeake. Vessel and cargo wholly the property of claimants.
37. Benjamin Lunt, Hate & Wade, and Geo. Offutt.	France	Jan. 13, 1808...	Capture.....	Brig George, Bray master.	Vessel..... $4,000 00 Cargo..... 8,109 00 Freight..... 2,000 00 14,109 00 Place of capture not stated.	Condemned at Paris. Date not stated.	This vessel was captured by a French privateer and carried into Spain, and papers sent to Paris, where vessel and cargo were disposed of by the captors. Vessel and cargo wholly American.
38. Zebedee Cook.....	France	1810.....	Capture	Ship James Cook..	Vessel..... $16,000 00 Freight ..... 12,500 00 28,500 00 Place of capture not stated.	No legal adjudication known to claimants.	This vessel was captured by a French privateer. She was carried into Rostack, and cut out by the British. She was wholly lost to the claimants. Vessel and cargo wholly American.
39. Joseph Sersier	France	July, 1805.....	Capture	Brig Joana, Blanchier master.	Loss $3,462 60. Place of capture not stated.....	No legal adjudication by the French.	Captured by a French privateer, and carried into Barracoa; was cut out by his Majesty's ship Hunter, and carried to Jamaica.
40. Samuel Tenney and others.	France	March, 1806....	Capture	Schooner Victory, Campbell master.	Loss $3,000. Place of capture not stated	No legal adjudication known to claimants.	Vessel and cargo American. The schooner was captured by a French privateer.
41. Phenix Insurance Co. of New York.	France	June 13, 1807 ..	Capture	Brig Brutus, Edwards master.	Estimated damages..... $33,810 00 Interest to October 1, 1826.. ..... 41,791 97 Place of capture not stated.	Condemned under decree of December 17, 1807. Date not stated.	This vessel, trading to Madras, was captured by the French brig La Dame Ernouf, and sent into Cayenne. The alleged cause of capture was that the vessel was trading to a British port. Shipment was made by Elias Kave & Co. In this and the following cases, to No. 63, inclusive, interest is claimed at the rate of seven per cent. per annum.
42. Phenix Insurance Co. of New York.	France	Oct. 2, 1807	Seizure.....	Ship Jersey, Williams master.	..... $12,296 10 7,574 42 4,226 74 Estimated damages..... 24,097 26 Interest to October 1, 1826..... 22,513 83 Seizure made at Leghorn.	Condemned at Paris, under decree of November 21, 1807. Date not stated.	This vessel cleared for Palermo and Leghorn. She was seized by French officers at Leghorn and condemned. Shipment made by H. W. & L. Philips.
43. Phenix Insurance Co. of New York.	France	Nov. 26, 1807 ..	Capture	Ship Cadoz, Bunker master.	Estimated damages ..... $8,333 83 Interest to October 1, 1826..... 10,154 83 Place of capture not stated.	Condemned under decree of December 17, 1807. Date not stated.	This vessel was captured on her voyage to Marseilles, by the French gunboat Toulouse, and sent into that port. She was captured on the alleged ground that she had been searched at sea by a British frigate. Shipment made by Rossier & Roulet.

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
44. Phenix Insurance Co. of New York.	France	June 29, 1807 ..	Not stated.	Ship Victory, Hopkins master.	Estimated damages..... $9,500 00 Interest to October 1, 1826..... 10,218 82 Place of loss not stated.	No legal adjudication appears...	This vessel was cleared for Cherbourg. Shipment made by Gurden S. Munford.
45. Phenix Insurance Co. of New York.	France	March 15, 1808.	Burning	Ship Eliza, Dunbar master.	Estimated damages ..... 5,248 63 Interest to October 1, 1826..... 6,821 07 Place of loss not stated.	No legal adjudication	This vessel was bound from Liverpool to Charleston. She was captured by two frigates, and burnt at sea. Shipment made by Jacob Barker.
46. Phenix Insurance Co. of New York.	France	Sept. 30, 1809..	Capture	Ship Ann, Pendergrast master.	Damages ..... 21,359 20 Interest to October 1, 1826 ..... 23,884 93 Place of capture not stated.	Condemned. Where and when not stated.	This vessel cleared for St. Sebastian, was captured by two French vessels and sent into Socoamoc, or St. Juan de Luz, and condemned. Shipment made by Jenkins & Havens.
47. Phenix Insurance Company of New York.	France	Nov. 13, 1809..	Sequestration	Ship Sally, Scott master.	Damages, $29,400; interest to October 1, 1826, $32,242. Sequestration made at St. Sebastian.	No legal adjudication appears...	This vessel cleared for St. Sebastian; she was there sequestered, and sold at Bayonne by the French. The insurance was on the cargo. The vessel was given up to General Armstrong. Shipment made by Leroy, Bayard & Co.
48. Phenix Insurance Company of New York.	France	Dec. 18, 1809...	Capture.....	Schooner Urania, Peck master.	Damages, $8,820; interest to October 1, 1826, $9,660 58 Place of capture not stated.	Condemned, probably at Naples. Date not stated.	This vessel cleared for Naples; she was captured by the French corvette La Fame, sent into Naples, and condemned. Shipment made by Minturn & Champlin.
49. Phenix Insurance Company of New York.	France	Nov. 24, 1809..	Seizure.....	Ship Commodore Rogers, Shaler master.	Estimated damages, $5,000; interest to October 1, 1826, $5,474 57. Seizure made at St. Sebastian.	Condemned. When and where not stated.	This vessel cleared for St. Sebastian; was there seized by the Prince of Neufchatel and confiscated. Shipment made by Ingraham, Phenix & Nexson.
50. Phenix Insurance Company of New York.	France	Nov. 24, 1809..	Seizure.....	Brig Camelia, Shaler master.	Damages, $1,100; interest to October 1, 1826, $1,204 39. Seizure made at St. Sebastian.	Condemned. When and where not stated.	This vessel sailed for St. Sebastian; was there seized by the Prince of Neufchatel and confiscated. Shipment made by Ingraham, Phenix & Nexson.
51. Phenix Insurance Company of New York.	France	Nov. 20, 1809..	Sequestration	Brig Mary Ann, Lawson master.	Damages ..... $24,304 31 Interest to October 1, 1826..... 26,459 95 50,764 26 Received from the French Government. 19,396 96 31,368 00 Sequestration made at St. Sebastian.	No legal adjudication appears...	This vessel was taken by the French privateer Invincible Napoleon. Shipment made by Saltus, Son & Co.
52. Phenix Insurance Co. of New York.	France	Nov. 15, 1809..	Sequestration	Brig St. Tammany, Fowler master.	Damages, $19,297 92; interest to October 1, 1826, $20,956 99. Sequestration made at St. Sebastian.	No legal adjudication appears...	Shipment made by Lawrence & Whitney.
53. Phenix Insurance Company of New York.	France	July 20, 1809...	Capture	Brig Resort, Burke master.	Damages, $2,692 99; interest to October 1, 1826, $3,238 05. Place of loss not stated.	Condemned. Where and when not stated.	This vessel was bound for Bremen; she was captured by the French privateer Hebe and sent into the Texel. Shipment made by G. T. Meyer.
54. Phenix Insurance Company of New York.	France	Dec. 9, 1809 ...	Sequestration	Brig Hawk, Bond master.	Damages, $1,236 06; interest to October 1, 1826, $1,321 41. Sequestration made at Bayonne.	No legal adjudication appears...	This vessel cleared for St. Sebastian; she was sequestered at Bayonne. Shipment made by P. T. Giraud.

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
55. Phenix Insurance Company of New York.	France	Nov. 18, 1809..	Capture.....	Brig Triton, Thompson master.	Estimated damages, $1,871 37; interest to October 1, 1826, $5,104 44. Place of capture not stated.	No legal adjudication appears...	This vessel cleared for Amsterdam; she was captured by a French privateer and sent into Calais. Shipment made by W. A. Livingston.
56. Phenix Insurance Company of New York.	France	Dec. 13, 1809...	Sequestration	Schooner Juliet, Miller master.	Damages, $13,478 26; interest to October 1, 1826, $13,987 03. Sequestration made at St. Sebastian.	No legal adjudication appears...	This vessel cleared for St. Sebastian. Shipment made by John G. Tardy.
57. Phenix Insurance Company of New York.	France	Dec. 16, 18, 1809	Sequestration	Ship Radius, Hartshorne master.	Damages on Minturn & Champlin's shipment..... $18,911 01 Damages on Post, Grinnell & Minturn's shipment..... 18,897 63 Amount, &c..... 37,808 64 Interest on the 1st item to Oct. 1, 1826.. 18,117 24 Interest on the 2d item to the same date. 18,119 13	Condemned. When and where not stated.	This vessel cleared for St. Sebastian. Shipment made by Minturn & Champlin, and Post, Grinnel & Minturn.
58. Phenix Insurance Company of New York.	France	April 19, 1810..	Capture.....	Brig Clio, Whitehead master.	Damages, $1,000; interest to October 1, 1826, $3,000 65. The vessel was lost near Port Blanc.	No legal adjudication...	This vessel cleared for Tonningen; she was captured by the French privateer Furet on the alleged ground of trading with the English, and while in charge of the prize crew she was lost on the coast of France. Shipment made by Isaac Moses & Sons.
59. Phenix Insurance Co. of New York.	France	Jan. 16 1810..	Sequestration.....	Schooner Camilla, Mony master.	Damages, $17,640; interest to October 1, 1826, $19,225 15. Sequestration made at Sebastian.	No legal adjudication appears ..	This vessel cleared for St. Sebastian. Shipment made by H. A. & J. G. Coster.
60. Phenix Insurance Co. of New York.	France	April 24, 1810.	Capture	Brig Catharine, Ochington master.	Damages, 6,382 24; interest to October 1, 1826, $6,366 28.	Condemned, probably at Dantzic. Date not stated.	This vessel was bound for Gottenburg. She was captured on the alleged ground of being or carrying English property, by the French vessel La Jeune Adolphe, and taken into Dantzic. Shipment made by Oliver Kane.
61. Phenix Insurance Co. of New York.	France	Feb. 14, 1811...	Condemnation.....	Brig Maria, Slater master.	Estimated damages, $2,772 50; interest to October, 1826, $2,903 56. See last column.	No legal adjudication appears ..	This vessel was bound from Gottenburg to New York. She was stranded on the island Amieland, in Holland, and was condemned at Paris by the Emperor. Shipment made by John G. Astor.
62. Phenix Insurance Co. of New York.	France	Aug. 9, 1808...	Capture and plunder	Schooner Charlotte, Grantley master.	Damages, $523 06; interest to October 1, 1826, $542 62. Place of capture not stated.	No legal adjudication appears ..	This vessel cleared for St. Jago de Cuba. She was captured by the French vessel St. Centinelle, plundered at sea, and suffered to proceed. Shipment made by John G. Tarby.
63. Phenix Insurance Co. of New York.	France	Feb. 13, 1811...	Condemnation.....	Brig Maria, Slater master.	Damages, $923 75; interest to October 1, 1826, $965 97. See last column.	No legal adjudication appears ..	This vessel, bound from Gottenburg to New York, was stranded on an island on the coast of Holland, and condemned at Paris by the Emperor. Shipment made by J. Lorrilard.
64. William Winthrop..	France	March, 1810 ...	Capture	Ship Govern'r Gore, Waddell, master.	Three-fourths freight..... $12,581 25 Interest to Sept., 1825, at seven per cent. 14,531 38 27,112 63 Place of capture not stated.	Condemned at Paris. Date not stated.	This vessel was captured by a French privateer, and carried into Calais, in France. The claim is for three-fourths of $16,775, the amount of freight on the cargo of the ship.

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
65. John Delafield's exec'rs. See claims on France, No. 107.	France	January, 1810..	Seizure	Schooner Prosper, Selby master.	$5,188 21. Seizure made at St. Sebastian	No legal adjudication appears	Seizure at St. Sebastian, and confiscated by the order of Napoleon, under decree of April 11, 1810.
66. John Delafield's exec'rs. See claims on France, No. 108.	France	January, 1810..	Seizure	Brig Rose in Bloom, Olcott master.	$5,000. Seizure made at St. Sebastian	No legal adjudication appears	This vessel was bound from New York to St. Sebastian; seized at the latter port by order of Bonaparte, under decree of April 11, 1810.
67. John Delafield's exec'rs. See claims on France, No. 109.	France	January, 1810..	Seizure	Schr. Young Connecticut, Rollo master.	$6,521 95. Seizure made at St. Sebastian	No legal adjudication appears	Same remarks as in the preceding case, No. 66.
68. John Delafield's exec'rs. See claims on France, No. 110.	France	January, 1810..	Seizure	Brig Tantivy, Perley master.	$8,000. Seizure made at St. Sebastian	No legal adjudication appears	Same remarks as in the preceding case, No. 66.
69. Marine Insurance Company of New York.	France	1805.	Detention and condemnation.	Brig Fame, Pansell master.	$1,000. Loss sustained at St. Jago de Cuba	Condemnation at St. Jago de Cuba by a French court. Date not stated.	J. B. Church, jr., owner. The voyage was from St. Jago de Cuba to New York.
70. Marine Insurance Company of New York.	France	1805.	Burning	Brig Two Friends, Stevenson master.	Cargo, $3,300. Place of loss not stated	No legal adjudication	This vessel was burnt at sea by a French squadron of ten sail from Rochefort. H. Cheriate and others, owners. The voyage was from New York to Nantz.
71. Marine Insurance Company of New York.	France	1805.	Burning	Brig Minerva, Salter master.	Cargo, $2,500. Place of loss not stated	No legal adjudication	This vessel was bound from New York to Bourdeaux, and was burnt by a French squadron of ten sail from Rochefort. Joseph Thebaud owner.
72. Marine Insurance Company of New York.	France	1808.	Burning	Ship Eliza, Dunbar master.	Vessel, $10,000. Place of loss not stated	No legal adjudication	This vessel, bound from New York to Liverpool, was burnt at sea by the French frigates La Hortense and La Hermoine. Jacob Barker owner.
73. Marine Insurance Company of New York.	France	1809.	Sinking	Ship Phenix, Telford master.	Vessel $13,000 00 Cargo 700 00 Amount 13,700 00	No legal adjudication	The ship Phenix, bound from New York to Lisbon, was sunk at sea by two French frigates, La Clorinde and La Renommee. James Johnston and others owners.
74. Marine Insurance Company of New York.	France	1808.	Condemnation	Brig Brutus, Edwards master.	Place of loss not stated. Cargo, $4,500. (See next column)	Condemned at Cayenne. Date not stated.	This vessel was bound from New York to Madras. Condemned under the Milan decree. She sailed before issuing the decree. Snydom & Wyckoff owners.

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
75. Marine Insurance Company of New York.	France	1809	Condemnation	Brig Perseverance, Oliver master.	Vessel $1,800 00 Cargo 5,700 00 Amount 7,500 00 (See next column.)	Condemned at Guadaloupe. Date not stated.	This vessel was bound from Grenada to the United States. She was condemned under the Milan decree. T. N. Gautier and others owners.
76. Marine Insurance Company of New York.	France	1809	Condemnation	Ship Two Marys, Rylie master.	Vessel, $10,000. See next column	Condemned at Paris. Date not stated.	This vessel was bound from New York to Nantz. She was condemned under the Milan decree. James Watson, jr., owner.
77. Marine Insurance Company of New York.	France	1810	Seizure	Ship Sally, Scott master.	Cargo, $11,000. Seizure made at St. Sebastian	No legal adjudication appears	This vessel sailed from New York for St. Sebastian, and was there seized by the French. Le Roy, Bayard & Co. owners.
78. Marine Insurance Company of New York.	France	1810	Condemnation	Ship Julius Cesar, Taber master.	Cargo, $9,000. Loss sustained at Dunkirk	No legal adjudication appears	This vessel was bound from New York to London, and seized or condemned at Dunkirk. Ferguson & Day owners.
79. Marine Insurance Company of New York.	France	1810	Seizure	Ship Vermont, Lyman master.	Cargo, $10,000. Seizure made at Leghorn	Condemned at Paris under the Berlin decree, 1810.	This vessel was bound from New York to Leghorn, and was seized at the latter port in 1807. J. Lenox and W. Maitland owners.
80. Marine Insurance Company of New York.	France	1810	Condemnation	Ship Governor Gore, Waddle master.	Cargo, $6,600. Loss sustained at Dunkirk	Condemned at Dunkirk	Bound from New York to Tonningen. Condemned at Dunkirk in 1810. A compromise was made with the captors, at a loss of 66 per cent. Willing & Curwen owners.
81. Marine Insurance Company of New York.	France	1810	Condemnation	Brig Resort, Burke master.	Vessel $5,400 00 Cargo 3,600 00 Amount 9,000 00	Condemned at Paris under the Milan decree. Date not stated.	The brig Resort was bound from New York to Bremen. Richard Black owner.
82. A. Laussat	France	Dec. 28, 1810	Sequestration	Brig Fox, Cullen master.	Cargo, per invoice $19,033 71 Interest from October 10, 1809, to October, 1826, 17 years 19,414 38 Amount 38,448 09 Sequestration made at St. Sebastian.	No legal adjudication	The brig Fox sailed from the port of Philadelphia 11th October, 1809, and arrived at St. Sebastian the 20th November following. She was received and admitted to an entry in the most friendly manner; the cargo landed, stored, and the duties paid on it. On the 28th December the whole was sequestered by an order of the French Government, taken out of the store, sent to Bayonne, where it was sold about the 10th August, 1810, and the proceeds thereof deposited in the caisse d'amortissement. The decree under which this property was sold was the Rambouillet decree of 23d March, 1810, but not published until the 14th May following.
3. A. Laussat	France	Sept. 28, 1809	Sequestration	Schooner Spencer, Maffett master.	Cargo, per invoice $2,415 98 Interest from September 28, 1809, to September 28, 1826, 17 years 2,464 32 Amount 4,880 30 Sequestration made at St. Sebastian.	No legal adjudication	The schooner Spencer sailed from Philadelphia 28th September, 1809, arrived at St. Sebastian the 20th October, admitted to entry in the most friendly manner. Her cargo was landed and stored, and sixty-nine days after her arrival she was sequestered and sent to Bayonne, there sold, and the proceeds deposited in the caisse d'amortissement. This property was sold under the Rambouillet decree.

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.		Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
84. A. Laussat.....	France	Nov. 24, 1809..	Sequestration	Brig Andrew, Coggins master.	Cargo per invoice.....	$6,216 00	No legal adjudication..	The brig Andrew sailed from Philadelphia November 28, 1809, arrived at St. Sebastian about the 20th of December following, was sequestered and sent to Bayonne, and there sold under the same circumstances as the brig Fox, &c., were, No. 82.
					Interest from November 24, 1809, to November, 1826, 17 years.....	6,370 92		
						12,616 92		
					Sequestration at St. Sebastian.	*Francs.*		
85. John Forrester.....	France	.....	Payment of extra duties..	.....	Extra duty on cotton.....	9,669 98	No legal adjudication.....	The ship ——, owned by the claimant, proceeded from Charleston with a cargo of rice and cotton, the property of the claimant, for Cowes, in England, for orders. After a stay there of two days or less, without any change in her cargo, and without landing or receiving aboard any merchandise, she proceeded, by the advice of the claimant's friends, to Havre. After the cargo had been there entered, the claimant's friends, Messrs. Welles and Greene, were told that they must pay extra duties, because the ship had not a French consul's certificate of the growth of the cargo, but that on the production of that document the extra duties should be refunded. It was afterwards sent to France, but the extra duties not having been refunded the present claim is for the restitution of them.
					Rice.....	1,670 31		
						11,340 29		
					Equal to.....	$2,268 00		
					Loss sustained at Havre.			
86. Alex. Little, Henry Little, and Nathaniel Bryant.	France	Jan. 11, 1808...	Capture	Brig Speculator ...	Vessel.....	$10,000 00	No legal adjudication.	The brig Speculator was owned by the claimants, citizens of the United States, in the proportions of one-half by Nathaniel Bryant, of one-quarter by Alexander Little, and of one-quarter by Henry Little. She sailed from Amsterdam, bound to Savannah, in ballast, and under the command of the said Henry Little, on the 6th day of January, A. D. 1808. On the 11th day of the same month she was captured by the French privateer L'Entrepans, and taken into Calais, where she arrived the same day. The captain and his two mates then and there deposed as to the fact of their having sailed from Amsterdam as aforesaid; and to their having been hailed before the capture by a ship-of-war, supposed to be English. Some days afterwards Captain Little was obliged, for want of funds, to discharge his crew, among which were some foreigners. These latter shipped on board the capturing privateer, and there made oath that the brig Speculator had not only been hailed by the said ship-of-war, supposed to be English, but had been boarded by her, and allowed to proceed on her voyage. For this cause the Speculator was detained for trial, as having been subject to capture and condemnation by virtue of the decrees of the Emperor of France of 21st November, 1806, and of the 17th December, 1807. Captain Little remained in
					Spare duck for sails.....	200 00		
					Spare sails and rigging.....	150 00		
					Provisions for four months.....	300 00		
					Premium of insurance on the voyage, the brig not having been insured against capture.....	170 00		
					Expenses incurred in France in endeavoring to procure the release of the vessel, and expenses of agents.....	500 00		
					Cabin furniture.....	200 00		
						11,520 00		
					Interest from January, 1808, to			

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
86—Continued.....	.....	.....	.....	.....	.....	.....	France one year waiting a trial, but not having succeeded in procuring an adjudication of the case, he returned to the United States, leaving the business in the hands of Mr. Skipwith, then Consul of the United States at Paris. Since that time the claimants have not learned in what manner the brig was disposed of, although they have latterly taken measures to ascertain her fate. They have, however, sustained a loss of their property therein.
87. John Rice and William Savage.	France.....	Feb. 21, 1810...	Seizure.....	Brig Ocean, John Hills master.	100,400 francs, equal, at 18¾ c. per franc, to $19,500. Seizure made at St. Jean de Luz.	Proceedings were had before the Imperial Council of Prizes, at Paris, 1810. Result not known.	The claimants were sole owners of the brig Ocean, and of her cargo, consisting of fish and oil, except a small part thereof, which belonged to two freighters. She sailed from Boston January 6, 1810, for St. Andero or St. Sebastian. Having lost ports and cables in very bad weather in the voyage, the vessel, on arriving in the neighborhood of these ports, could not go with safety into either of them, but was taken by the pilot to St. Jean de Luz, in France, that being the next port to St. Sebastian, and was moored in the harbor late in the afternoon of February 12. The next morning she was seized by officers of the French Government. The vessel was unladen, and, as was the cargo, sold, the vessel for two thousand four hundred francs, on July 25, 1810, and the cargo for ninety-eight thousand francs, partly on March 31, and partly on June 9, of the same year. All the proceeds were held by the officers of said Government and the imperial Treasury, and no part thereof has been received by the claimants.
88. Chesapeake Insurance Company.	France.....	March 6, 1805..	Capture	Ship Nancy, Brewster master.	$7,480. Place of capture not stated.....	Condemned at Bassaterre, Guadaloupe, 7th Messidor, 13.	This vessel was taken on her passage from Port au Prince to Charleston. She was captured by the French privateer Perseverante, and condemned for trading with St. Domingo. The property was disposed of at the French part of the island of St. Martin.
89. Chesapeake Insurance Company.	France.....	May 9, 1805....	Capture.....	Sch. Mary, Bunker master.	$3,000. Place of capture not stated	Condemned at Bassaterre, Guadaloupe, 7th Messidor, 13.	This vessel, on her passage from Port au Prince to Baltimore, and to Point Petre, Guadaloupe, was captured by the French privateer Grand Decide.
90. Chesapeake Insurance Company.	France.....	June 16, 1805...	Capture	Brig Comet	$14,000. Capture made off Charleston	Supposed to have been condemned at Guadaloupe.	This vessel was captured on her passage from Jeremie to Norfolk by the French privateer Matilda, which belonged to Guadaloupe.
91. Chesapeake Insurance Company.	France.....	June 19, 1805...	Capture	Schooner Imperial, Everson master.	$10,000. Capture made off Charleston.....	Supposed to have been condemned at Guadaloupe.	This vessel was taken under the same circumstances as the foregoing, the brig Comet, No. 90.

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
92. W. King.....	France.....	Feb. 8, 1810....	Capture.....	Ship Vigilant, Coombs master.	Amount of ship..... $16,000 00 Amount of freight to Gottenburg..... 9,600 00 Paid Capt. Coombs' bill for £800 sterling on —— & Booth, of Liverpool, being amount of expenses in prosecuting the claim in Holland..... 3,555 52 29,155 52 Interest from Feb. 8, 1810, to Dec. 8, 1826. 27,694 44 56,849 96 Place of capture not stated.	No legal adjudication appears...	The Vigilant, 343 tons burden, sailed from Hampton Roads January 6, 1809, bound to Gottenburg, and was captured by the French privateer called the Imperatrice, of Calais, sent in for adjudication, and captured under the following decree: "All vessels navigated under the American flag that are arrived, or may have arrived since 20th May, 1809, into the ports of France or its colonies, or of the countries that are garrisoned by French troops, shall be confiscated, and the amount of sales paid into the chest, except only those vessels which are in ballast, with despatches of the United States, and which have no cargoes on board, nor merchandise."
93. Chesapeake Insurance Company.	France.....	Dec. 19, 1805..	Capture	Schooner Stephen..	$6,900. Place of capture not stated.....	Supposed to have been condemned at the city of St. Domingo. Date not stated.	This vessel was taken on her passage from Baltimore to Jacmel by the French privateer Jeune Estelle, and taken to Samana, and the property disposed of.
94. Chesapeake Insurance Company.	France.....	April 27, 1805..	Capture	Sch. Ann, Dobbin master.	$16,000. Place of capture not stated	Condemned at Basseterre, Guadaloupe, 13th Thermidor, 13.	This vessel was taken on her voyage from Jacmel to Baltimore by the French privateer Regulator. Capture made for trading with St. Domingo. The property was disposed of at St. Jago, where the vessel arrived May 3, 1805. This and the following claims, to No. 104 inclusive, were preferred under the Florida treaty.
95. Chesapeake Insurance Company.	France.....	April 2, 1805....	Capture	Brig Alert, Smith	$2,100. Place of capture not stated.....	No legal adjudication	This vessel was captured by the French privateer Regulator on her passage from Jeremie to Baltimore. She arrived at St. Jago April 7, 1805, where the property was disposed of without trial.
96. Chesapeake Insurance Company.	France.....	May 4, 1805....	Capture	Schooner Severn, Mills master.	$6,350. Place of capture not stated.....	Condemned at Basseterre, 19th Thermidor, 13.	This vessel was taken on her passage from Cape François to Baltimore by the French privateers L'Esperance and Les deux Amis, and the property disposed of at St. Jago on arrival. The condemnation was for violating the laws interdicting the trade with St. Domingo.
97. Chesapeake Insurance Company.	France.....	June 13, 1805..	Capture	Schooner Defiance, Hollis master.	$15,400. Place of capture not stated.	Condemned at Basseterre, Guadaloupe, February 5, 1806.	This vessel was captured by the French privateer Rencontre on her passage from Jeremie to Baltimore, and the property disposed of on arrival at Barracoa, June 21. The condemnation was for having had intercourse with St. Domingo.
98. Chesapeake Insurance Company.	France.....	July 12, 1805...	Capture	Sch. St. Tammany, Wright master.	$11,000. Place of capture not stated	Condemned at Basseterre, February 5, 1806.	This vessel was taken on her passage from Miraquana, in St. Domingo, to Baltimore by the French privateer Renard, and the property disposed of on arrival at St. Jago. Condemned as in No. 97.
99. Chesapeake Insurance Company.	France.....	June 11, 1805..	Capture	Schooner Sophia, Winard master.	$1,500. Place of capture not stated.....	Condemned at Basseterre, Guadaloupe, February 5, 1806.	This vessel was captured on her passage from Baltimore to Cape François by the French privateer Superb, and the property disposed of without legal form on her arrival at Barracoa. Condemned as in No. 97.
100. Chesapeake Insurance Company.	France.....	August 4, 1805.	Capture	Schooner Satellite, Hall master.	$300. Place of capture not stated.....	No legal adjudication	This vessel was taken on her passage from Cape François to Baltimore by a French privateer, and the property disposed of at Barracoa.

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication: where and when.	Remarks to explain or elucidate the general nature of the claim.
101. Chesapeake Insurance Company.	France.....	May 13, 1807...	Capture	Schooner Collector, Snow master.	$9,600. Place of capture not stated.....	Supposed to have been condemned at Guadaloupe, or the city of St. Domingo.	This vessel was taken on her passage from Baltimore to New Orleans, by the French privateer Juan Marie. Property disposed of at Barracoa.
102. Chesapeake Insurance Company.	France.....	April 11, 1805..	Capture	Schooner Anna, Gordon master.	$15,000. Place of capture not stated.....	Supposed to have been condemned at the city of St. Domingo.	This vessel was taken on her passage from Aux Cayes to Baltimore, by the French privateer Musquito, and carried into Moyauquez. The cargo was sold, and the vessel sent out of port.
103. Chesapeake Insurance Company.	France.....	Feb. 4, 1805....	Capture	Brig Fame	$8,696. Place of capture not stated.....	No legal adjudication.....	This vessel, on her passage from Cape François to Charleston, was captured by the French privateer Union, and the property disposed of without legal adjudication, on arrival at St. Jago, February 7, 1805.
104. Chesapeake Insurance Company.	France.....	Jan. 23, 1805...	Capture	Brig Neptune, Carew master.	$10,600. Place of capture not stated.....	Condemned at Basseterre, Guadaloupe, 28th Messidor, year 13.	This vessel was taken on her passage from Alexandria to the island of St. Domingo, by the French privateer Aventure, and property disposed of on her arrival at Barracoa, January 25, 1805.
105. New York Firemen's Insurance Company.	France.....	October 7, 1810.	Capture	Schooner Abœllino, Thomas master.	Insured for H. Turnier..... $1,500 00 Insured for Louis Mallard... ..... 1,400 00 Amount, &c..... 2,900 00 Capture made off Port Farino.	Condemned at Genoa. Date not stated.	This vessel, bound from Philadelphia to Tunis, was captured by the privateer Cæsar, Captain John Baptiste Donati, and carried into Genoa.
106. New York Firemen's Insurance Company.	France.....	Jan. 28, 1812...	Capture	Brig Comet..	Insured for Richard Richardson & Co., $3,909. See last column.	No legal adjudication.....	This vessel was bound from Savannah to Chatham, England, captured by the privateer General Cafferilla, Captain O'Reilla, run on shore, and lost near Fecamp.
107. New York Firemen's Insurance Company.	France.....	Dec. 5, 1811 ...	Capture and burning.....	Ship Telegraph, Bayard master.	Insured for Leroy, Bayard & McEvers, $12,000. Place of capture not stated.	No legal adjudication.....	This vessel, from New York to Lisbon, was captured by the frigates Medusa and Nymphe, and burnt at sea.
108. New York Firemen's Insurance Company.	France.....	April 16, 1812..	Capture and burning.....	Ship Mercury, Killy master.	Insured for Abraham Reynolds..... $500 00 Peter Hoyt..... 500 00 Amount, &c..... 1,000 00 Place of capture not stated.	No legal adjudication.....	This vessel, from New York to Lisbon, was captured by the frigates Ariante and Andromache, and brig Mameluke, and burnt at sea.
109. New York Firemen's Insurance Company.	France.....	Feb. 13, 1812...	Capture	Brig Shakspeare, Rand master.	Insured for Hibberson and Young, $1,500. Place of capture not stated.	No legal adjudication.....	The Shakspeare, bound from Amelia Harbor, St. Mary's, to Chatham, England, was captured by the privateer Le Mercure and L'Epervier, and carried into La Hogue.

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
110. New York Firemen's Insurance Company.	France.....	Oct. 21, 1810...	Capture	Ship Julius Cæsar, Taber master.	Insured for Ripley, Center & Co., $4,500. Place of capture not stated.	No legal adjudication.....	From New York to London, captured by the privateer Subtile, of Boulogne, Captain Demey, and sent into Dunkirk, where she was lost in a gale on the 23d of October.
111. New York Firemen's Insurance Company.	France.....	Date not stated.	Capture	Brig Hannah, Dawson master.	$1,024 80. The insurance was made for Edward Morewood and Thomas Carberry, on freight, $8,000. Place of capture not stated.	No legal adjudication..	This vessel, bound from Savannah to Portsmouth, England, was captured by a privateer and recaptured by the British, and carried into Plymouth. Salvage, charges, and expenses, $1,024 80. Date of the policy of insurance, February 4, 1812.
112. New York Firemen's Insurance Company.	France.....	Nov. 4, 1811...	Capture	Ship Olive Branch, Bradley master.	Insurance for $5,196, made for L. Krumbeahr, of Philadelphia, and for $10,000 for Alexander Ogden, Charles L. Ogden, and Joshua Waddington, of New York. Loss on first item..... $4,793 60 Loss on second item..... .... 6,847 94 Amount, &c..... ..... 11,641 54 Capture made off Nyburg.	No legal adjudication appears...	The Olive Branch was bound from Kiel to Philadelphia. She was captured, while at anchor off Nyburg, where she stopped to pay Sound dues, by the privateer General Durarnel, Captain Frederick Mossey, of Dunkirk, and carried into Nyburg. The captain and crew were turned on shore. Her papers were sent to Paris; and, after repeated applications to the French and Danish Governments, the property, after a long detention, was finally given up. The loss, in consequence of the detention, expenses, waste, and damage of goods, is as stated.
113. New York Firemen's Insurance Company.	France	1811.....	Capture.....	Ship Atlantic, —— master.	$20,224 40. Insurance was made by Lawrence and Whitney, and Hoyt and Tom, of New York. Place of capture not stated.	Condemned at Paris September 10, 1811.	This vessel from New York to Gottenburg and a market in the Baltic. She was captured on her passage from Carlsham to Stockholm and sent into Dantzic. The papers sent to Paris, where vessel and cargo were condemned. The reason assigned for the condemnation was, that the ship had been under British convoy.
114. Joseph Phillippe....	France	Nov. 22, 1811 ..	Capture and burning	Brig Dolly	Amount of loss, as per claimant's invoice, £1,189 17s. 11¾d., equal, at $1 per 4s. 6d. sterling, to $14,177 32. Capture made in lat. 34° 34′, and long. 33° 31′.	No legal adjudication appears...	The brig Dolly was captured by the French frigates La Meduse and La Nymphe, and burnt, as was also her cargo, except the valuable goods carried on board the frigates and smuggled into port by the captors. On March 12, 1812, the American ambassador, Mr. Barlow, applied to the Emperor, through the French minister for the Foreign Department, for redress in that case. The claim was afterwards repeatedly urged on the Government of France until December 23, 1819, when the Privy Council decided "that the concerned in the ships Telegraph and Dolly, and cargoes, could not be admitted as claimants; the first public notice of the report of the Berlin and Milan decrees having only been made known by insertion in the Moniteur of May 8, 1812, several months after the capture of the vessels." The American ambassador protested against the decision. Those decrees had been repealed, in regard to American vessels, from November 1, 1810, and notice was given by the Minister of Justice to the President of the Board of Prizes, and subsequently by decree of April 28, 1811.

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
115. Union Insurance Co. of Maryland.	France	April 11, 1805	Capture	Schooner Anna, Gordon master.	$9,515 75. See last column	See last column	These claims are for amounts insured by the claimants and paid on American vessels which were captured by French armed vessels on the high seas, and either illegally condemned or converted to the use of the captors without condemnation. The stated items of loss are the respective amounts paid by the claimants in consequence of such captures.
116. Union Insurance Co. of Maryland.	France	April 27, 1805	Capture	Schooner Ann, Nye master.	$20,000. See last column		
117. Union Insurance Co. of Maryland.	France	Feb. 15, 1805	Capture	Schooner Brothers, Hughes master.	$11,000. See last column		
118. Union Insurance Co. of Maryland.	France	Feb. 7, 1805	Capture	Brig Fame, Missroon master.	$11,000. See last column		
119. Union Insurance Co. of Maryland.	France	June 8, 1805	Capture	Schooner Harriet, Williams master.	$15,750. See last column		
120. Union Insurance Co. of Maryland.	France	July 27, 1805	Capture	Brig Jane, Kennedy master.	$22,000. See last column		
121. Union Insurance Co. of Maryland.	France	Feb., 1805	Capture	Schooner Mary, Bunker master.	$2,100. See last column		
122. Union Insurance Co. of Maryland.	France	June 6, 1805	Capture	Schooner Mars, —— master.	$9,776. See last column		
123. Union Insurance Co. of Maryland.	France	July 14, 1805	Capture	Schooner Republican, Reed master.	$15,500. See last column		
124. Union Insurance Co. of Maryland.	France	May 9, 1805	Capture	Schooner Sally, Gilpin master.	$17,966. See last column		
125. Union Insurance Co. of Maryland.	France	June, 1805	Capture	Schooner Satellite, Hull master.	$10,000. See last column		
126. Union Insurance Co. of Maryland.	France	June 29, 1805	Capture	Schooner Sophia, Winard master.	$18,500. See last column		
127. Union Insurance Co. of Maryland.	France	Dec. 20, 1805	Capture	Schooner Stephens, Parkens master.	$6,000. See last column		
128. Union Insurance Co. of Maryland.	France	July 12, 1805	Capture	Schr. St. Tammany, Wright master.	$15,000. See last column		
129. Union Insurance Co. of Maryland.	France	April 4, 1805	Capture	Schooner Tickler, Frost master.	$20,587. See last column		
130. Union Insurance Co. of Maryland.	France	Dec., 1805	Capture	Schooner Swift, Davis master.	$22,003. See last column		
131. Union Insurance Co. of Maryland.	France	Dec., 1805	Capture	Schooner Berry, Alley master.	$12,250. See last column		
132. John L. Place, and the heirs of Thos. Brown.	France	Capture made December 6, 1810.	Capture	Ship Gen. Eaton, Place master.	Freight for charter, pounds sterling 2,560, equal to ..... $11,366 40 Expenses during 19 months detention in France, 55,094 francs ..... 11,000 00 Expenses in London, from the time of	Condemned by the admiralty court, London, December 19, 1812.	The General Eaton, on a voyage from London to Charleston, was captured by two French privateers, and conducted into Calais. She was detained in France from the date of her capture till February 24, 1812, when, by special decree of the Emperor Napoleon, she was released, and possession given to the Captain, he paying all

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
132—Continued.....	.....	.....	.....	.....	capture by the British, after leaving France, till the condemnation in London, in consequence of detention by the French prior to the declaration of war by the United States against England, pounds sterling 105 12s. 2d. ..... $467 00 Ship, 220 tons, at $50 per ton..... 11,000 00 Amount, &c..... 33,833 40 Interest appears to be claimed. Place of capture not stated.	.....	expenses. On the 4th June he received possession of the ship, but was not allowed to leave France till the ensuing 24th July, on which day he sailed from Calais for New York, and was captured by the English vessel-of-war the Cadmus, and conducted into the Downs. At the time of her capture by the French the ship was under charter for the voyage at the rate of six guineas per ton for rice, and 2½d. sterling per pound for cotton.
133. James Penniman...	France	Jan 23, 1812...	Capture and burning	Brig Gersham, Smith master.	About $2,000. Capture made in longitude 32°, and latitude 41° 30'.	Unknown	The brig Gersham, owned at Durbury, loaded at Boston with flour, corn, and rice, cleared for Oporto, and sailed from Boston Dec. 28, 1811. On her voyage she was captured and burnt by two French national frigates, the Arianne and the Andromache, of 44 guns each, and a gun-brig of 16 guns, under the command of Commodore Feretier.
134. Wm. Holmes, Plymouth, Mass.	France	Dec. 7, 1807...	Capture and condemnation.	Brig Rising Sun, Laban Burt master.	Value of vessel ..... $10,000 00 Freight of cargo ..... 4,888 89 Primage on cargo..... 977 96 Wages of the master, mate, and crew, from July 30, 1807, to August 26, 1808. 2,478 41 Their board in Amsterdam, 37 weeks.... 999 00 Fee of counsel in Amsterdam ..... 300 00 Provision bill, spare duck, and cordage.. 522 66 20,166 86 Insurance and interest are claimed. The vessel was captured in the North Sea.	The case was tried at Paris, and a decree of condemnation issued August 26, 1808.	The vessel was captured, on a voyage from Philadelphia to Tonningen, by the privateer Jene, commanded by Julius Jacobs, and was carried to Amsterdam.
135. Garland Thompson, executor of Thos. Mitchell, dec'd, late of Louisa co., Virginia.	France	1809.....	Capture and confiscation.	Brig John Adams, Banks master.	Thirty hogsheads of tobacco and three hogsheads of tobacco stems. The claimant alleges that the tobacco alone weighed 43,005 pounds net; and as tobacco sold all over the continent of Europe at that time for from $30 to $40 per hundred pounds, he estimates the loss at not less than $15,000, and for which, and for 17 years' interest, he deems the representatives of the deceased to have a rightful claim for $30,000.	There does not appear to have been any legal adjudication.	The tobacco and stems were shipped by the deceased on board the brig John Adams, bound for Hamburg and a market. The brig sailed from Norfolk, in Virginia, in the month of July, 1809. She was captured on her voyage to Hamburg by a French cruiser, carried into Dieppe, and her whole cargo confiscated without ceremony, as the executor is informed.

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
136, 140. Dan'l W. Coxe, Philadelphia.	France	1810	Seizure and condemnation	Brig Good Friends, Harlow master.	34,048.86 francs. Seized at Morlaix	Condemned by the Emperor Napoleon, but when or where is not stated.	The vessel was bound from Philadelphia to Tonningen, and put into Morlaix in distress, where she was taken possession of by the French custom-house.
		1810	Seizure and condemnation	Schooner Postboy, Sparrow master.	28,580.25 francs. Seized at St. Sebastian	Condemned by the Emperor Napoleon; it is not said when or where.	The vessel was bound from Philadelphia to St Sebastian.
		1808	Capture and condemnation.	Ship Jas. Adams, Bangs master.	322,979.00 francs. Place of capture not stated	Condemned at Dunkirk for alleged violation of the Berlin and Milan decrees. The date of it does not appear.	This ship was bound from Philadelphia to Amsterdam, and on her passage thither was sent into England; and, after having been there released, was captured by the French privateer Savage, and sent into Dunkirk.
		1810	Seizure and condemnation	Ship Hawk, Brown master.	26,563.60 francs. Seized at St. Sebastian	Condemnation by the Emperor Napoleon; the date of it, or where it was made, is not stated.	This ship was bound from Philadelphia to St. Sebastian.
		1808	Seizure and condemnation	Snow Edward, Lewis master.	222,997.10 francs. Seized at the Isle of Rhe 635,168.81 francs, equal, at 5.33⅓ francs per dollar, to $119,094 15. The claimant states that the duties were paid in France on the property aforesaid, and that the above amounts are therefore free of duties, and are without interest for about 17 years. He also alleges that the property, except that by the ship James Adams, was all applied to the use of the French Government. *Mem.*—$42,476 13 of this claim is probably included in No. 241 of claims on France.	Condemnation at Paris; it does not appear when.	This vessel was spoken on her voyage from Philadelphia to Nantes by a cruizer under French colors, and seized on her arrival for that reason. Bonds were given for the value of the goods, and paid when condemnation took place, for livres 222,997 10.
141. Benj. P. Homer, treasurer of the Com'l Ins. Office in Boston.	France	1811	Capture	Barque Zeno	$3,000. Place of capture not stated	Condemnation at Paris; date not stated.	The Zeno was owned by David Coffin, of Newburyport, and was bound from Boston to the north of Europe.
142. Same	France	Capture made May 4, 1811.	Capture	Ship Hercules	$10,000. It does not appear where the capture was made.	The condemnation was made at Paris; the date of it is not stated.	The vessel was laden with cotton and rice, bound from Charleston, South Carolina, to St. Petersburg, and was captured by the French cruiser Le Diable, Captain Klimerath, and sent to Dantzic. Humphrey Hathaway and others, of New Bedford, were the owners.
143. Same	France	1810	Capture	Brig Cubano	$2,677. The place of capture is not stated	No legal adjudication appears	Ephraim Locke, or agent, owner.
144. Same	France	1810	Capture	Brig Nancy and Mary	$3,296. No place stated	No legal adjudication appears	Owned by Ephraim Locke and others.

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
145. Abner Burbank, of Washington, N.C., in his own right, as adm'r of Eleazer Burbank and Paul Jewet Burbank, both dec'sed, and as agent for Jas. Major and Phineas Cole.	France	1809	Capture and condemnation.	Brig Mount Peltier.	Cost and value of vessel $3,000 00 Cost of the cargo 10,000 00 Freight of the brig out to the West Indies 2,000 00 15,000 00 The place of capture is not mentioned.	Condemned in the port of Basseterre, in the island of Guadaloupe, and, as alleged by the claimant, without any ground, when both Governments were in amity; date not stated.	The capture was made on a voyage from Salem to St. Bartholomew.
146. Pratt & Kintzing, of Philadelphia.	France	Unknown	Capture and condemnation.	Swedish ship Anna Christina.	$8,009 24. No place mentioned.	Condemnation at Barracoa; the date of it is not stated.	The vessel was captured by a French privateer on a voyage from Cape François to Charleston.
147. Same	France	Unknown	Capture and condemnation.	Ship America	$17,572 92. Place of capture not stated.	It is not known whether or not there was any legal adjudication.	Captured by a French privateer on her voyage from Philadelphia to Amsterdam.
148. Same	France	Capture made Dec. 31, 1807.	Capture and confiscation.	Ship James Adams.	$30,173 71. It is not said where the capture was made.	Condemnation by the Council of Prizes, at Paris, July 13, 1808.	This ship was captured by the French privateer Le Sauvage on a voyage from Philadelphia to Amsterdam, and sent into Dunkirk.
149. George Dutch, of Salem.	France	Seizure made Dec. 28, 1809.	Seizure and confiscation.	Schooner Betsey, Thomas Holmes master.	One-fourth of the net sales of the vessel and effects on board belonging to the claimants, after deducting the sum received from the underwriters, $6,163 09; interest to December 31, 1826, $5,916 57. See next column.	There does not appear to have been any legal adjudication. It is alleged that the vessel and effects were seized and confiscated by the order of the Emperor of France without lawful cause, and, as is presumed, at St. Sebastian.	None.
150. Ephraim Felt, of Salem.	France	Nov. 15, 1811	Capture and destruction.	Brig Three Friends, Captain Lefavour.	$98. Latitude 7° 58′ north, longitude 25° 20′ west.	No adjudication	The brig Three Friends sailed from Salem in October, 1811, bound to Pernambuco, and was captured and burnt by two French frigates, the Medusa and Nymph.
151. Jacob Goodhue, of Columbus, Ohio.	France	1811	Sequestration	Radius	Sugar, coffee, pepper, and gum benjamin. $1,136 00 Interest 15 years 1,022 40 Add freightage 115 00 Wages five months 125 00 2,398 40 Gallapello, Gulph of Taranto, in Italy.	No adjudication	The vessel (of which the claimant was the chief officer) was bound to Gallapello, and was owned by William Gray.

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
152. George Johnston, for himself and the executors or heirs of James Johnston, dec'd.	France.....	Mar. 1, 1808...	Destruction of the ship and cargo.	Ship William, of New York, Chas. Rockwell master.	Value of vessel, $20,000; freight on voyage from Liverpool to Savannah, $4,000; value of cargo belonging to the owners of the ship, $2,000. See last column.	No legal adjudication.....	The ship sailed from Liverpool on the 24th February, 1808, bound to Savannah, in Georgia, laden with a cargo of salt, crates of earthenware and other merchandise, in company with the ship Pocahontas, of Boston, ship Brutus, of Duxbury, and others, and on the evening of the 29th February, 1808, was boarded by an officer from the French frigates Hermoine and Hortense, bound from Martinique to France; and after an examination of the William's papers the Commodore stated it to be his duty to burn the vessel, agreeably to the orders he had received from the French Government. The crews of the frigates then proceeded to plunder the William of her provisions, water, some crates and sails, and carried them on board the frigates, and on the 1st March, 1808, burnt her and the residue of her cargo to the water's edge. The Brutus was burnt in the latter part of the same day; the crates on board of the Pocahontas were thrown overboard, and the crews of the William and Brutus, and of the Eliza, of New York, previously burnt, were put on board the Pocahontas and ordered to Boston.
153. The Philadelphia Insurance Company.	France.....	May 11, 1812...	Seizure and destruction..	Brig Mary, Craycroft master.	$12,500 insured on the cargo, which, exclusive of premium of insurance, cost at Havana and Philadelphia $31,088 52½, all for account of Lelapier and W. Hunt, of Philadelphia. See last column.	No adjudication.....	The vessel and cargo were plundered and destroyed on the high seas on the passage from Havana to Smyrna by the frigates l'Arianne, Commodore Ferretier, and l'Andromaque, Captain Maurice, and corvette l'Mameluke. A memorial has been filed with the proper authorities in France claiming indemnity, but no redress has been obtained.
154. Same.....	France.....	1810.....	Sequestration.....	Schooner Post Boy.	$3,000 insured on the cargo for account of the shipper, W. J. Miller, of Philadelphia. See last column.	There does not appear to have been any legal adjudication.	The cargo was seized and sequestered at St. Sebastian on arrival from Philadelphia.
155. Henry Thompson and Jonathan Meredith, administrators of Charles and Peter Weigman, late of Baltimore, deceased.	France.....	Dec. 31, 1812...	Capture and destruction..	Ship William Wilson, of Baltimore.	Value of ship, exclusive of $12,000 insured $8,000 00 Value of cargo not insured..... 16,272 00 Freight not insured..... ..... 2,440 00 26,712 00 Latitude 36° 10′ north, longitude 18° 20′.	No adjudication.....	This ship was captured on a voyage from Lisbon to Baltimore, with a cargo of salt, by the French frigate La Glorie, Captain A. Roussin, and was sunk by the captors at sea.
156. Jas. Riley, of Willshire, Ohio.	France....	Seizure made in Jan., 1808.	Seizure and condemnation.	Ship Two Marys, of New York.	Part of the cargo, primage on the freight, and his wages and expenses as master of the ship, until his arrival in New York in July, 1809..... $6,946 80 Interest to October 1, 1826..... 8,841 28 15,788 08 Seized at Belle Isle, in the Bay of Biscay.	Condemnation at Paris by the Council of Prizes under the Milan decree, December 15, 1808.	None.

SUPPLEMENT TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
157. John R. Watson, of New York, one of the heirs of James Watson, jr., deceased, for himself and others interested.	France	Seizure made in Jan., 1808.	Seizure and condemnation.	Ship Two Marys, James Riley master.	51 boxes of sugar, 20 tons of logwood, 150 bags of pimento, freight of the vessel, and charges incurred in consequence of the seizure, $35,872 70. (See last column.) Seized at Belle Isle.	Condemned at Paris on the 15th December, 1808, by the Council Imperial of Prizes, under the Milan decree of 17th December, 1807.	The vessel sailed from New York on the 25th December, 1807. The amount claimed includes interest, at seven per cent., from March 1, 1808, to October 1, 1826, eighteen years and seven months, on $13,341 74, and for the same time, and at the same rate, on $2,249 48.
158. John Lawrence, for himself and others.	France	Jan. 10, 1810...	Seizure.....	Brig St. Tammany, Hussey master.	Cost of vessel ..... $5,000 00 Outfit for the voyage..... 2,246 09 Premium of insurance ..... 1,226 25 8,472 34 Interest thereon from November 8, 1809, to December 8, 1826, seventeen years and one month, at seven per cent. per annum ..... 10,131 50 18,603 84 Seizure made at St. Sebastian.	No legal adjudication appears...	The brig St. Tammany, owned by Thomas H. Smith, jr., Rankin & Hyer, John Colvill, and Lawrence & Whitney, all citizens of the United States, sailed from New York on or about November 24, 1809, bound for St. Sebastian; and on her arrival there, January 10, 1810, the vessel and her cargo, belonging to the same owners, were taken possession of under a decree of the Emperor of France, directing a general sequestration of all vessels belonging, in whole or in part, to any citizens of the United States, which had, subsequently to May 20, 1809, entered, or should thereafter enter, the ports of the French Empire, their colonies, or the countries occupied by their armies. The vessel and cargo were afterwards removed to Bayonne, in France, and there sold, and the proceeds held by the French Government. The cargo was insured by the Phenix Insurance Company, in New York, and afterwards paid for by them; but the vessel was insured against the risk of the sea only. She became a total loss, therefore, to the owners.
159. David Brand.....	France	April, 1808.....	Capture.....	Ship Roboreus, Hall master.	Value of 5 cases of merchandise, $360. Place of capture not stated.	No legal adjudication	The ship Roboreus cleared from Baltimore April 16, 1808, with an assorted cargo, bound to New Orleans, Louisiana. She was an American vessel, registered according to law, and furnished with the requisite papers and documents. She was captured by a French cruiser, and taken into the island of Cuba.

INDEX TO CLAIMS ON NAPLES.

Names of claimants.	Number.	Amount.	Names of claimants.	Number.	Amount.
Boston Marine Insurance Company	3	$8,000 00	Hooper, R. & J., and others	6	$35,000 00
Do do	4	15,000 00	King, Samuel, and others	29	535 00
Bradbury, Charles, for self and others	17	17,400 00	Maryland Insurance Company, assign's, &c	25	5,500 00
Do do	18	2,725 00	Marblehead Social Insurance Company	26	400 00
Do do	19	3,000 00	Do do	27	1,000 00
Do do	20	1,500 00	Do do	28	600 00
Do do	21	5,250 00	Marine Insurance Company of Philadelphia	38	7,600 00
Do do	22	9,150 00	Oliver, Robert and John, and others	58	300,000 00
Do do	23	5,000 00	Oliver, Robert and John	59	30,854 74
Do do	24	5,500 00	Do	60	25,000 00
Barker, George, administrator	39	402 00	Prince, Henry	31	2,157 00
Barton, John, and others	30	14,091 34	Do	32	350 00
Brazer, John	61	15,000 00	Peabody, Joseph, and another	36	159,807 28
Craven, N. A. & I. T	1	15,321 73	Do	37	70,245 85
Cook, James	33	3,894 98	Proctor, William	75	306 80
Do	34	500 00	Page, Jery Lee	76	.....
Coulter, John	79	107,685 60	Do	77	.....
Dutch & Deland	40	57,137 09	Do	78	.....
Do	41	1,741 14	Roulet, John S., (including G. S. Mumford's proportion)	83	18,000 00
Do	42	11,000 00	Russell, Nathaniel P., agent	12	2,000 00
Do	43	1,633 42	Do	13	500 00
Do	44	4,200 00	Social Insurance Company of Salem	46	9,000 00
Dodge, Pickering, and others	45	9,600 00	Do do	47	6,000 00
Dodge, Pickering	73	1,380 67	Do do	43	5,500 00
Do	74	2,181 40	Do do	49	10,000 00
Derby, Fishing Company	81	26,000 00	Do do	50	10,000 00
Ellicott, T., and others	5	25,058 00	Do do	51	8,500 00
Gray, Henry	10	600 00	Do do	52	4,000 00
Gray, heirs of Samuel	11	19,000 00	Do do	53	7,663 70
Gray, William R	14	2,135 52	Do do	54	5,000 00
Do	15	8,166 77	Silsbee, Nathaniel, and others	35	84,882 43
Do	16	1,000 00	Stewart, Alexander	80	5,307 50
Gray, estate of William	62	46,900 00	Thorndike, Israel	7	20,000 00
Do	63	12,300 00	Do	8	60,000 00
Do	64	15,250 00	Do	9	150,000 00
Do	65	9,200 00	Union Marine Insurance Company of Salem	55	7,000 00
Do	66	18,042 00	Do do	56	10,000 00
Do	67	4,252 00	Do do	57	10,000 00
Do	68	3,438 88	Von Kapff & Brune and others	2	31,382 84
Do	69	7,700 00	West, Nathaniel	82	157,208 64
Do	70	1,850 00			
Do	71	2,900 00	Amount of claims on Naples	.....	1,784,990 32
Do	72	1,600 00			

CLAIMS ON NAPLES.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
1. N. A. & J. T. Craven, of Portsmouth, N. Hampshire.	Naples	March 20, 1812.	Sequestration of the vessel and cargo, appropriation of the cargo, and detention of the vessel.	Ship Horace, sequestered and detained.	$15,321 73. Loss was sustained at Naples.....	No legal adjudication	The ship Horace was chartered to carry a cargo of pilchards, &c., to Naples; and on arriving there was, with her cargo, sequestered. The cargo was taken by the Government, and no freight was paid. The ship was not liberated till June 22, 1812. The claim is for total loss of freight, demurrage, and expenses.
Von Kapff & Brune, and others.	Naples	October, 1809..	Seizure	Schooner Zephyr, Murphy master.	Cost of cargo in Baltimore ..... $21,382 84 Value of schooner .... 10,000 00 31,382 84 Freight and expense of the voyage. Seizure made at Naples.	Not stated.....	The schooner Zephyr sailed from Baltimore in July, 1809, for Tunis; proceeded from Tunis to Naples with a cargo of sugar, coffee, and logwood. The papers were in regular order. The supercargo arrived at Naples in October, 1809. The vessel and cargo were seized, and the claimants believe ultimately condemned. The vessel was permitted to come to America, the consignees giving bond for her; the amount of which bond the consignees claim from the present claimants, and also considerable expenses. The claimants have entered claims for the restoration of the property in Naples, as well as Paris, but without effect.
3. Boston Marine Insurance Company.	Naples	1810.....	Detention and confiscation.	Schooner Maria, Cleaveland master.	Paid J. Cleaveland, March 4, 1822, $8,000. Place of detention not stated.	No adjudication appears.....	This vessel was insured "from Boston to ports in Italy, south of Orbitello and Pereiro." She was detained by the Neapolitan Government, and sold for the benefit of the Royal Treasury in 1810.
4. Boston Marine Insurance Company.	Naples	1810.....	Seizure	Brig Two Betsys, Gardner master.	Paid I. Thorndike, August 22, 1810, $15,000. Place of seizure not stated.	No adjudication appears.....	The vessel was insured "from Beverley to the Mediterranean," and seized by the Government.
5. T. Ellicott and Jonathan Meredith, trustees of S. Smith and Buchanan.	Naples	1809..... ...	Seizure and confiscation..	Brig Sophia.....	Cost of shipment, $25,058. Seizure made at Naples	No legal adjudication	The Sophia sailed for Tunis and Naples in 1809. She was seized and confiscated under the Rambouillet decree. This case was under the charge of Alexander Hamett, United States Consul at Naples, and brought to the attention of Wm. H. Crawford, Esq., in June, 1813, then minister to France.
6. R. & J. Hooper, W. & N. Hooper, and William Reed, of Marblehead.	Naples	1810.....	Sequestration.....	Schooner John	$35,000. Sequestration made at Naples.....	No legal adjudication	This vessel sailed from Marblehead for Naples, was there sequestered, and the whole property retained by the Government.
7. Israel Thorndike....	Naples	1810.....	Sequestration.....	Schooner Dove	$20,000. Loss sustained at Naples	No legal adjudication	The schooner Dove, Captain David Thomas, sailed about November 16, 1809, with a full cargo of American fish, belonging to claimant, bound to Naples, under the faith of the decree of the King of Naples of the 17th July, 1809. After her arrival in that port the vessel and cargo were confiscated and sold, and the proceeds deposited in the public chest.
8. Israel Thorndike....	Naples	1810.....	Confiscation.....	Schooner Mary	$60,000. Confiscation took place at Civita Vecchia.	No legal adjudication	The schooner Mary, Henry Larcom master, sailed from Beverley about the 28th of March, 1809, bound to Sardinia; proceeded from thence to Civita Vecchia, where she and her cargo were confiscated and sold by order of the Neapolitan Government, and proceeds of the cargo (sugar, coffee, pepper, &c.,) deposited in the public chest.

CLAIMS ON NAPLES—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
9. Israel Thorndike....	Naples	1810.....	Sequestration.....	Brig Two Betsys ..	$150,000. Sequestration took place at Naples.....	No legal adjudication	The brig Two Betsys, John Gardner master, sailed from Beverley about the 8th of September, 1809, bound on a voyage to the Mediterranean; arrived at the port of Algiers; sailed from thence for Naples without disposing of any part of the cargo, under faith of the decree of the King of Naples of the 17th July, 1809. Arrived in Naples November 30, 1809, where she was, with her cargo, taken possession of by the Neapolitan Government, and vessel and cargo confiscated and sold, and the proceeds deposited in the public chest.
10. Henry Gray, of Boston.	Naples	December, 1810	Seizure	Ship Henry, Gardner master.	$600. This sum was a loss to Henry Gray, insurer on tobacco. Seizure made at Naples.	No adjudication appears	This vessel and cargo were confiscated under a decree of the King of Naples, March 12, 1810. The property was insured for S. Upton and J. Lee Page by the claimant.
11. Heirs of Saml. Gray, deceased, Brooks and Ward, executors.	Naples	Feb. 13, 1810...	Capture	Schooner William, Turner master.	Vessel, $2,000; net sales at Naples, $36,000; amount claimed by the heirs of Samuel Gray, exclusive of interest, is $19,000. Capture made in the Gulf of Naples.	No adjudication appears.....	The schooner William was captured in the Gulf of Naples by a Neapolitan privateer. Vessel and cargo were immediately seized, confiscated under a decree of the King of Naples, dated March 2, 1810, and subsequently sold. There was no insurance. One-half of said vessel and cargo belonged to Samuel Gray, and one-half to Wm. R. Gray, of Boston. The heirs claim for their one-half of said vessel and cargo, exclusive of interest, $19,000.
12. Nathaniel P. Russell, agent.	Naples	1811.....	Seizure	Schooner Oceanus..	$2,000. Seizure made at Naples	No adjudication appears.....	The schooner Oceanus was seized at Naples, and cargo sold by order of the Government; total loss.
13. Nathaniel P. Russell, agent.	Naples	1811..... ...	Seizure	Ship Henry.....	$500. Seizure made at Naples.....	No adjudication appears	The ship Henry was seized at Naples, and cargo sold by order of the Government; total loss.
14. Wm. R. Gray, Boston	Naples	Dec. 9, 1809....	Capture	Brig Victory, Felt master.	$2,135 52. Capture made in the Bay of Naples	No legal adjudication appears...	Sixty-six hogsheads of sugar were shipped in the Victory by B. T. Reese, of Marblehead, Mass.; half for his and half for claimant's account. The vessel was captured by a French privateer, and the sugars confiscated by a decree of the King of Naples. The present claim is for half the value of the shipment.
15. William R. Gray	Naples	1810.....	Capture	Schooner William, Turner master.	One-half of 96 boxes of sugar and 870 bags pepper..... $6,760 66 Expenses..... 1,406 11 8,166 77 Capture appears to have been made at Naples.	No legal adjudication appears...	The sugar and pepper were purchased by the claimant of Samuel Gray after shipment, and before sailing of the vessel from Salem for Naples. A. Hamett, American Consul at Naples, certifies, June 12, 1810: "Captured and forcibly kept possession of; cargo and adventures sold by order of Neapolitan Government."
16. William R. Gray	Naples	May 18, 1810...	Sequestration.....	Brig Radius, Larder master.	$1,000. Sequestration made at Galliopoli.	No legal adjudication appears...	Insured for B. Larder and W. B. Sweet by Peter Larder, at Salem, agent for claimant; total loss paid.
17. Chas. Bradbury, for self and others.	Naples	1810.....	Capture and sequestration	Schooner Mary....	$17,400. Place of capture not stated	No legal adjudication appears ..	The schooner Mary was taken by two Neapolitan gunboats, carried to Civita Vecchia, and condemned by the King of Naples.
18. Chas. Bradbury, for self and others.	Naples	1810.....	Detention	Brig Perseverance..	$2,725. Loss sustained at Naples	No legal adjudication appears ..	None.

CLAIMS ON NAPLES—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
19. Chas. Bradbury, for self and others.	Naples	1810	Condemnation	Ship Hercules	$3,000. Condemnation took place at Naples	Condemnation at Naples; date not stated.	None.
20. Chas. Bradbury, for self and others.	Naples	1810	Condemnation	Brig Despatch	$1,500. Condemnation took place at Naples	Condemnation at Naples; date not stated.	None.
21. Chas. Bradbury, for self and others.	Naples	1810	Capture and sequestration	Schooner Amherst.	$5,250. Place of capture not stated	No legal adjudication appears	This schooner was taken by a privateer under French colors, carried to Naples, and confiscated by the King.
22. Chas. Bradbury, for self and others.	Naples	1810	Capture and sequestration	Ship Maria	$9,150. Place of capture not stated	No legal adjudication appears	The Maria was taken by a privateer under French colors, carried to Naples, and confiscated by the King.
23. Chas. Bradbury, for self and others.	Naples	1810	Seizure	Schooner Urania	$5,000. Seizure made at Naples	No legal adjudication appears	The Urania was seized in Naples and confiscated.
24. Chas. Bradbury, for self and others.	Naples	1810	Seizure	Schooner Oceanus.	$5,500. Seizure made at Naples	No legal adjudication appears	This vessel was seized in Naples and confiscated.
25. Maryland Insurance Comp'y, assignees of John Holmes.	Naples	Oct., 1809	Capture	Brig Orozimbo	$5,500. Capture made near Palermo	Vessel and cargo condemned by an Inferior Court of Prizes at Naples, and afterwards by the King; date not stated.	This brig sailed from Baltimore August, 1809, for Palermo and a market, near which place she was captured by the Neapolitan privateer Jakin, (Joachim,) and carried to Naples, where vessel and cargo were condemned to be sold, and the proceeds to be deposited in the caisse d'amortissement. Documents are in the hands of Mr. Hamett, Consul at Naples, sent by Mr. Appleton, as the claimants are informed.
26. Marblehead Social Insurance Company.	Naples	Jan. 26, 1809	Capture and confiscation.	Ship Francis	$400. Capture made in the Bay of Naples	No adjudication	This ship was captured by a Government vessel, carried to Naples, and confiscated. The amount claimed was paid to Z. Kemp, the insured.
27. Marblehead Social Insurance Co.	Naples	Dec. 2, 1809	Seizure and confiscation.	Brig Romp	$1,000. Seizure made at Naples	No adjudication appears	The brig Romp was confiscated at Naples. The amount claimed was paid to S. White, the insured.
28. Marblehead Social Insurance Co.	Naples	Jan. 19, 1810	Seizure and confiscation.	Brig Sukey and Betsey.	$600. Seizure made at Galliopoli	No adjudication.	This vessel was confiscated in the port of Galliopoli. The amount claimed was paid to J. Hauscomb, the insured.
29. Samuel King, Stephen Whittemore, and Wm. Foster, of Salem.	Naples	Dec. 1, 1809	Confiscation	Brig Romp	Amount claimed by S. King $245 00 S. Whittemore 200 00 Foster 90 00 Amount, &c 535 00 Loss sustained at Naples.	No legal adjudication appears	The property was placed under restraint on the arrival of the Romp at Naples, about the 1st day of December, 1809; was taken possession of, landed, and sold, by order of the King, through the Minister of Finance; and was confiscated by a decree of the King, dated March 12, 1810.
30. John Barton, Geo. Cleaveland, Edward Waldo.	Naples	January, 1811	Sequestration	Schooner Oceanus.	$6,191	No legal adjudication	This vessel sailed from Boston November 20, 1810, immediately after the proclamation of the President of the United States declaring the revocation of the Berlin and Milan decrees. She arrived at Naples the last day of December, and was sequestrated, and the cargo carried away between the 28th and 30th January. No cause for this treatment was assigned, nor could any papers of condemnation be obtained from the Government. The vessel was taken into the ser-
Nathaniel Appleton, Wm. Peale, administrator.					$1,463 70		
John White					1,552 17		

CLAIMS ON NAPLES—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
30. John Norris					$990 34		vice of the Neapolitan Marine, and the captain and crew were kept for a long time in a criminal prison. The proceeds of the confiscation passed into a bureau for the special purpose of creating a marine. An eighty-four gun ship and two frigates were actually built, and, after the restoration of Ferdinand IV, formed a part of the navy. The claimants state that there were other shippers besides those enumerated.
Wm. Lauder and T. B. Osgood.					1,404 32		
Jonathan Ingersoll					1,402 80		
John Prince					1,087 81		
					7,900 34		
					Sequestration made at Naples.		
31. Henry Prince	Naples	1809	Seizure	Brig Romp	$2,157. Seizure at Naples	No legal adjudication	This claimant shipped on board the brig Romp, in the year 1809, certain articles of merchandise, consisting of 3 boxes of codfish, 4 seroons Spanish indigo, 3 casks cocoa, and 1 cask beeswax. The brig sailed from Salem in said year, bound to Naples, where she arrived that year, and, with her cargo, was seized and confiscated by order of the French authorities in that city. In consequence thereof the merchandise was wholly lost.
32. Henry Prince	Naples	1809	Seizure	Brig Romp and sch. Mary.	$350. Seizure made at Naples	No legal adjudication	This claim is for merchandise, consisting of coffee and pepper, shipped on board said vessels, and arrived at Naples 1810, where it was seized. The shippers were James Silver, Joseph Baker, and J. C. King, of Salem, who have since transferred to the claimant their right and interest in the shipment.
33. James Cook	Naples	Mar. 12, 1810	Confiscation	Brig Romp	Amount of invoice and insurance is	$3,894 98	No adjudication appears	Papers, protest, &c., in the hands of N. Silsbee, who forwarded the brig Romp's accounts, including the present claim.
					Amount of sales	10,390 62		
					Confiscation made at Naples.			
34. James Cook	Naples	Mar. 12, 1810	Confiscation	Maria	Amount of invoice and insurance	500 00	No adjudication appears	Papers, protest, &c., with James Cook, John Prince, jr., and Moses Townsend. This amount included in insurance by L. Kimball, John Prince, jr., agent, George Nicholls, and B. Pierce, insurers.
					Amount of sales	1,139 08		
					Confiscation made at Naples.			
35. Nathaniel Silsbee	Naples	Dec., 1809	Sequestration	Romp	Merchandise and one-eighth of vessel	$9,662 42	No legal adjudication appears	The Romp was a new vessel, built and fitted in the best manner, and cost $18,000. She sailed from Salem in October, 1809, for Naples, and on arriving there, about December 1, 1809, was, with her cargo, placed under restraint. The cargo was taken, landed, and sold, by order of the King, through the Minister of Finance, about the last of December, and the whole confiscated by a decree of the King, dated March 12, 1810. The cargo, according to the account of sales rendered, produced at Naples (exclusively of embezzlement, which was found, by the deficiency of the weight of the articles sold, to be about twenty per cent.) 116,738.27 ducats, equal to $93,390 62. The vessel was not sold till a later period, and the claimants have no account of what was obtained for her.
James Devereux					Merchandise and one-eighth of vessel	9,813 25		
Thomas Whitredge					Merchandise and one-eighth of vessel	11,929 21		
Robert Stone					Merchandise and one-sixteenth of vessel.	4,559 40		
Jos. J. Knapp, Jere. Briggs, Arch. Rea.					Merchandise and three-sixteenths of vessel	10,581 35		
Moses Townsend					Merchandise and one-sixteenth of vessel.	1,840 95		
Estate of Joseph White, jr.					Merchandise and one sixteenth of vessel.	3,644 16		
Estate of Joshua Ward.					Merchandise and one-sixteenth of vessel.	3,562 13		
Joseph Ropes					Merchandise and one-sixteenth of vessel.	3,462 88		

CLAIMS ON NAPLES—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
35. Richard Crowninshield.	.....	.....	.....	.....	Merchandise and one-sixteenth of vessel. $5,535 47		
Daniel Sage.....	.....	.....	.....	.....	Merchandise and one-sixteenth of vessel. 1,125 00		
James Cook.....	.....	.....	.....	.....	Merchandise..... 2,286 98		
Joseph Hartshorne, Jona. Holman.	.....	.....	.....	.....	Merchandise..... 1,608 00		
James Silver.....	.....	.....	.....	.....	Merchandise..... 2,060 75		
					Six tons logwood, belonging jointly to all the owners of the vessel..... 300 00		
John Prichard, admr. of Wm. Lauder, then captain of the vessel.	.....	.....	.....	.....	..... 1,500 39		
John C. Verry, 2d mate of the vessel.	.....	.....	.....	.....	..... 372 96		
					Amount of a bill of exchange drawn by Captain Lauder, for charges (principally for landing the cargo) which he was compelled to pay before he could obtain permission to leave Naples..... 1,713 13		
					Freight of vessel out, say 233 tons, at $40 per ton, which, after deducting insurance on the cost of the vessel, and amount of freight at the then actual rate of insurance, (20 per cent.,) would leave only 16½ per ton, is..... 9,320 00		
					84,882 43		
36. Joseph Peabody and Gideon Tucker.	Naples.....	1810.....	Capture and confiscation.	Ship Francis, Haskell master.	$159,807 28. Capture made off the entrance of the Bay of Naples.	No legal adjudication.....	This ship sailed from Salem December 14, 1809, with a full cargo of pepper, for Naples, under the faith of the decree of the King of Naples of 17th July, 1809. She was taken January 25, 1810, by a Neapolitan frigate, and carried into Naples, where vessel and cargo were confiscated and sold, and the proceeds deposited in the public chest.
37. Joseph Peabody and Gideon Tucker.	Naples.....	1810.....	Sequestration.....	Brig Betsey, Tucker master.	$70,245 85. Sequestration made at Naples.....	No legal adjudication.....	The brig Betsey sailed from Salem on the 1st day of November, 1809, with a cargo of cocoa, sugar and coffee, bound to Naples, under the faith of the decree of the King of Naples of the 17th July, 1809. She arrived at Naples the 12th of April, 1810, where the vessel and cargo were confiscated and sold, and the proceeds deposited in the public chest.

CLAIMS ON NAPLES—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
38. Marine Insurance Company of Philadelphia.	Naples.....	1809.....	Capture	Schooner Shadow, Matthews master.	$7,600. Place of capture not stated.....	No adjudication appears.....	The Shadow, bound from Philadelphia to Messina, was captured and carried into Naples. After a detention of two years, one-eighth of the cargo was restored.
39. George Barker, admr.	Naples.....	1810.....	Sequestration.....	Ship Francis.....	$402. Sequestration made at the port of Naples.....	No adjudication appears.....	The claimant's property was confiscated at Naples.
40. Dutch & Deland	Naples	Dec., 1809.....	Seizure	Brig Victory, Felt master.	Net proceeds of sales of vessel and effects at Naples belonging to claimants. $80,637 09 Received of underwriters, including premium..... 23,500 00 57,137 09 Interest to December 31, 1826..... 54,851 60 Seizure made at Naples.	No legal adjudication appears...	The American brig Victory, of Salem, and the effects on board, on her voyage from Salem to Naples, was captured by subjects of the King of Naples, acting by his orders, and carried into the port of Naples, and while there was seized and confiscated by orders of the said King, whereby the same have become wholly lost to the claimants. The confiscation was made under the decree of the King of the Two Sicilies of March 12, 1810.
41. Dutch & Deland	Naples	Dec., 1809.....	Seizure	Brig Victory	..... $1,741 14 Interest to December 31, 1826 ..... 1,671 49 Amount, &c..... 3,412 63 Seizure made at Naples.	No legal adjudication appears ..	This claim is for the net proceeds of sales at Naples of an adventure shipped in the Victory by E. Learock, and transferred to Dutch & Deland. Remarks in No. 40 apply to this case.
42. Dutch & Deland	Naples	Feb., 1810.....	Seizure	Schooner Nancy, Holman master.	Net proceeds of sales of vessel and effects at Naples belonging to claimants. $15,000 00 Received from underwriters, including premium ..... 4,000 00 11,000 00 Interest to December 31, 1826..... 10,560 00 21,560 00 Seizure made at Naples.	No legal adjudication appears...	The claimants state this claim to be for effects on board the American schooner Nancy, which vessel, with her effects, while lying in the port of Naples, was seized and confiscated by order of the King, whereby the same became wholly lost to the claimants. The confiscation was made as in No. 40.
43. Dutch & Deland.....	Naples	Dec., 1809.....	Seizure.....	Brig Romp.....	Net proceeds of sales at Naples of Dutch & Deland's proportion..... $1,633 42 Interest to December 31, 1826..... 1,567 08 Amount ..... 3,200 50 Seizure made at Naples.	No legal adjudication appears...	For a policy of insurance, whereby claimants assured to Thomas Whitredge $1,000 on the American brig Romp, appurtenances and effects, at and from Salem to Naples; at and from thence to one or more ports in the Mediterranean, not above Sicily, for the purpose of disposing of her outward, and procuring a return cargo at and from them, or either of them, to her port of discharge in the United States. The insured abandoned the vessel and effects as a total loss on the ground that the brig, with the effects on board, arrived at Naples in the month of December, 1809, and was seized and confiscated without lawful cause, and without the default of the said Thomas, or the master or mariners of said brig, by the order of the King of Naples, whereby the same became wholly lost to the said Thomas. The confiscation was made as in No. 40.

CLAIMS ON NAPLES—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
44. Dutch & Deland.....	Naples	Dec., 1809.....	Seizure	Brig Victory	Net proceeds of sales at Naples of John Collins' adventure..... $4,200 00 Interest to December 31, 1826 ..... 4,032 00 Amount, &c..... ..... 8,232 00 Seizure appears to have been made at Naples.	No legal adjudication appears...	This claim is for an adventure shipped in the American brig Victory, and transferred to claimants by John Collins. The property was confiscated under the decree of the King of the Two Sicilies, dated March 12, 1810.
45. Pickering Dodge and others, underwriters; John Prince, jr., agent.	Naples	1810.....	Seizure and confiscation.	Schooner Maria, Cleaveland master.	$9,600. The loss was sustained at Naples.....	No legal adjudication appears ..	Property insured by the claimants appears to have been seized and sequestered under a decree of the King of Naples. The claimants have filed in this case, and refer to, their policy of insurance, dated January 18, 1810.
46. Social Insurance Co. of Salem.	Naples.....	March 12, 1810.	Confiscation.....	Brig Romp	Amount insured, $9,000; sales, $14,650. Confiscation made at Naples.	No legal adjudication appears..	Papers, protest, &c., with N. Silsbee. The amount claimed is included in brig Romp's claim. Copies of the documents in the Department of State in 1811 and 1816.
47. Social Insurance Co. of Salem.	Naples.....	....	Confiscation.....	Brig Two Betsies...	Insured, $6,000; sales, $17,748 52. Confiscation made at Naples.	No adjudication.....	Papers, protest, &c., with Israel Thorndike. This amount included in brig Two Betsies. Copies and statement in Department of State.
48. Social Insurance Co. of Salem.	Naples.....	May 12, 1810...	Confiscation.....	Brig Sukey and Betsey.	Insured, $5,500; sales, $11,000. The capture or injury is stated to have been at Galliopoli.	No legal adjudication	Papers, protest, &c., with Stephen White, Esq. This amount included in the brig's claim. Copies of this statement in the Department of State. Confiscation is stated to have taken place at Naples, May 12, 1810.
49. Social Insurance Co. of Salem.	Naples.....	March 12, 1810.	Confiscation..... ..	Maria	Insured, $10,000; sales, $27,942 32. Confiscation made at Naples.	No adjudication appears.....	Papers, protest, &c., with J. Cook, M. Townsend, and John Prince, being wholly insured. Copies of this statement in Department of State. John Tappan, Sewall, Salsbury & Co., and S. Higginson, former owners.
50. Social Insurance Co. of Salem.	Naples.....	May 12, 1810...	Confiscation.....	Fortune	Insured, $10,000; sales, $23,103 14. Confiscation made at Naples.	No adjudication appears.....	Papers, protest, &c., with James Cook and others. Copies of this statement in Department of State. Saunders & Upton and J. Lee Page, former owners.
51. Social Insurance Co. of Salem.	Naples..... .	March 12, 1810.	Confiscation.....	Victory	Insured, $8,500; sales, $21,606 78. Confiscation made at Naples.	No adjudication appears.....	Papers, protest, &c., with James Cook and others. Copies of this statement in Department of State. Dutch & Deland, former owners.
52. Social Insurance Co. of Salem.	Naples.....	.....	Confiscation.....	Nancy	Insured, $4,000; sales, $8,547. Confiscation made at Naples.	No adjudication appears...	Papers, protest, &c., with J. Cook and others. Copies of this statement in Department of State. Dutch & Deland, J. Mudge, &c., former owners.
53. Social Insurance Co. of Salem.	Naples.....	May 12, 1810...	Confiscation.....	Mary.....	Amount insured, $7,663 70; sales, $17,335 77. Confiscation made at Naples.	No adjudication appears.....	Papers, protest, &c., with James Cook and others. Copies of this statement in the Department of State. John Fairfield and others, former owners.
54. Social Insurance Co. of Salem.	Naples.....	Aug. 11, 1809...	Capture.....	Margaret	Amount insured, $5,000. The capture or injury is stated to have taken place at Naples.	No adjudication appears	Papers, protest, &c., with John Crowninshield and others, former owners. The claimants state that the Margaret was captured by a French privateer; that a compromise at 50 per cent. with the captors was made at Naples, December 17, 1809; and the vessel foundered on her passage home.

CLAIMS ON NAPLES—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
55. Union Marine Insurance Company of Salem.	Naples.....	Dec. 22, 1809...	Confiscation.....	Brig Two Betsies, Gardner master.	Insured for Israel Thorndike on effects, $7,000. Confiscation made at Naples.	No adjudication appears.....	The claimants refer to documents in the possession of the assured; whose claims may, they suppose, include the present claim.
56. Union Marine Insurance Company of Salem.	Naples.....	Dec. 23, 1809...	Confiscation.....	Ship Francis, Haskell master.	Insured for Joseph Peabody on effects, $10,000. Confiscation made at Naples.	No adjudication appears.....	Same as in No. 55.
57. Union Marine Insurance Company of Salem.	Naples.....	Dec. 25, 1809...	Confiscation.....	Schooner Maria....	Insured for John Tappan, Sewall, Salsbury & Co., and Stephen Higginson, jr., on effects, $10,000. Confiscation at Naples.	No adjudication appears.....	Same as in No. 55.
58. Robert and John Oliver, Robert Gilmore and Son, and Hugh Thompson.	Naples.....	1810.....	Seizure.....	Not named	$300,000. Place of seizure not stated.	No legal adjudication appears...	The papers respecting this claim were delivered to the late William Pinkney, when minister at Naples, and afterwards to Mr. Appleton. The sum of $300,000, exclusive of interest, is short of the amount actually due by the Neapolitan Government. There was in this case a confiscation by that Government.
59. Robert and John Oliver.	Naples.....	1810.....	Seizure.....	Brig Orozimbo.....	$30,854 74. Place of seizure not stated.	No legal adjudication appears...	The brig Orozimbo and cargo were seized and confiscated at Palermo. The papers in this case are in the possession of Mr. Appleton, and the sum here stated, exclusive of interest, is short of the amount actually due. There was in this case a confiscation by the Neapolitan Government.
60. Robert and John Oliver.	Naples.....	1810.....	Seizure.....	Schooner Hound...	$25,000. Place of seizure not stated.....	No legal adjudication appears...	The schooner Hound and cargo were seized and confiscated at Naples by the Neapolitan Government. The papers in this case are in the possession of Mr. Appleton, and the sum here stated, exclusive of interest, is short of the amount actually due.
61. John Brazer.....	Naples.....	Not stated. ...	Unknown.....	Ship Henry.....	$15,000. Loss was sustained at Naples.....	No legal adjudication appears...	The claimant states that the ship Henry and cargo were captured or injured, and that the act complained of is the imperial decrees of 1811.
62. William Gray's estate	Naples.....	January, 1810..	Sequestration.....	Ship Trent, Cavendish master.	Cargo and expenses..... $31,900 00 Freight..... 4,000 00 Vessel..... 8,000 00 Amount, &c..... 46,900 00 Seizure made at Naples.	No legal adjudication appears...	The Trent arrived at Naples about the 20th January, 1810, and was immediately seized, and vessel and cargo were confiscated by decree of J. Napoleon, King of the Two Sicilies, March 12, 1810, and subsequently sold. Decedent was owner.
63. William Gray's estate	Naples.....	March, 1810 ...	Sequestration.....	Schooner Louisiana, Newhall master.	Cargo and expenses..... $8,700 00 Freight..... 1,000 00 Vessel..... 2,600 00 Amount..... 12,300 00 Seizure made at Naples.	No legal adjudication appears...	Vessel arrived at Naples about the 20th of March, 1810. The vessel and cargo were seized and disposed of in the same manner as the Trent and her cargo (No. 62) were. Decedent was owner.

CLAIMS ON NAPLES—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
64. William Gray's estate	Naples.....	May, 1810.....	Sequestration.....	Brig Radius, Lander master.	Half cargo and expenses..... $6,250 00 Vessel..... 5,000 00 Freight..... 2,500 00 13,750 00 Loss as insurer on vessel and cargo..... 1,500 00 Amount, &c..... 15,250 00 Sequestration made at Galliopoli.	No legal adjudication appears...	The Radius sailed from Salem for Galliopoli in March, 1810. The sequestration took place May 18, 1810. William Gray owned one-half, W. B. Sweet one-fourth, Captain Lander one-fourth, of the vessel and cargo. W. Gray, by his agent, P. Lander, at Salem, insured Sweet and Lander out, and cargo $1,500. The property disposed of as the Trent and her cargo (No. 62) were.
65. William Gray's estate	Naples.....	January, 1810..	Capture.....	Brig Phenix, Haskell master.	Vessel..... $8,000 00 Specie on board..... 1,200 00 Amount, &c..... 9,200 00 Place of capture not stated.	No legal adjudication.....	The Phenix was captured by a Neapolitan frigate and sent into Naples. Vessel and cargo disposed of as the Trent and her cargo (No. 62) were. Decedent was owner.
66. William Gray's estate	Naples.....	October, 1809..	Capture.....	Brig Victory, Felt master.	Loss to Wm. Gray as insurer on vessel.. $3,000 00 Cargo..... 14,500 00 Interest on cargo..... 542 00 Amount, &c..... 18,042 00 Capture made in the bay of Naples.	No adjudication appears.....	The Victory was captured by a French privateer and sent into Naples. The vessel and cargo were condemned at Naples by decree of J. Napoleon, King of the Two Sicilies, 12th March, 1810. This claim was derived to decedent thus, viz: Insured by him for Dutch and Deland, of Salem, on vessel and cargo..... $15,000 00 Insured by him for B. T. Read, of Marblehead. $2,500 00 Purchased of him uninsured interest..... 542 00 3,042 00
67. Wm. Gray's estate..	Naples.....	February, 1810.	Seizure.....	Schr. Mary, Derby master.	Loss as part owner of vessel and cargo, $4,252. Seizure made at Naples.	No adjudication appears.....	This vessel was sent into Naples by a Neapolitan privateer, February 16, 1810, and there seized. The vessel and cargo were confiscated at Naples, by a decree of J. Napoleon, King of the Two Sicilies, 12th of March, 1810. The vessel and cargo were originally owned by John Fairfield, of Salem, who sold to W. Orgy the uninsured interests of both, the amount of which is now claimed.
68. Wm. Gray's estate..	Naples.....	Feb. 14, 1810...	Capture.....	Schr. Nancy, Holman master.	Loss to Wm. Gray, as part owner of cargo. $3,398 00 Expenses of detention..... 40 88 Amount, &c..... 3,438 88 Place of capture not stated.	No adjudication appears.....	Pickering Dodge and D. L. Pickman were shippers of merchandise by this vessel, and the claim now made is for a sale and transfer of the uninsured part to Wm. Gray. The vessel was captured and sent into Naples about February 14, 1810, where she was seized. The vessel and cargo were confiscated at Naples, by a decree of J. Napoleon, King of the Two Sicilies, of 12th March, 1810.

CLAIMS ON NAPLES—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
69. Wm. Gray's estate..	Naples	December, 1810	Seizure.....	Ship Henry, Gardner master.	Loss to William Gray, as insurer on cargo, $7,700. Seizure made at Naples.	No adjudication appears..... ..	The claim was derived to the decedent thus, viz: He insured for S. Upton and J. L. Page, of Salem, $4,000; John Saunders, $2,000; B. & N. Tucker, Boston, $1,700; and paid to each of them a total loss. The vessel and cargo were confiscated at Naples, by decree of J. Napoleon, King of the Two Sicilies, March 12, 1810.
70. Wm. Gray's estate..	Naples	Jan. 31, 1811...	Seizure.....	Schr. Oceanus, Wilson master.	Loss to William Gray, as insurer on cargo, $1,850. Seizure made at Naples.	No adjudication appears.....	This claim was derived to Wm. Gray thus, viz: He insured property for— Edward W. Waldo, of Salem..... $1,000 00 T. Q. Hill and W. Burroughs, of Boston..... 850 00 1,850 00 The vessel and cargo were confiscated at Naples, by decree of J. Napoleon, King of the Two Sicilies, March 12, 1810.
71. Wm. Gray's estate..	Naples	December, 1809	Sequestration.....	Brig Romp, Lander master.	Loss to Wm. Gray, as insurer on vessel. $800 00 Cargo..... 2,100 00 Amount, &c..... 2,900 00 Sequestration made at Naples.	No adjudication appears.....	The claim was derived to Wm. Gray thus, viz: He insured for— A. Rea, of Salem, on vessel ..... $800 00 on cargo..... 1,400 00 —— $2,200 00 For W. Landor, of Salem, through his agent, P. Landor, on cargo..... 700 00 —— 2,900 00 The vessel and cargo were confiscated at Naples, by decree of J. Napoleon, King of the Two Sicilies, March 12, 1810.
72. Wm. Gray's estate..	Naples	1809.....	Capture	Ship Margaret, Fairfield master.	Loss to Wm. Gray, who insured I. Crowninshield, Salem, through his agent, P. Lander, $4,000 on cargo, and paid a partial loss, $1,600. Place of capture not stated.	No adjudication appears.....	The Margaret was captured and sent into Naples. She was taken under a decree of the King of Naples. In the case of this vessel a compromise was made with the captors, and the ship and part of the cargo were surrendered.
73. Pickering Dodge	Naples	1811.....	Seizure.....	Ship Henry, Gardner master.	$1,380 67. Seizure made at Naples.....	No legal adjudication appears ..	The value of property on board the ship Henry is taken from invoice, that is, at cost and charges of shipment merely, without interest or expenses.
74. Pickering Dodge	Naples	1811.....	Seizure.....	Brig Oceanus, Wilson master.	$2,181 40. Seizure made at Naples	No legal adjudication appears...	Remarks in No. 73 applicable to this case.
75. William Proctor.....	Naples	1811.....	Seizure.....	Brig Oceanus, Wilson master.	$306 80. Seizure made at Naples.....	No legal adjudication appears...	Remarks in No. 73 applicable to this case.
76. Jery Lee Page.....	Naples	1811.....	Seizure and confiscation..	Schooner Oceanas .	Not stated.....	No legal adjudication.....	The absence of Captain Lee Page prevents the statement in this case and the two following cases from being complete.
77. Jery Lee Page.....	Naples	1810.....	Seizure and confiscation..	Ship Henry	Not stated	No legal adjudication	See No. 76.
78. Jery Lee Page.....	Naples	1810.....	Seizure and confiscation..	Schooner Fortune..	Not stated	No legal adjudication	See No. 76.

CLAIMS ON NAPLES—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
79. John Coulter.....	Naples	Feb. 13, 1810...	Capture.....	Brig Ruth and Mary	Loss sustained..... $107,685 60 Interest from February 13, 1810, to Sept. 13, 1826, 16 years and 7 months, at 6 per cent..... 107,147 06 Amount, &c..... 214,832 66 Value of property in Philadelphia..... 71,573 00 Capture made in the Bay of Naples, about a league from the harbor of Naples.	Not known	Confiscation by a decree of the King of the Two Sicilies, dated at Naples, March 12, 1810, a copy of which is filed by the claimant.
80. Alexander Stewart..	Naples	Jan. 13, 1810...	Capture	Brig Ruth and Mary	Loss sustained..... $5,307 50 Interest for 16 years and 7 months, at 6 per cent..... 5,280 95 Amount &c..... 10,588 45 Capture made as stated in No. 79.	No legal adjudication.....	The property on the loss of which this claim is made was confiscated, as stated in No. 79. This claim is for commissions which would have pertained to the claimant had the cargo of the Ruth and Mary been sold by his agency.
81. Derby Fishing Company, New Haven.	Naples	Dec. 30, 1809...	Capture.....	Sch'r Ousetonack, Sheffield master.	Invoice of cargo ..... $10,923 00 Value of vessel ..... 6,000 00 16,923 00 Cargo sold at Naples for $20,000; vessel sold at Naples, subsequently to June 16, 1810, for a sum unknown; interest, at 6 per cent. on amount, $26,000, 16 years and 6 months, $25,740. Capture made in the Bay of Naples.	No legal adjudication	The schooner Ousetonack, bound to Naples, was captured by a Neapolitan privateer, December 30, 1809, and sent into Naples. In this case proceedings were commenced before the tribunal of prizes, but the property was taken out of the hands of the captors by the Government and confiscated under the decree mentioned in No. 79. Vessel and cargo were sold under the direction of the customs, for the benefit of the public treasury. The cargo being in part of a perishable nature, (fish,) had suffered by remaining a length of time in warehouse, and did not sell so high, in consequence, as similar cargoes of much less invoice value.
82. Nathaniel West.....	Naples	Sept., 1809.....	Confiscation.....	Ship Hercules.....	Value of cargo and adventures, as per account of sales at Naples, ducats, 169,001.83, equal..... $135,208 64 Value of the ship, with her outfit ..... 22,000 00 157,208 64 Seizure made at Naples.	No legal adjudication	The Hercules arrived at Naples September 13, 1809, and, after the usual examination, was admitted to a free entry, and permission was given to sell and discharge the cargo. When the cargo was about two-thirds unladen, that part which remained on board was taken out by force, and the whole confiscated and sold at public auction for the benefit of the Neapolitan Government.

CLAIMS ON NAPLES—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
83. John S. Roulet.....	Naples	1809.....	Seizure.....	Brig Emily	Cargo insured, $40,000; freight, $14,184.....	No legal adjudication	The brig Emily was bound from New York to Naples and Smyrna. She sailed in December, 1809, and on her arrival in the Bay of Naples was, with her cargo, seized and taken possession of by the Neapolitan Government. The brig being a very fine vessel was appropriated to the private service of the King, and was claimed, in vain, by the correspondents, Messrs. Falconet & Co., of Naples, and by the American Envoy, Mr. Pinckney. The cargo was insured at the Columbian Insurance Office, in New York, to the amount of $40,000, and was sold at a very considerable advance. Its proceeds may be ascertained on application to Messrs. Falconet & Co. The freight was insured at the Commercial Insurance Office, in New York, to the amount of $14,184, at 27½ per cent. premium. The vessel was not insured. She was a new coppered brig, on her first voyage, built in Philadelphia, of the best materials and in the best manner; the property, one-half of Gurdon S. Mumford, and one-half of J. S. Roulet, both citizens of the United States, and merchants of New York, who owned, also, the cargo.
					Cost of vessel at the time of sailing..... $18,000 00		
					Interest on this sum 18,630 00		
					36,630 00		
					One-half the claimant's 18,315 00		

INDEX TO SUPPLEMENT TO CLAIMS ON NAPLES.

Names of claimants.	Number.	Amount.	Names of claimants.	Number.	Amount.	Names of claimants.	Number.	Amount.
Coffin, David, and others.....	6	$35,600 00	Homer, Benjamin P., treasurer, &c.....	11	$1,225 00	White, Stephen, surviving partner, &c.....	2	$1,704 60
Crowninshield, John.....	15	35,000 00	Haskell, Solomon, and others.....	5	39,487 00	White, John and Stephen.....	3	6,504 34
Dutch, George.....	13	1,718 42	Huttlestone, Henry, and others	16	10,000 00	Wingate, Edmund, and others.	7	21,500 00
Do.....	14	2,210 80	Leslie, David, amount not included in No. 16.....	12	250 00			
Homer, Benjamin P., treasurer, &c.....	8	6,000 00	Richards, Alexander, and others.....	4	28,000 00			
Do.....	9	4,500 00	Swett, William B., and another	17	11,250 00	Amount of supplementary claims on Naples.....	.....	247,949 56
Do.....	10	3,000 00	White, Joseph, and others.....	1	40,000 00			

SUPPLEMENT TO CLAIMS ON NAPLES.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
1. Joseph White, Henry White, Stephen White, estate of Joseph White, jr.	Naples	March 12, 1810.	Sequestration	Brig Sukey and Betsy, Hanscom master.	$40,000. Sequestration made at Naples.	No legal adjudication.	This vessel sailed from Salem, Massachusetts, November 5, 1809, for Galliopoli, in the Kingdom of Naples, with a cargo of sugar, coffee, tobacco, &c. She arrived there on the 29th December, 1809, and on the 19th January following was sequestered. On the 9th of February she was unloaded by an armed force, and the cargo sold at auction by the officers of Government.
2. Stephen White, surviving partner of J. & S. White.	Naples	1810.	Seizure	Ship Henry, Gardner master.	$1,704. Seizure made at Naples.	No legal adjudication.	The Henry sailed from Boston, October 28, 1810, for Naples; arrived there 5th December following; next day five guards put on board. On the 4th of January, 1811, the soldiers, by order of Government, discharged the cargo, which was sold by Government.
3. John White and Stephen White.	Naples	January, 1811.	Seizure	Schooner Oceanus.	$3,004 34 3,500 00 Amount, &c. 6,504 34 Place of seizure not stated. Probably at Naples.	No legal adjudication.	The Oceanus sailed from Boston, November 20, 1810, and arrived December 31 following, and was seized; the cargo was discharged and sold by Government. John White, by Stephen White, attorney, claims $3,004 34. Stephen White claims $3,500.
4. Alexander Richards, B. Merrick, Jeremiah Nelson, Benjamin W. Yatt, and others.	Naples	January, 1810.	Seizure	Brig Alexander	Vessel $4,000 00 Cargo 20,000 00 Freight 4,000 00 28,000 00 Seizure made at Naples.	No legal adjudication.	While entering the port in supposed security the vessel and cargo were seized and sequestered by the Neapolitan Government. The losses of Richards & Merrick were sustained on the vessel, those of the other claimants on the cargo.
5. Solomon Haskell, Solomon H. Currier, Ignatius Haskell.	Naples	February and March, 1810.	Capture	Brig John, Currier master.	Vessel $8,000 00 Cargo 16,732 50 Expenses 2,000 00 26,732 50	No legal adjudication, it is believed.	This vessel, with her cargo, entered Naples in supposed security, under a proclamation of the King. She was there seized, and the vessel and cargo sold, under a decree of the King of Naples, and the proceeds were distributed among the captors, or otherwise disposed of by the officers of the Government. The brig and all her lading were wholly American property, and belonged to the claimants. At the time of her capture she was on her outward passage, seeking a market. She had violated no law, and had on board every document to prove her neutrality.
Enoch Pierce					Fish $3,412 50		
E. B. & W. Hale					Fish 2,879 50		
Abner Caldwell					Fish 2,522 00		
Amos Knight					Fish 650 00		
Edward Currier					Fish 650 00		
Nathaniel Keezer					Fish 487 50		
Joseph Edwards					Fish 325 00		
Enoch Gerrish					Fish 494 00		
Lowell Brown					Fish 1,066 00		
Jacob Cilley					Fish 104 00		

SUPPLEMENT TO CLAIMS ON NAPLES—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
5. Joshua Gore.....	.....	.....	.....	.....	Fish..... $104 00		
Mary Hall.....	.....	.....	.....	.....	Fish..... 60 00		
					12,754 50		
					Seizure made at Naples.		
6. David Coffin, Wm. Alexander, Jona. Barnard, Nathan'l King.	Naples	March 12, 1810.	Capture.....	Schr. Syren, Jauvrin master.	Vessel..... $6,000 00 Cargo, fish, beef, oil..... 29,600 00	No legal adjudication, it is believed.	This vessel was bound from Newburyport for Palermo, her cargo fish and oil. She had touched at Alicant, was captured by a Neapolitan vessel, carried into Nieche, where vessel and cargo were sold under a decree of the King, and produced the sum claimed.
					35,600 00		
					Place of capture not stated.		
7. Edmund Wingate, Philip Coombs & Co.	Naples.	January, 1810..	Capture.....	Schr. Peace, Granes master.	Vessel..... $2,500 00 Cargo..... 15,000 00 Freight..... 4,000 00	Condemned by the King of the Two Sicilies. No legal adjudication appears.	This vessel sailed from Newburyport November 25, 1809, with a cargo of dry fish for the Mediterranean; touched at Carthagena and Alicant; was captured in the Gulf by a Neapolitan frigate, and carried into Naples. The captors unloaded and sold the cargo the day following. Vessel and cargo were confiscated by a decree of the King.
					Amount, &c..... 21,500 00		
					Capture made in the Gulf of Alicant.		
8. Benjamin P. Homer, Treasurer of the Commerc'l Insurance Office, Boston.	Naples	1811.....	Seizure and confiscation.	Brig Alexander	$6,000. See next column.....	Confiscated on arrival at Naples; whether or not under any legal adjudication does not appear.	The vessel went to Naples from the United States, and was owned by Alexander Richards, of Newburyport.
9. Benjamin P. Homer, Treasurer of the Commerc'l Insurance Office, Boston.	Naples	1811.....	Seizure and confiscation.	Ship Henry.....	$4,500. See next column.....	The confiscation took place on the arrival at Naples. There does not appear to have been any legal adjudication.	The Henry was owned by Jere. Lee Page and Samuel Upton, of Salem, and went from the United States to Naples.
10. Benjamin P. Homer, Treasurer of the Commerc'l Insurance Office, Boston.	Naples	1810.....	Seizure and confiscation.	Schr. Oceanus	$3,000. See next column.....	No legal adjudication mentioned; the confiscation was made on arrival at Naples.	This vessel proceeded from Boston to Naples, and was owned by Jere. Lee Page and Samuel Upton, and others, of Salem.
11. Benjamin P. Homer, Treasurer of the Commerc'l Insurance Office, Boston.	Naples	1810.....	Confiscation.....	Ship Admittance...	$1,225. See next column.....	It is not stated where or when the confiscation took place, or whether or not there was any legal adjudication.	Owned by Ezra Weston & Son.
12. David Leslie, of New York. (See No. 16.)	Naples	1808.....	Condemnation.	Brig Nancy, Wilson Barstow master.	One-eighth of the value of the vessel... $1,250 00 Eighteen years' interest 1,575 00	Condemned at Naples. Date not stated.	Wilson Barstow and Henry Huttleston were the other owners of the vessel, and the claimant refers to their papers for further particulars.
					2,825 00		
					See next column.		

SUPPLEMENT TO CLAIMS ON NAPLES—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
13. Geo. Dutch, of Salem.	Naples	Captured Dec., 1809.	Capture and confiscation.	Brig Victory, Jos. Felt, 3d, master.	Net proceeds of effects at Naples, belonging to the claimant, $1,718 42; interest to December 31, 1826, $1,649 68. The place of capture not stated.	Confiscated under the decree of the King of the Two Sicilies, March 12, 1810. No legal adjudication appears.	The vessel was captured by subjects of the King of Naples, and carried into Naples, whither she was bound on a voyage from Salem.
14. Geo. Dutch, of Salem.	Naples	Seized February, 1810.	Seizure and confiscation.	Schr. Nancy, John Holman master.	Net proceeds of sales of effects of the claimant, $2,210 80; interest to Dec. 31, 1826, $2,122 37. Seized at Naples.	Confiscation March 12, 1810, under the decree of the King of the Two Sicilies. No legal adjudication appears.	None.
15. John Crowninshield.	Naples	None specified.	Sequestration	Brig Golden Age, W Fairfield master.	$35,000 for cargo. Place of loss not stated.	No legal adjudication appears...	Sequestered under the general Naples decree.
16. Henry Huttlestone, Wilson Barstow, and David Leslie.	Naples	August, 1808...	Capture	Brig Nancy	Vessel..... $8,000 00 Freight..... 2,000 00 Amount, &c..... 10,000 00 18 years' interest. Capture made in the bay of Naples.	Condemnation at Naples; date not stated.	The Nancy was bound to Galliopoli for a cargo of oil. She was captured while going into Naples to procure empty casks, and condemned at that port on the allegation that she was from England. No other proof was adduced but the fact of the vessel being at the time of capture in sight of a British squadron, with which it was *supposed* she had had an understanding.
17. Wm. B. Swett, and estate of Benjamin Lauder.	Naples	May, 1810.....	Sequestration.....	Brig Radius, Lauder master.	Half cargo and expenses..... $6,250 00 Half vessel ..... 5,000 00 Half freight..... 2,500 00 13,750 00 Deduct amounts insured by Wm. Gray, $1,500, and by Wm. R. Gray, $1,000.. 2,500 00 Amount, &c... ..... 11,250 00 Interest, $10,800. Sequestration made at Galliopoli.	No legal adjudication appears.	The brig Radius sailed from Salem for Galliopoli, in March, 1810, and was there with her cargo sequestered by order of the King of Naples, May 18, 1810.

INDEX TO CLAIMS ON HOLLAND.

Names of claimants.	Number.	Amount.	Names of claimants.	Number.	Amount.	Names of claimants.	Number.	Amount.
Andrew, John.....	4	$5,000 00	Jackson, Thomas and William, and others.....	1	$45,675 75	William Williams and others	5	$61,920 00
Anonymous, (probably Garriel Van Horne)....	11	5,693 25	Learned, Edward	7	4,000 00	Do.....do.....	6	18,000 00
Davis, Ezra.....	10	80,372 40	Perkins, Samuel G., and others.....	2	145,041 48			
Gray, estate of William.....	8	1,110 00	Thorndike, Israel.....	3	55,000 00	Amount of claims on Holland.	.....	422,312 88
Do.....	9	500 00						

CLAIMS ON HOLLAND.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
1. Thomas and William Jackson, Stephen Higginson, Sam'l G. Perkins, and the estate of Geo. Higginson, dec'd.	Holland	Sept., 1809	Property aboard the vessel was sequestered by the Dutch Governm'nt, and delivered to the French authorities under a secret treaty of March, 1810, and sold at public auction at Paris by order of the French Government. The proceeds of the sale were put into the Public Treasury of France.	The property was taken from the brig Sally, Thos. Cotton master.	The property of T. & W. Jackson was sold in Paris, net of all charges, for francs..... ..... 199,823 That of the other owners was sold, as aforesaid, for francs..... 43,781 243,604 Add 16 years' interest on this sum to November, 1826, francs ..... 233,859 477,463 The property, if sold in Holland, would have brought as follows, viz: T. & W. Jackson's, with the freight.... $36,365 38 The property of the other owners..... 13,888 80 50,254 18 Deduct charges at the rate of 10 per cent. 5,025 41 45,228 77 Add 16 years' interest on this sum ..... 43,428 48 88,657 25 The sequestration was made at Texel.	There was no legal adjudication.	The brig Sally belonged to Thomas and William Jackson, of Plymouth, Massachusetts. Sailed from Boston about June 10, 1809, bound to the north of Europe, laden with a cargo of coffee, sugar, and cotton wool, belonging to citizens of the United States, and arrived at the Texel, July 15, of that year. She was there detained by the Dutch authorities until the ensuing 2d of September, when the cargo was taken into the public stores, and there kept until some time in the year 1810. It was then delivered to the French authorities under the secret treaty of March, 1810, and then transported, first, to Antwerp, where it was, by order of the French Government, advertised to be sold; but it was afterwards transported to Paris, and there sold, and the proceeds of the sale put into the Public Treasury of France, and used for national purposes. The Sally spoke nothing out; nor did she, her officers or crew, commit any violation of public law, or of the known regulations of either the French or the Dutch Governments. The Dutch Government restored to the consignee 100 bales of cotton wool which had been taken with the rest of the cargo. The consignee repeatedly applied for the cargo, and especially on September 10, 1810, by petition to the Director General of the Customs, who replied: "The petitioners are informed that the goods, in consequence of the disposition of his Majesty the Emperor and King, have been given over to the thereto appointed French authorities." The vessel, after a long detention, was released. Stephen Higginson, Samuel G. Perkins, and the representatives of George Higginson, deceased, are successors of the late firm of Stephen Higginson & Co., original owners, and Samuel G. Perkins is agent for the claimants.
2. Samuel G. Perkins, Stephen Higginson, estate of Geo. Higginson, dec'd; William Parsons, Henry Sigourney, Thomas Lee, jr., Henry Lee, Robert Lord.	Holland	July, 1809	Property aboard the vessel was sequestered by the Dutch Governm'nt, and subsequently delivered to the French authorities under a secret treaty of March, 1810, and sold at public auction at Antwerp by order of the French Government, and the proceeds of the sale appropriat'd to national purposes.	The property was taken from the ship Gov. Strong, Robert Lord master.	The property sequestrated was sold in October and November, 1810, at Antwerp, for 1,605,805.71 frs. The custom-house duties, and all expenses of transportation and sale, as charged by the officers of Government, amounted to 832,251.14 francs, leaving net proceeds, 773,554.57 francs. The claimants claim interest on this sum from November, 1810, which, to November, 1826, at six per cent., is 742,611.84 francs. The aggregate claim up to the last mentioned date, is 1,516,166.41 francs, or $284,459. The sequestration appears to have been made at Helvoetsluys.	There was no legal adjudication.	The ship Governor Strong was laden at Boston, and sailed thence for Rotterdam on May 24, 1809. She arrived on the 20th June next following at Helvoetsluys, and on the 7th July the cargo was taken by the Commissary General, and deposited in the Government stores. A portion of the cargo, consisting of coffee and tobacco, was afterwards delivered to the consignees, and sold for account of the owners, but the greater part of the cargo was delivered to the French authorities. The Governor Strong and her cargo were entirely owned by American citizens, and had committed no breach of either national law or the laws of Holland or France. Samuel G. Perkins, Stephen Higginson, and the representatives of George Higginson, deceased, are the successors to S. Higginson & Co., original owners, and Samuel Perkins is agent for all the claimants.

CLAIMS ON HOLLAND—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
3. Israel Thorndike.....	Holland	1809.....	Sequestration.....	Sch'r Two Sisters.	$55,000. Sequestration made at Amsterdam	No legal adjudication appears...	The schooner Two Sisters, Joseph L. Lee master, sailed from Beverly about the 10th May, 1809, with a cargo of sugar, coffee, and pepper, bound to Emden, and forced by adverse circumstances into the Texel, in Holland, where she was forcibly detained, and vessel and cargo carried up to Amsterdam, when the cargo was seized, confiscated, and sold, by order either of the Dutch Government or French authorities.
4. John Andrew	Holland	July 30, 1809...	Sequestration.....	Schooner Neptune.	Ninety-nine chests of tea, $5,000. Place of loss not stated.	No legal adjudication appears...	The goods were put into the King's stores in August, 1809, under decree of July 30, 1809, and soon after were removed to the company stores to be sold; but previously to their being sold the Government took possession of them.
5. William Williams, Nathan S. Stanton, Ebenez'r Barrill, and the heirs of Ebenezer Stanton.	Holland and France.	On or about 30th June, 1809.	Capture	Brig Friendship....	Value of cargo in Holland..... $61,920 00 Interest for seventeen years ..... 73,684 80 Total loss..... 135,604 80 Exclusive of the amount of expenses, £750. Capture made in the mouth of the Texel.	Condemnation of vessel and cargo, and subsequent reversal of the decree on appeal. Dates and places not stated.	The brig Friendship was bound to Holland with a valuable cargo, consisting of 17 hhds. tobacco, 27 bales cotton, 72 barrels sugar, 2 hhds. 3 tierces and 4 bbls. coffee. The vessel and cargo belonged to American citizens. After the reversal of the decree of condemnation the cargo was liberated, but the property of which it consisted had been sold by the captors. She arrived in the mouth of the Texel, when she was captured, about the 30th of June, 1809, by the French privateer L'Hebe. The agent of the owners had expended £750 sterling in unsuccessful endeavors to effect the liberation of the property.
6. William Williams, Coddington Billings, Nathan Stanton, and the heirs of Ebenezer Stanton.	Holland and France.	On or about 30th June, 1809.	Capture	Brig Friendship....	Value of vessel..... $8,000 00 Expenses..... 10,000 00 Interest on $8,000 for seventeen years... 8,160 00 Total loss..... 26,160 00 Capture made in the mouth of the Texel.	The brig was condemned in the first instance, but, on appeal to the Court at the Hague, the condemnation was reversed.	The brig Friendship was captured by the French privateer L'Hebe. After the appeal from the original condemnation she was liberated; but the property had been so much impaired by the captors, who stripped all the sails and rigging, and nothing was ever received by the owners. They were not permitted to clear her out after her release, and their agent had ultimately to leave her at Amsterdam. The item of $10,000 is claimed for damage sustained in defending against the captors.
7. Edward Learned....	Holland and France.	On or about 1st July, 1809.	Capture..	Brig Harmony	Commission of 5 per cent. on $60,000, the proceeds of the cargo sold at Amsterdam..... $3,000 00 Interest on this sum for sixteen years... 2,800 00 Expenses in Holland and France..... 1,000 00 Amount, &c..... 6,800 00 Capture made in the Texel.	No legal adjudication	The Harmony sailed from Boston about the first of June, 1809, on the strength of the arrangement between the American Government and Mr. Erskine, with a cargo valued at $20,000, bound to Altona and a market. Having been boarded by a British squadron, she was permitted to proceed, and was afterwards captured by a French privateer, the Tilsit, Capt. Collet. The vessel and cargo were taken possession of by the owners of the privateer. The French Consul resident at Amsterdam, after interrogating the officers of the brig and supercargo, took possession of all the papers, and forwarded them to the Council of Prizes. After the supercargo had been detained about a year, one-third of the cargo was restored, and the vessel

CLAIMS ON HOLLAND—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
7.—Continued.....	.....	.....	.....	.....	.....	.....	given up, but not permitted to depart. The brig, of course, had to remain in Amsterdam, and two-thirds of her cargo were taken by the captors, and totally lost to the owners. The claimant, who was the supercargo of the vessel, was deprived of his commissions in consequence of her capture and the loss of her cargo, and expended a considerable sum in order to obtain a part of the cargo. He was, moreover, detained nearly a year in France and Holland, at expense, attempting the liberation of the property.
8. William Gray's estate	Holland.....	1809.....	Seizure	Brig Harmony, Snow master.	Loss to William Gray as insurer on cargo, $1,110. Seizure made at Amsterdam.	No legal adjudication appears..	The Harmony sailed from Boston June, 1809. She was seized at Amsterdam. The claim is for a partial loss, William Gray having insured Samuel Coverly an adventure..... ..... $2,155 00 From which is deducted amount received by him... 1,055 00 1,100 00 The vessel and cargo were confiscated by order of the King, but a compromise was made, and part of the cargo given up.
9. William Gray's estate	Holland.....	1809.....	Seizure	Brig Sally, Cotton master.	Loss to William Gray as insurer on cargo, $500. Seizure made at Amsterdam.	No legal adjudication	The Sally sailed from Boston June, 1809, and was seized at Amsterdam. William Gray, by his agent, P. Lander, insured Sanders & Upton, of Salem, $500 on the cargo, and paid them a total loss.
10. Ezra Davis.....	Holland....	1810.....	Seizure under a secret convention between the Government of Holland and the Empire of France.	Brig Matilda.....	..... $80,372 40 Interest from July 1, 1810, to December 31, 1826, 16 years and six months, at six per cent..... 142,544 94 222,917 34 The last item is the claim for interest, as stated by the claimant. The seizure was made at Rotterdam.	No legal adjudication appears...	The brig Matilda sailed from Boston the 28th May, 1809, with a valuable cargo, bound to Rotterdam, where she arrived safe on the 6th July following. On the 10th she was admitted to entry at the custom-house, and an order given for the unlading. The property was placed in the King's warehouses until the duties were paid. The consignee sold nearly one-half of the cargo, and, as no law had been violated, the same was delivered to the purchasers on payment of the duties. The brig remained in the port of Rotterdam until September, when she was regularly cleared, and sailed for Russia. It is therefore evident that the Government of Holland did not pretend that any of the laws had been violated two months after the arrival of the brig at Rotterdam, as they had allowed a large part of the cargo to be sold and delivered from the King's warehouses, and then allowed the brig, without any hindrance or molestation, to leave the port. During the voyage from Boston to Rotterdam the brig was not boarded or spoken by any vessel whatever. At the request of the French minister at Washington, the claimant consented to take out a passenger, a French gentleman, Mr. Giraud, son of the French Consul at Boston, bearer of despatches from the min-

CLAIMS ON HOLLAND—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
No. 10—Continued.....	.....	.....	.....	.....	.....	.....	ister to the Government of France, in consequence of which the said minister had furnished the vessel with a full passport to afford her protection from all vessels-of-war of France or her allies, and had full liberty to enter any of the ports of France, and full protection was guarantied to vessel and cargo.—*Mem.* The foregoing are the remarks made by Mr. Davis. This claim probably arises from a seizure of that part of the cargo which the consignee had not sold.
11. Anonymous, (probably Garril Van Horne.)	Holland.....	Not stated. See last column.	Sequestration.....	Ship Suffolk, Thompson master.	Amount of shipment..... $5,693 25 Interest at 7 per cent. for 17 years, from June 14, 1809, to June 14, 1826..... 6,774 97 12,468 22 Sequestration made at Amsterdam.	No legal adjudication	The property was shipped, as per bill of lading, June 14, 1809, per ship Suffolk, by Garril Van Horne, consigned to Frederick T. Wichelhausen & Co., of Bremen, to the order of P. C. Van Eeghen at Amsterdam. It was there held in sequestration, and delivered by the Dutch Government to French commissioners, and sold at Antwerp under the Rambouillet decree.

INDEX TO SUPPLEMENT TO CLAIMS ON HOLLAND.

Names of claimants.	Number.	Amount.	Names of claimants.	Number.	Amount.
Bartlet, William.....	1	$102,400 72	Johnston, Thomas.....	10	$84,000 00
Bartlet, William, jr.....	3	8,822 00	Pettingel, John.....	5	78,400 00
Basset, Nathaniel.....	7	495 00	Picket, William, and others.....	6	4,595 00
Bartlet, Edmund.....	9	4,546 11	Wills, John, jr.....	8	494 00
Edes, Isaac.....	2	6,199 19			
Jenkins, George.....	4	2,794 94	Amount of supplementary claims on Holland.....	.....	292,746 96

SUPPLEMENT TO CLAIMS ON HOLLAND.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication: where and when.	Remarks to explain or elucidate the general nature of the claim.
1. Wm. Bartlet	Holland	1809.....	Sequestration and confiscation.	Ship Janus, Gaum master.	Cargo valued at $102,400 72. Sequestration made at Amsterdam.	No legal adjudication.....	The property was wholly American, and accompanied with properly authenticated documents; was owned solely by the claimant. It was carried from the United States to Amsterdam in the American ship Janus, and was there sequestered by orders from Napoleon Bonaparte. It was afterwards removed to Antwerp, conformably to a treaty between the French Government and the Government of Holland under Louis Bonaparte in 1810, and there sold, and the proceeds placed in the public chest in France, and wholly lost to the claimant. The property appears to have been confiscated under the Berlin and Milan decrees.
2. Isaac Edes	Holland	1809.....	Sequestration and confiscation.	Ship Janus, Gaum master.	Property on board..... $12,617 40 Deduct amount sold to Wm. Bartlet and included in his claim, No. 1..... 6,417 21 Amount, &c..... 6,199 19 Sequestration made at Amsterdam.	No legal adjudication.....	Same as in No. 1.
3. Wm. Bartlet, jr.....	Holland	1809.....	Sequestration and confiscation.	Ship Janus, Gaum master.	Value of adventure, $8,822. Sequestration made at Amsterdam.	No legal adjudication.....	Same as in No. 1.
4. George Jenkins	Holland	1809.....	Sequestration and confiscation.	Ship Janus, Gaum master.	Property shipped by claimant, $2,794 94. Sequestration made at Amsterdam.	No legal adjudication.....	The remarks in No. 1 are applicable to this case, except that Mr. Jenkins' loss was not total; 20 bales of cotton and 13 casks of rice, part of his property, were released, and afterwards sold for his account, net $711 24; his 10 hogsheads sugar and — coffee remaining under sequestration by pro forma sales, if the sugar had sold for 30 groats and the coffee at 25 stivers, would have produced him, net, as claimed, $2,794 94.
5. John Pettingel.....	Holland	1809.....	Sequestration and confiscation.	Brig Hannah, Smith master.	Cargo, $78,400. Sequestration made at Amsterdam.	No legal adjudication.....	The brig Hannah sailed from Newburyport May 16, 1809; arrived at Amsterdam June 12, 1809. Her cargo was landed between the 15th and 16th September, 1809, and deposited in the King's warehouse, as appears by receipt of the storekeeper to the Minister of Marine and Colonies, dated at Amsterdam September 23, 1809. The property was sequestered by order of the Emperor Napoleon, and removed to Antwerp on the 1st and 2d of August, 1810, by virtue of the treaty of March, 1810, made between Holland and France, and there sold, and the proceeds placed in the Treasury of France. The vessel and cargo were wholly American.

SUPPLEMENT TO CLAIMS ON HOLLAND—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
6. Wm. Picket, Ebenezer Noyes, and John Stone.	Holland.....	1809.....	Sequestration and confiscation.	Brig Hannah, Smith master.	Property, $4,595. Sequestration made at Amsterdam.	No legal adjudication.....	Same as in No. 5.
7. Nathaniel Basset....	Holland.....	1809.....	Sequestration and confiscation.	Brig Hannah, Smith master.	Property, $495. Sequestration made at Amsterdam..	No legal adjudication.....	Same as in No. 5.
8. John Wills, jr.....	Holland.....	1809.....	Sequestration and confiscation.	Brig Hannah, Smith master.	Property, $494. Sequestration made at Amsterdam..	No legal adjudication.....	Same as in No. 5.
9. Edmund Bartlet.....	Holland.....	1809.....	Sequestration and confiscation.	Ship Janus, John Gaum master.	The claimant's sugar and coffee would have produced $4,546 11. Sequestration made at Amsterdam.	No legal adjudication.....	Same as in No. 1.
10. Thomas Johnston, of Baltimore.	Holland and France.	Between April 1 and November 20, 1810.	Sequestration and confiscation.	Brig St. Michael's..	The cargo sold for ..... $69,000 00 The brig cost..... 15,000 00 Amount, &c..... 84,000 00 Interest for 18 years, at 4 per cent ..... 53,760 00 137,760 00 Sequestration made at Amsterdam.	No legal adjudication.....	The St. Michael's sailed from Baltimore for Tonningen February 25, 1810, and was then the joint property of James and Charles Allston and the claimant, as was also the cargo, consisting wholly of prime Maryland tobacco. Since May 1, 1812, the claimant has been, and is now, solely interested in this property. The brig, owing to damage sustained during the voyage, was compelled to put into the Texel, where she arrived on or about April 1, 1810. The cargo was ordered to be landed and placed in the King's stores till the damage sustained by the vessel could be ascertained and repaired. They were sequestered at Amsterdam in April, 1810, and there sold November 20, 1810. In June or July in the same year King Louis abdicated the throne of Holland, which was soon after, by authority of Napoleon, annexed to France. It was now and for the first time that the agents for the owners of the St. Michael's and cargo were informed of the fact, or the grounds of their sequestration. They were referred to the tenth article of a secret treaty, dated March 16, 1810, between Holland and France, by the very terms of which article the property in question was exempt from its operation, even if it had been a binding treaty, the brig not having arrived at Amsterdam at the date of the treaty, and the article thereof mentioned sequestering such vessels only as "have arrived in the ports of Holland since January 1, 1809." The proceeds of the sale were remitted to Paris, and amounted, according to the entries on the books of the French Treasury, to 264,815 francs, a less sum by 20,000 francs than the proceeds of the sales according to the auctioneer's books.

INDEX TO CLAIMS ON DENMARK.

Names of claimants.	Number.	Amount.
Andrew, John	105	$39,738 65
Brown & Ives	1	53,965 00
Boston Marine Insurance Company	17	10,891 66
Do do	18	3,164 20
Do do	19	2,286 13
Do do	20	13,000 00
Do do	21	8,000 00
Bell, Joseph, and others	48	609 30
Bradbury, Charles, for self and others	53 } 54 }	846 81
Do do	55	21,500 00
Do do	56	230 00
Do do	57	375 00
Do do	58	805 00
Do do	59	1,200 00
Do do	60	4,072 84
Do do	61	998 80
Do do	62	72 08
Do do	63	4,000 00
Do do	64	1,043 77
Do do	65	1,000 00
Do do	66	9,689 81
Do do	67	6,132 00
Do do	68	3,954 00
Do do	69	10,882 00
Do do	70	17,538 91
Do do	71	5,000 00
Do do	72	14,567 70
Do do	73	8,713 28
Do do	74	13,510 62
Do do	75	20,000 00
Do do	76	1,000 00
Do do	77	4,000 00
Bell, representatives of John, and others	80	104,150 00
Baltimore Insurance Company	94	20,583 66
Brazer, John	113	2,000 00
Do	114	5,000 00
Crawford, underwriters in office of James, jr	16	4,200 00
Clapp, Asa, and another	135	22,705 48
Do	136	35,576 00
Do	137	7,148 50
Coulter, John	122	6,133 20
Do	123	2,946 12
Do	124	1,064 08
Do	125	3,000 00
Dorr, Andrew C	9	24,472 22
Donaldson, Edward M	95	23,839 00
Do	96	5,250 00
Delaware Insurance Company of Philadelphia	98	19,600 00
Do do	99	17,000 00
Do do	100	3,000 00
Do do	101	5,192 33
Do do	102	5,960 62
Do do	103	6,847 82
Drinkwater, Phinehas	121	3,022 17
Dall, William, and others	127	35,823 68
Derby, John, and another	131	.....
Gray, Henry	36	1,000 00
Do	37	1,000 00
Gray, William R	52	5,565 65
Gray, estate of William	115	10,000 00
Do	116	4,000 00
Do	117	18,000 00
Do	118	11,000 00
Do	119	1,000 00
Hasty, William, and another	8	10,000 00
Hooper, Robert	22	110,000 00
Hooper, Robert, and others	23	100,000 00
Haxall, William and Henry	81	82,000 00
Hall, Elijah	111	31,391 10
Higginson, Stephen, and others	138	40,786 61
Insurance Company of the State of Pennsylvania	85	9,800 00
Do do	86	12,997 16
Insurance Company of the State of Pennsylvania	87	$8,624 00
Do do	88	11,760 00
Keith, Samuel	97	275 33
Kintzing, A	110	3,318 60
Kalkman, C. F	120	79,000 00
Lewis, William	6	6,205 00
Ladd, Henry, and others	7	45,401 60
Lancaster and Susquehanna Insurance Company	45	8,000 00
Do do	46	7,800 00
Mactier, Alexander	2	20,000 00
Meek, Thomas	24	20,000 00
Massachusetts Fire and Marine Insurance Company, at Boston	47	3,108 00
Maryland Insurance Company, assignees, &c	78	8,000 00
Do do	79	6,000 00
Do do	112	17,000 00
Murray, John B	82 }	say 28,088 50
Murray, John B., & Son	82 }	
Marine Insurance Company	109	20,000 00
Marine Insurance Company of Philadelphia	89	5,500 00
Do do	90	5,000 00
Do do	91	10,000 00
Do do	92	12,000 00
Do do	93	8,000 00
Mayerhoff, Francis	126	45,000 00
Moody, Joseph, and others	129	6,000 00
McLellan, Arthur and George	134	34,636 97
McIntire, John, and another	139	40,000 00
New England Marine Insurance Company of Boston	10	479 38
Do do	11	6,808 50
Do do	12	15,000 00
Do do	13	3,000 00
Oliver, Robert and John	108	15,000 00
Pennock, administrator of William	14	10,000 00
Pleasants, Charles	15	2,620 00
Pickman, Benjamin, and another	84	37,719 00
Page, Samuel, and others	132	74,688 98
Same claimants and others	133	20,825 66
Prince, Henry	83	4,000 00
Robinson, Nathan, and others	5	38,500 00
Russell, estate of William R., and others	104	15,000 00
Sheafe, Thomas	3	23,139 84
Social Insurance Company of Salem	106	7,750 00
Thorndike, Israel, and another	26	84,000 00
Thorndike, Israel	27	10,057 71
Union Insurance Company of Maryland. See No. 182, claims on France	25	.....
Union Insurance Company of Boston	28	15,618 00
Do do	29	2,152 00
Do do	30	2,688 96
Do do	31	5,426 92
Do do	32	6,829 44
Do do	33	9,186 37
Do do	34	3,247 80
Do do	35	10,000 00
United States Insurance Company of Philadelphia	38	1,960 00
Do do	39	6,744 57
Do do	40	25,014 95
Do do	41	7,840 00
Do do	42	11,800 00
Do do	43	6,000 00
Do do	44	911 65
Union Insurance Company of Philadelphia	49	5,880 00
Do do	50	5,880 00
Do do	51	4,410 00
Union Marine Insurance Company of Salem	107	10,000 00
Wilson, William, and others	4	51,889 08
Williams, Charles, and others	128	22,666 67
West, Nathaniel	130	33,222 00
Amount of claims on Denmark	.....	2,172,518 44

CLAIMS ON DENMARK.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
1. Brown & Ives, of Providence, Rhode Island.	Denmark....	July 19, 1810...	The ship and cargo were captured by Danish gun brigs, and sent into Christiansand, Norway.	Ship Hope, Uriel Rea master.	Value of cargo, as per invoice..... $36,335 00 Value of ship..... 7,000 00 Value of sundry adventures ..... 4,910 00 Freight..... 3,000 00 51,245 00 Expenses incurred in settlement with the underwriters..... 2,720 00 53,965 00 The exact place of the capture is not stated.	Condemned by the Prize Court of Christiansand, Norway, August 21, 1810. This sentence was confirmed by the High Court at Copenhagen, August 13, 1811.	The ship Hope was loaded at St. Petersburg with a full cargo of hemp, iron, and manufactures, and was homeward bound when taken. An insurance, to the amount of $35,000, had been effected with certain insurance companies who have since settled it. Of this sum, $15,000 was insured by the New England Marine Insurance Company; $15,000 by the Union Insurance Company of Boston, and $5,000 by the Warren Insurance Company. The tonnage of the ship was 239 33-95.
2. Alexander Mactier...	Denmark....	About June, 1810.	Capture	Ship William Wilson.	$20,000 on the cargo ..... The capture was made in the North Sea.	No legal adjudication.....	The ship William Wilson had been legally cleared at the custom house in Baltimore for Sylt and a permitted port in the North of Europe. After her capture she was carried into Heteroo, in Norway, where she was detained until the depth of winter. Being then permitted to depart, she proceeded to Hull, in England, where the whole amount of the shipment did not pay more than the charges. No insurance had been made.
3. Thomas Sheafe, of Portsmouth, New Hampshire.	Denmark....	July 7, 1810....	Capture by a Danish privateer, under a commission from the Danish Government.	Ship Magnet, of Portsmouth, New Hampshire, Jos. Swett master.	The amount of loss, including the value of the ship, freight, and expenses of suit, but not including interest, is $23,139 84. The capture was made near Elsineur.	Condemnation at Copenhagen, by the Danish Court of Admiralty, September 20, 1810.	The ship Magnet was, when captured, on her voyage from Cadiz to St. Petersburg, and her cargo belonged to citizens of the United States.
4. Wm. Wilson & Sons, Ezra Pearce, and S. P. Child.	Denmark....	The capture was made August 21, 1809.	Capture by a Danish privateer and detention.	Ship Harriot, S. P. Child master.	The loss sustained by the claimants is estimated as follows, viz: Nine months' detention, at $2 per ton per month, the tonnage being 229..... $4,122 00 Nine months' wages of officers and seamen, at $358 per month ..... 3,222 00 Nine months' provisions for 12 persons, at $8 per month for each..... 864 00 Time and expenses of William Wilson, of James, 270 days, at $5. .... 1,350 00	The Harriot was tried at Christiansand in October, 1809, and, together with her cargo, acquitted on payment of costs and a fine of 600 rix dollars. From this decision the captors appealed to the High Court at Christiana, and, on May 16, 1810, the vessel and cargo were ordered to be restored to Captain Child.	The ship Harriot belonged to William Wilson & Sons and Ezra Pearce. Her cargo, consisting of tobacco, fustic, and staves, belonged to William Wilson & Sons, except an adventure of the captain. She was captured, on her passage from Baltimore for Stavanger and a market, at the entrance into Stavanger, by the Danish privateer Maria, of Christiansand, A. A. Lerwig master, and sent into Stavanger. When acquitted, after her long detention, she could not proceed to Amsterdam, her original port of destination, but was obliged to go to Bergen for repairs. She proceeded thence to London, where she landed her cargo. The tobacco part of it was 300,325 pounds Maryland tobacco, which would have been sold at

CLAIMS ON DENMARK—Continued.

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4—Continued					Trouble and loss of P. Isaackson on 1,800 rix dollars advanced by him ..... $600 00 Claims for loss of market on cargo..... 39,882 79 Supercargo's commission of 2½ per cent. on this loss ..... 997 06 Estimated loss of market on 1,952 pounds of tobacco, and 4,388 pounds of tobacco stems, belonging to the master..... 851 23 51,889 08 The vessel was captured at the entrance into Stavanger.		Amsterdam, on September 12, 1809, at 32 cents per pound, and thus have produced..... $96,104 The staves and fustic would then and there have produced. 1,396 97,500 Deduct one-third for difference in weight, and for charges.. 32,500 Balance ..... 65,000 The actual net proceeds were, of 16 hogsheads of tobacco and some fustic sold at Bergen, in Norway, $1,820 39; of 273 hogsheads of tobacco sold in London, £5,215 16*s.* 6*d.* sterling; of fustic sold at the latter place, £25 19*s.* 3*d.* sterling. The amount of these net proceeds is $25,117 21; which sum being deducted from the foregoing sum of $65,000, a balance remains of $39,882 79, the amount claimed for the loss of market.
5. Nathan Robinson, Dudley L. Pickman, estate of Noah Emery, jr., deceased.	Denmark	The capture was made 1811.	Capture and condemnation.	Ship Brutus, of Salem, Mass.	At the time she sailed from New Orleans the value of the ship and that of her cargo amounted to $38,500. The place of capture is not stated by the claimant.	The ship and cargo were finally condemned by the High Court of Admiralty, in Copenhagen, on April 7, 1812.	It appears that the Brutus was an American ship, and, with her cargo, the property of American citizens; that in the year 1811 she sailed from New Orleans on a voyage to Russia, and was captured by a Danish or Norwegian privateer or privateers; that the vessel was fully acquitted by the Inferior Court in Norway; that the captor appealed from the sentence of that court, because John Fenno, the captain of the Brutus, refused to pay six thousand rix dollars, by way of compromise; and that, on April 7, 1812, the High Court of Admiralty in Copenhagen, to which the appeal was carried, condemned the ship and cargo on grounds not assumed by the captor, and of which the insufficiency was demonstrated by Mr. Erving, the United States minister to Denmark, in his correspondence with the Government of that country.
6. Wm. Lewis, of Boston	Denmark	The capture was made about May 4, 1809.	Capture and condemnation.	Ship Jane.....	One-fourth of the ship..... ... $1,500 00 Interest in cargo ..... 2,200 00 Expenses in Norway and Sweden, and passage home..... 1,505 00 Loss by detention as prisoner and derangement of business..... 1,000 00 Amount of loss..... 6,205 00 The capture was made while the vessel was making for the port of Christiansand.	Condemnation by the Admiralty Court of Christiana, of vessel and cargo, about December 18, 1809.	In the year 1809 the claimant was interested as owner of one-fourth of the ship Jane, and of $2,200 of her cargo then on board. This ship having been purchased of Arthur McLellan, of Portland, and the claimant having paid a bill of disbursements, and for a part of her cargo, other than that belonging to him, the ship and cargo were suffered to remain in his name for security. About March 25, 1809, the ship cleared from Portland for Gottenburg, and in consequence of severe weather and losses on her passage was, for relief, making for the port of Christiansand, when she was captured by a Norwegian privateer, and taken to the harbor of Egwog. Her papers were sent to Christiansand. The claimant was sent thither, under

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
6—Continued	.....	.....	.....	.....	.....	....	military arrest, and there detained ten months, under circumstances of great hardship and oppression. About December 18, 1809, the ship and cargo were condemned by the Admiralty Court of Christiana, on the grounds, as the claimant was informed, of her having been boarded by a British frigate on the passage, and of her destination for Gottenburg.
7. Henry and Alexander Ladd, estate of Reuben Shapley, and estate of Reuben S. Randall.	Denmark ...	July 15, 1809...	Capture	Ship Wonolanset, Reuben S. Randall master.	Value of property captured..... Loss sustained by detention, damage to the cargo, and expenses..... 10,401 60 Amount, &c..... 45,401 60 On the second item interest is claimed from 1810. Compensation also is claimed, but its amount is not stated, for damages sustained by the loss of market, and the breaking up of the voyage. The capture was made off the coast of Norway.	The ship and cargo were condemned, August 23, 1809, in the Lower Court, at Christiansand, but restored, April 20, 1810, on appeal to the High Court of Admiralty.	The ship Wonolanset was owned by Reuben Shapley, of Portsmouth, New Hampshire, and sailed from that port June 5, 1809, bound direct for St. Petersburg, in Russia, laden with a cargo of sugar, coffee, rum, mahogany, and logwood, one-half on account and risk of Henry and Alexander Ladd, three-eighths on account and risk of Reuben Shapley, and one-eighth on account and risk of the master. The ship was on monthly charter, and, together with the cargo, consigned to the master. On July 13 she was captured by a Norwegian privateer, called the Admiral Tordenshold, commanded by Kittle Agland, and carried into Christiansand, in Norway, then forming a part of the Kingdom of Denmark. On the following 23d of August she and her cargo were condemned, and in April, 1810, were restored, as was stated in the next column. No damage were, however, awarded to the claimants. The ship reloaded, and sailed from Christiansand on May 25, 1810, having been detained ten months and three days. The reason alleged for the condemnation was, that the ship and cargo were from England, and were British property.
8. William Hasty and estate of Ebenezer Libby, deceased.	Denmark	June 3, 1808....	Capture	Ship Live Oak, Yanel master.	$10,000. The ship was captured on her passage from London to St. Petersburg, but it is not stated where.	This ship was originally condemned June 24, 1808, at Copenhagen, and, on appeal to the Admiralty Court there, was finally condemned Aug. 30, 1808.	The Live Oak, of 278 60-95 tons, was originally owned by, and registered in the names of, William Hasty and Ebenezer Libby, of Scarborough, then in Massachusetts, now in the State of Maine, and Christopher Dyer, of Portland. Samuel Libby and Luther Libby are the sons and heirs of Ebenezer Libby. The ship was captured by two Danish privateers and carried into Copenhagen, and condemned on the alleged grounds of her having a cargo taken in at London, and being bound for Russia. The captain bought in the ship, at her sale under the final decree of condemnation, and drew a bill for the amount of the purchase money and disbursements on Thomas Wilson, of London, agent of the claimants. The bill was honored by him, and afterwards paid by them. The captain bought in the ship in his own name, as the claimants have since learned, but their efforts to find and recover her were unavailing. In the year after the close of the late war she was blown up off New York.

CLAIMS ON DENMARK—Continued

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
9. Andrew C. Dorr.....	Denmark	Not stated.....	Capture	Ship Charlotte, Eliot master.	Value of the ship..... $17,500 00 Value of the freight ..... 6,222 22 Value of logwood..... 750 00 24,472 22 The capture was made in the North Sea, on the ship's passage to St. Petersburg.	This ship was condemned by the Admiralty Court at Copenhagen. The date of condemnation is not stated.	The ship sailed from Boston in January, 1810, for St. Petersburg, in Russia, and, with the logwood, was owned by the claimant, the cargo of sugars being for the account of Joseph Dorr only, an American citizen. Having been damaged by the severity of the weather during her voyage, she was obliged to get into port, and proceeded to Holland, where she refitted, and whence she departed for the port of destination. She was immediately captured by a French privateer, and then recaptured by an English frigate and sent to London. After paying there one-eighth salvage and heavy court charges, and after long detention, she sailed again, and was driven back into an English port, where she incurred heavy expenses, sailed again, and was taken in the North Sea by Danish gunboats. She was soon released, but again seized and condemned, because she had been at a British port, although sent in thither by an enemy's vessel.
10. New England Marine Insurance Company, Boston.	Denmark	May, 1811	Capture.....	Brig Catherine	$479 38. Place of capture not stated.....	No legal adjudication appears ..	This vessel was bound from Boston to the North of Europe. She was taken and carried to Denmark. She was afterwards taken by a French privateer, carried into Dantzic, and the owners dispossessed of the cargo.
11. New England Marine Insurance Company, Boston.	Denmark	July, 1810.....	Capture.....	Brig Hannah	$6,808 50. Place of capture not stated.....	Condemned at Christiansand. Date not stated.	This vessel, bound from Boston to the North of Europe, was captured by a Norwegian privateer, and carried into Christiansand.
12. New England Marine Insurance Company, Boston.	Denmark	July, 1810.....	Capture..... ...	Ship Hope	$15,000. Capture made off Norway.....	Condemned at Christiansand, August, 1810.	The Hope, bound from Cronstadt to Providence, was captured and sent into Christiansand.
13. New England Marine Insurance Company, Boston.	Denmark	Not stated	Capture	Ship Resolution....	$3,000. Place of capture not stated.....	Condemned in the High Court of Admiralty, at Copenhagen, October, 1811.	This vessel was bound from New York to Gottenburg.
14. Geo. Newton, admr. of Wm. Pennock.	Denmark.....	1811.....	Capture.....	Ship Industry.....	$10,000. Place of capture not stated.....	Condemned at Christiansand. Date not stated.	Claimants refer to Mr. Erwin's letter, July 15, 1811, and list.
15. Charles Pleasants....	Denmark	June 18, 1809 ..	Capture.....	Ship Commerce....	$2,620. Capture made off the coast of Norway.....	Condemned at Christiansand, by the High Court of Admiralty, March 12, 1810.	This vessel was captured, on her voyage from Philadelphia to Gottenburg, on 18th June, 1809, by two Danish privateer sloops, and carried into Egrog, thence to Fahrsund, and thence to Christiansand, where vessel and cargo were condemned by the Inferior Court on the 28th July, 1809, by the superior Judge, the inferior one not concurring therein. The High Court of Admiralty at Christiansand, on appeal taken from the sentence, confirmed it on the 12th of March, 1810. The claim is for the balance uninsured of an invoice of sugar and cotton, amounting to $6,820, of which was insured, by underwriters in James Crawford, jr.'s, office, for $4,200.

CLAIMS ON DENMARK—Continued.

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16. Underwriters in Jas. Crawford, jr.'s, office.	Denmark.....	June 13, 1809 ..	Capture.....	Ship Commerce....	$4,200. Capture made off the coast of Norway.....	Condemned at Christiansand, by the High Court of Admiralty, March 12, 1810.	Same as in No. 15.
17. Boston Marine Insurance Company.	Denmark.....	April 11, 1811 ..	Capture.....	Brig Charlotte, Pierce master.	Paid Higinson & Co ..... $10,000 00 General average 891 66 10,891 66	Condemned by the Chief Court of Admiralty at Copenhagen, October 8, 1811.	Owned by citizens of the United States, and "insured from Boston to the United Kingdom, or port in the North of Europe, north and east of the Elbe."
18. Boston Marine Insurance Company.	Denmark or France.	August, 1811...	Capture	Brig Hannah, Dennis master.	Place of capture not stated. Paid T. C. Amory..... $7,033 20 Salvage 3,869 00 3,164 20	Condemned at Christiansand. Date not stated.	Owned by citizens of the United States, and insured "from Boston to Russia, within the Baltic." The brig was captured by the French privateer La Minnette.
19. Boston Marine Insurance Company.	Denmark....	1810.....	Not stated.	Brig Rachel, Joseph master.	Place of capture not stated. Paid T. C. Amory..... $5,000 00 Salvage..... 2,713 87 2,286 13	Not stated.....	Owned by citizens of the United States, and insured from Boston to a port in Europe north of the Elbe.
20. Boston Marine Insurance Company.	Denmark....	Not stated.....	Capture	Ship Resolution....	Place of capture not stated. Paid to J. & T. H. Perkins, 23d April, 1812, $13,000. Place of capture not stated.	Condemned by the High Court of Admiralty at Copenhagen, October 8, 1811.	Insured for Honqua, a Chinese merchant, from New York to Gottenburg.
21. Boston Marine Insurance Company.	Denmark....	July, 1810	Detention	Barque Zeno	Paid to T. C. A. & J. Richards, February and March, 1811, $8,000. Detention took place in Norway.	No adjudication appears.... ..	Owned by citizens of the United States, and insured from Boston to a port in the Baltic.
22. Robert Hooper.....	Denmark....	1810.....	Capture	Brig Polly, Graves master.	$110,000. Place of capture not stated	Condemned at Christiansand in 1810.	This vessel, bound from St. Petersburg for Marblehead, was captured by a Government vessel and carried into Christiansand, Norway.
23. Rob't Hooper, Rob't Hooper, jr., John Hooper, of Marblehead, Mass.	Denmark ...	1810.....	Capture	Brig Hope, Meek master.	$100,000. Place of capture not stated	Condemned at Christiansand in 1810.	This vessel was bound from St. Petersburg for Marblehead. She was captured by a Government vessel, carried into Christiansand, Norway, and there condemned.
24. Thomas Meek, of Marblehead, Mass.	Denmark....	1810.....	Capture	Schooner Rebecca, Meek master.	$20,000. Place of capture not stated	Condemned at Christiansand in 1810.	This vessel was from Gottenburg for Marblehead; was captured by a Government vessel, carried to Christiansand, and there condemned.
25. Union Insurance Co. of Maryland. *Mem.*—This claim is also included in the schedule of claims on France, No. 182.	Denmark and France.	July, 1810	Capture	Ship Ploughboy....	$20,000 actually paid by the claimants to the assured. Seizure made near Sylt.	Condemned by the Council of Prizes at Paris. Date not stated.	This vessel was bound from Baltimore to Sylt, in Denmark, and after arrival near to that port, and within the jurisdiction of the Government of Denmark, she was forcibly taken possession of by the French private armed vessel La Reciprocité, and carried into Sylt. The protection of Denmark was solicited in vain, and a condemnation took place at Paris without any legal course. Vessel and cargo American property. France is also charged with this claim.

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
26. Israel Thorndike and William Leech.	Denmark....	1810.....	Capture	Brig Suwarrow.....	$84,000. Place of capture not stated	Condemned at a Court in Norway. Date not stated.	The brig Suwarrow, William Leech, jr., master, sailed from Beverley about 17th March, 1809, with a full cargo of tobacco, bound to Gottenburg, in Sweden; cargo belonging bona fide to the claimants, native citizens of the United States; taken by Danish privateers and carried into Fahrsund, a port in Norway, and condemned as enemies' property.
27. Israel Thorndike....	Denmark....	1810.....	Capture	Schooner Betsey...	$10,057 71. Capture made off the coast of Norway.	The sentence of condemnation pronounced in the Inferior Court at Fahrsund was afterwards reversed by the High Court in Copenhagen, and no compensation was made for the cargo, which had been sold by order of the Inferior Court. Date of reversal, March 9, 1811.	The schooner Betsey, John Fielder master, sailed from Beverley May 30, 1810; cargo, sugar and coffee, belonging to claimant; was captured July 30, 1810, off the coast of Norway, and carried into Fahrsund; was tried and condemned in the Lower Court upon the most frivolous pretext, and cargo ordered to be, and was, sold at auction. Sentence was afterwards reversed by the decree of the High Court in Copenhagen, March 9, 1811, and no compensation has been made.
28. Union Insurance Company of Boston.	Denmark....	July, 1810.....	Capture	Ship Hope..... ...	$15,618, part of cargo and charges incident to trial, &c. Place of capture not stated.	Condemned by the Higher and Lower Courts of Denmark. Date not stated.	The ship Hope, on her voyage from St Petersburg to Providence, R. I., was captured in July, 1810, by a Danish privateer, carried into Copenhagen, and condemned by the Lower and High Courts.
29. Union Insurance Company of Boston.	Denmark....	August, 1810..	Capture and detention....	Brig Cygnet.... ...	$2,152, charges defending suits, and loss by detention. Place of capture not stated.	Cleared at the High Court of Copenhagen. Date not stated.	The Cygnet was captured on a voyage from Boston to Gottenburg by a Danish privateer; was carried into Christiansand; cleared. The captors appealed. Cleared at the High Court at Copenhagen.
30. Union Insurance Company of Boston.	Denmark....	April, 1811.....	Capture and detention....	Brig Rachel.....	$2,688 96, charges in consequence of capture and trial. Place of capture not stated.	Cleared by the High Court at Copenhagen. Date not stated.	The brig Rachel was captured on a voyage from Boston to St. Petersburg by a Danish privateer, carried into Copenhagen, condemned by the Lower Court, and cleared by the High Court.
31. Union Insurance Company of Boston.	Denmark....	August, 1811...	Capture and detention....	Brig Hannah.....	$5,426 92, loss sustained on $12,000, being part of cargo. Place of capture not stated.	Condemned at Copenhagen. Date not stated.	This vessel was captured on a voyage from Boston to Gottenburg and Riga by a Danish privateer, carried into Christiansand, and released; was again captured, and carried into Copenhagen, and condemned to pay an amount to the captors of nearly one-half.
32. Union Insurance Company of Boston.	Denmark....	July, 1809	Capture and detention....	Ship Fair Trader...	$6,829 44, amount of the net loss sustained by the seizure, &c. Place of capture not stated.	No legal adjudication.	The Fair Trader, while on her voyage from Philadelphia to Kiel, was captured by a Danish privateer, carried into Kiel, and after a long detention was liberated. Half of the cargo was taken by the Danish Government.
33. Union Insurance Company of Boston.	Denmark or France.	July, 1810.....	Capture	Barque Zeno	$9,186 37, being part of cargo and commissions. Place of capture not stated.	The barque Zeno was condemned at Paris. Date not stated.	This vessel was captured on a voyage from Boston to Gottenburg by a French privateer, and carried into Christiansand. She was condemned at Paris.
34. Union Insurance Company of Boston.	Denmark or France.	May, 1811	Capture	Brig Catherine.....	$3,247 80, part of cargo and charges. Place of capture not stated.	Condemned by the Imperial Council of Prizes at Paris. Date not stated.	This vessel was captured by a French privateer while on her voyage from Boston to St. Petersburg, was carried into Dantzic, and condemned by the Imperial Council of Prizes at Paris.

CLAIMS ON DENMARK—Continued.

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35. Union Insurance Company of Boston.	Denmark or France.	May, 1811	Capture	Ship Hercules	$10,000, part of vessel and cargo. Place of capture not stated.	Condemned by the Imperial Council of Prizes at Paris. Date not stated.	This vessel, on a voyage from Charleston to a port in the Baltic, was captured by a French privateer, carried into Dantzic, and condemned by the Imperial Council of Prizes at Paris.
36. Henry Gray, of Boston.	Denmark	1810.....	Seizure.....	Barque Wm. Gray, Foster master.	$1,000, amount of loss to the claimant as insurer. Seizure made at Copenhagen.	Condemned at Copenhagen February 13, 1811.	The barque William Gray was bound from St. Petersburg to New York. She put into Copenhagen to repair, and while in port she was taken by authority of the Danish Government. The vessel and cargo were condemned by the High Court of Admiralty at Copenhagen, February 13, 1811. The sum claimed by H. Gray was paid by him as total loss.
37. Henry Gray, of Boston.	Denmark	August, 1809...	Capture	Brig Topaz, Henrick master.	$1,000 loss to Henry Gray as insurer. Place of capture not stated.	Condemned. Place not stated. December 18, 1809.	The brig Topaz was bound from Newburyport to Copenhagen. She was captured at sea, and carried into Christiansand; vessel and cargo were condemned December 18, 1809. The sum claimed was paid as a total loss.
38. United States Insurance Company of Philadelphia.	Denmark	April, 1810.....	Capture	Ship Commerce ...	$1,960. Place of capture not stated	Condemned at Christiansand. Date not stated.	This vessel was taken to Christiansand, and condemned in a Danish Court of Admiralty.
39. United States Insurance Company of Philadelphia.	Denmark	March, 1810 ...	Capture	Brig Bell Air	$6,744 57. Place of capture not stated.....	Condemned at Christiansand. Date not stated.	This vessel was taken to Christiansand, and condemned in a Danish Court of Admiralty.
40. United States Insurance Company of Philadelphia.	Denmark	October, 1810..	Capture	Brig Elizabeth	$25,014 95. Place of capture not stated	Condemned at Christiansand. Date not stated.	The brig Elizabeth was taken to Christiansand, and condemned in a Danish Court of Admiralty.
41. United States Insurance Company of Philadelphia.	Denmark	December, 1810	Capture	Brig Drummond ...	$7,840. Place of capture not stated	Condemned by the Prize Court at Copenhagen. Date not stated.	This vessel was taken to Copenhagen, and condemned by the Prize Court there.
42. United States Insurance Company of Philadelphia.	Denmark	October, 1811..	Capture	Brig Ariel	$11,800. Place of capture not stated	No legal adjudication appears ..	The brig Ariel was carried to Kiel, where half of the cargo was taken by the Danish Government.
43. United States Insurance Company of Philadelphia.	Denmark	October, 1811..	Capture	Ship Fair Trader...	$6,000. Place of capture not stated	No legal adjudication appears ..	This vessel was carried to Kiel, where half of the cargo was taken by the Danish Government.
44. United States Insurance Company of Philadelphia.	Denmark	October, 1811..	Capture	Ship Minerva Smith	$911 65. Place of capture not stated.....	No legal adjudication appears ..	The ship Minerva Smith was carried to Kiel, where half of the cargo was taken by the Danish Government.
45. Lancaster and Susquehanna Insurance Company.	Denmark	October, 1810..	Capture	Brig Elizabeth.....	$8,000. Place of capture not stated	Condemned at Christiansand. Date not stated.	This vessel was taken to Christiansand, and condemned in a Danish Court of Admiralty.

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
46. Lancaster and Susquehanna Insurance Company.	Denmark....	December, 1810	Capture	Ship Annawan	$7,800. Place of capture not stated	Condemned in a Danish Court at Copenhagen. Date not stated.	This vessel was taken to Christiansand, and condemned in a Danish Court of Admiralty.
47. Massachusetts Fire and Marine Insurance Company of Boston.	Denmark....	Aug. 29, 1811 ..	Capture	Brig Hannah, Dennis master.	$3,108. This sum is the amount of net loss sustained by the claimants in consequence of the capture and sequestration. Place of capture not stated.	Adjudicated by the Chief Court of Admiralty, at Copenhagen, May 11, 1811.	The brig Hannah sailed from Boston on a voyage to Gottenburg and Riga in the year 1810. After various accidents and detentions, on the 29th of August, 1811, she was taken by a Danish privateer, and afterwards was carried into Copenhagen, where she was adjudicated by the Chief Court of Admiralty May 11, 1811, who decreed a large sum to the captors, and restored the balance.
48. Joseph Bell and Joseph Watson, for themselves and for the estate of Wm. Bell, deceased, as his executors.	Denmark....	June 21, 1810 ..	Capture	Brig Julian, Abbott master.	General average on $5,000, portion of cargo at Christiansand and Copenhagen ..... $609 30 Interest from December 1, 1810, to October 1, 1826, 15 years, 10 months, at 6 per cent..... 578 87 Due claimants..... 1,188 17 Place of capture not stated.	The vessel and cargo were libelled at Christiansand and cleared by the Prize Court. The High Court of Admiralty at Copenhagen, on appeal, ordered the property to be restored, subject to costs, &c., constituting this general average.	The brig Julian, Captain Edward Abbott, of Philadelphia, was owned by William Bell, Joseph Bell, and Joseph Watson, and laden by them and other citizens of the United States, on their respective accounts, with a cargo destined for Gottenburg and a market, consigned to William Bell, jr., supercargo, on board. She sailed from Philadelphia on the 10th of May, 1810, with all the usual documents and consular certificates of the Danish, Swedish, and French Governments, to confirm the legality of the voyage and neutrality of the property. Yet, on the 21st June next ensuing, the brig was captured by the Danish privateer Weay Vülsen Pakkede, Kneid Ellingsen master, and carried into Christiansand, where vessel and cargo were libelled, and, after much detention and expense, were cleared by the Prize Court. From which decision the captors appealed to the High Court of Admiralty at Copenhagen, where, after further delay, that court restored the property, subject to the payment of one thousand rix dollars to be made to the captors as an indemnification for costs accrued by the capture, as also the court charges ordained by the Prize Court on the 1st of December, 1810. Insurance had been effected by her owners upon their interests, as aforesaid, in Philadelphia, not to abandon before sixty days after hearing of capture; in New York six months, unless sooner condemned. Abandonment was legally made to the Philadelphia underwriters, who all paid their subscriptions and averages thereon in Norway and Denmark, and a cession of claim made to them, respectively, with the exception of George Smith, a private underwriter, on cargo for $5,000 in James Crawford & Co.'s office, which, from his insolvency, he was not able, and did not pay. Consequently, no cession was made to him, and the property or risk reverted thereafter to the original owners, inasmuch as if they had left that amount uninsured in the first instance. To this portion of $5,000 on the cargo a

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
48—Continued							general average of $609 30 was struck and made chargeable to it for costs and expenses in Denmark, &c., as was apportioned upon the underwriters according to their subscriptions, and which they paid, leaving unremunerated to the present claimants the sum of $609 30.
49. Union Insurance Co. of Philadelphia.	Denmark	About June, 1810.	Capture	Brig Elizabeth	Paid amount of loss December 20, 1810, $5,880. Place of capture not stated.	Unknown	Claimants insured for Charles Pleasants, April 17, 1810, from St. Petersburg to Philadelphia. The brig was captured and carried into Norway.
50. Union Insurance Co. of Philadelphia.	Denmark	About August 1, 1810.	Capture	Brig Ariel	Paid February 3, 1811, and September 28, 1812 $2,450 00 Paid February, 1811, and August 5, 1812. 3,430 00 5,880 00 Place of capture not stated.	Carried into Kiel and acquitted, whether by legal adjudication does not appear. Date not stated.	This vessel, bound from Philadelphia to Gottenburg, was captured August 1, 1810, by a Danish privateer, and carried into Kiel, where she was acquitted and allowed an entry. One-half of the goods taken by the King for duty, though at the time of entry the duty was quite small. Insured for Henry Hollingsworth, May 26, 1810, $2,450, and for Guer & Dehl, September 18, 1810, $3,430.
51. Union Insurance Co. of Philadelphia.	Denmark	Not known	Capture	Ship Fair Trader	Amount of loss paid October 2, 1810, $4,410. Place of capture not stated.	No legal adjudication appears	The claimants insured for Dominick Barthe, April, 1810, from Philadelphia to Gottenburg. The ship was captured and carried into Kiel.
52. William R. Gray	Denmark	June 22, 1810	Capture	Schooner Cremer	$5,565 65. (See last column)	Condemned by High Court of Admiralty at Copenhagen. Date not stated.	This vessel, on her voyage from Gottenburg to the Baltic, was captured by a Danish privateer. Claimant insured for C. Coolidge & Co., $4,000. He holds their power of attorney to recover it. Insured for G. Snow, $1,500. Total loss paid.
53. Chas. Bradbury, for self and others.	Denmark	1809	Capture	Ship Endeavor	Amount of loss in this case appears to be included in the next. Place of capture not stated.	No adjudication appears	Captured by the Danes and released, with expenses.
54. Chas. Bradbury, for self and others.	Denmark	1809	Capture	Ship Rachel	$846 81. Place of capture not stated	No adjudication appears	Same as in No. 53.
55. Chas. Bradbury, for self and others.	Denmark	1809	Capture	Brig Topaz	$21,500. Place of capture not stated	Condemned at Copenhagen. Date not stated.	Captured by the Danes.
56. Chas. Bradbury, for self and others.	Denmark	1809	Capture	Brig Washington	$230. Place of capture not stated	No legal adjudication appears	Captured by the Danes and restored, with expenses.
57. Chas. Bradbury, for self and others.	Denmark	1809	Capture	Brig Doris	$375. Place of capture not stated	No adjudication appears	Same as in No. 56.
58. Chas. Bradbury, for self and others.	Denmark	1809	Capture	Brig Alexander	$805. Place of capture not stated	No adjudication appears	Same as in No. 56.
59. Chas. Bradbury, for self and others.	Denmark	1809	Capture	Ship Wonolanset	$1,200. Place of capture not stated	No legal adjudication appears	Same as in No. 56.
60. Chas. Bradbury, for self and others.	Denmark	1810	Capture	Barque Wm. Gray	$4,072 84. Place of capture not stated	Condemnation. When and where not stated.	Captured by the Danes and condemned.
61. Chas. Bradbury, for self and others.	Denmark	1810	Capture	Barque Pompey	$998 80. Place of capture not stated	No adjudication appears	Captured by the Danes and restored, with expenses.
62. Chas. Bradbury, for self and others.	Denmark	1810	Capture	Ship Herschel	$72 08. Place of capture not stated	No adjudication appears	Same as in No. 61.

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
63. Chas. Bradbury, for self and others.	Denmark....	1810..... ...	Capture	Brig Ellen Maria...	$4,000. Place of capture not stated	No adjudication appears.....	Same as in No. 61.
64. Chas. Bradbury, for self and others.	Denmark....	1810.....	Capture	Schooner Cremer..	$1,043 77. Place of capture not stated.....	Condemnation. Time and place not stated.	Captured by the Danes and condemned.
65. Chas. Bradbury, for self and others.	Denmark....	1810.....	Capture	Schooner Minerva..	$1,000. Place of capture not stated	Condemnation. Time and place not stated.	Same as in No. 64.
66. Chas. Bradbury, for self and others.	Denmark....	1810.....	Capture	Brig Lydia	$9,689 81. Place of capture not stated	Condemned at Copenhagen, August 30, 1810.	Same as in No. 64.
67. Chas. Bradbury, for self and others.	Denmark....	1810.....	Capture	Brig Cygnet	$5,132. Place of capture not stated	No adjudication appears.....	Captured by the Danes and restored, with expenses.
68. Chas. Bradbury, for self and others.	Denmark....	1810.....	Capture	Brig Cornelius	$3,954. Place of capture not stated	No adjudication appears.....	Same as in No. 67.
69. Chas. Bradbury, for self and others.	Denmark....	1810.....	Capture	Brig Hannah.....	$10,882. Place of capture not stated	Condemned at Christiansand, 1810.	Captured by the Danes.
70. Chas. Bradbury, for self and others.	Denmark....	1810.....	Capture	Barque Zeno	$17,538 91. Place of capture not stated.....	No legal adjudication appears ..	Captured by the Danes and carried to Christiansand, and condemned by Bonaparte at Paris.
71. Chas. Bradbury, for self and others.	Denmark ...	1810.....	Capture	Ship Argo.....	$5,000. Place of capture not stated	Condemnation at Copenhagen. Date not stated.	The Argo was bound to Stettin; captured by the Danes.
72. Chas. Bradbury, for self and others.	Denmark....	1810.....	Capture	Ship Hesper	$14,567 70. Place of capture not stated.....	Condemnation at Copenhagen. Date not stated.	The Hesper, bound from Russia to the United States, in 1811, was captured by the Danes.
73. Chas. Bradbury, for self and others.	Denmark....	1810.....	Capture	Brig Charlotte.....	$8,713 28. Place of capture not stated.....	Condemnation at Copenhagen, 1811.	Captured by the Danes.
74. Chas. Bradbury, for self and others.	Denmark....	1810.....	Capture	Brig Brutus.....	$13,510 62. Place of capture not stated.....	Condemnation at Copenhagen. Date not stated.	Same as in No. 74.
75. Chas. Bradbury, for self and others.	Denmark....	1810.....	Capture	Ship Hercules	$20,000. Place of capture not stated	No legal adjudication appears ..	The Hercules was captured by a French privateer, carried to Dantzic, and condemned by Bonaparte, 1811.
76. Chas. Bradbury, for self and others.	Denmark....	1810.....	Capture	Ship Packet	$1,000. Place of capture not stated	No legal adjudication appears ..	Captured by the Danes and restored, with expenses.
77. Chas. Bradbury, for self and others.	Denmark....	1810.....	Capture	Brig Catherine.....	$1,000. Place of capture not stated	Condemnat'n by a Danish court. When and where not stated.	The brig, bound to Riga, was captured by a Danish vessel, carried to Dantzic, and condemned.
78. Maryland Insurance Co., assignees of J. P. Pleasants, for Howell & Pleasants, of Philadelphia.	Denmark.....	July 19, 1810...	Capture	Brig Elizabeth, Campbell master.	Cargo, $8,000. Place of capture not stated.....	Condemned, August, 1810, at Christiansand.	The protest states that the brig sailed from Cronstadt the 9th of June, 1810, bound for Philadelphia, and was captured on the 19th of July, at 3 a. m., by five Danish gun brigs, called the Samson, Seagull, Allant, Alsen, and Kiel, and carried into the port of Fleckoe, where the vessel's papers were taken from Captain Campbell after being sealed by himself and the prize master. On the 21st his crew were returned, and on the 22d the Elizabeth was brought to the port of Christiansand. After an examination at the court-house, without being permitted the benefit of counsel, or to speak to the American

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
78—Continued	.....	.....	....	.....	....	.....	Consul, the vessel and cargo were condemned about the 10th of September, 1810, as per translation of condemnation, and declared lawful prize to the captors, on which Captain Campbell immediately appealed to the Superior Court of Admiralty at Copenhagen. The protest also states that the Elizabeth had been obliged by the British man-of-war, the Plantagenet, to remain some time (before she was captured) under her convoy.
79. Maryland Insurance Co., assignees of J. P. Pleasants, for Charles Pleasants, of Philadelphia.	Denmark.....	July 19, 1810...	Capture	Brig Elizabeth.....	$6,000. Place of capture not stated.....	Condemned, August, 1810, at Christiansand.	Same as in No. 78.
80. Representatives of John Bell, deceased, & others, of Petersburg, Va.	Denmark.....	1810.....	Capture.....	Ship Herald	$104,150. Place of capture not stated.....	Condemned at Copenhagen. Date not stated.	Mr. Erving's list for 1810, and final list No. 5 of 18th July, 1811, are referred to by the claimants.
81. Wm. & Henry Haxall, of Petersburg, Va., and others.	Denmark.....	1810.....	Capture	Ship Georgia Planter.	$82,000. Place of capture not stated.....	Condemned at Copenhagen. Date not stated.	Same as in No. 80.
82. John B. Murray, John B. Murray & Son.	Denmark.....	May 14, 1810...	Capture	Ship Egeria	John B. Murray's claim is $28,693 40. Interest from July, 1811, is also claimed. John B. Murray & Sons' claim is $2,423. Interest on $2,423 from 14th July, 1811, is also claimed. Amount, &c., as stated by the claimants, exclusive of interest not extended, $31,116 40. See last column of this case. Place of capture not stated.	No legal adjudication appears...	The ship Egeria sailed from New York March 10, 1810, bound to St. Petersburg; on the 14th of May, in that year, was taken on her passage by the privateer Oprisningen, Eyde master, of Fleckiford, in Norway, and carried into Fahrsund. The privateer was commissioned by the Government of Denmark. The ship Egeria, and merchandises, were detained until the 14th of July, 1811, during which time every exertion was made on the part of Captain Law to obtain her release in the various courts of Denmark, but without effect; and after incurring expenses to the amount of more than $2,000 in actual disbursements, &c., no compensation was made by the captors. The claim of John B. Murray is stated to arise from demurrage of the ship Egeria, from the day of capture to that of acquittal, 435 days, during which time she had on board a full crew, at $61 per day, amounting to $25,925; from interest on cost of merchandise on board the ship on his own account, after deducting drawbacks, $23,079 16; fourteen months, at 6 per cent., amounting to $1,614 90; his share of expenses of lawyer's fees, commissions, Captain Law's travelling expenses, &c., being 5 per cent. on the whole cargo, amounting to $1,153 50, and from interest on this item. The claim of John B. Murray & Son is stated to be for 14 months' interest on $20,186, amount of cargo on board at the time of the capture, and for $1,010, their share of charges on the same, at 5 per cent.

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
83. Henry Prince	Denmark	1810.....	Capture.....	Schooner Iris	Claim for insurance, $4,000. Place of capture not stated.	Condemned in the Vice Admiralty Court at Christiansand. Date not stated.	This vessel was captured by a Danish vessel-of-war, sent into Christiansand, and there condemned.
84. Benjamin Pickman and John Derby.	Denmark	July 22, 1810...	Capture	Barque Mary	Cargo cost at St. Petersburg, per invoice 69,695 35 Adventures..... ..... 13,788 77 Rubles..... 83,484 12 Shipping charges and captain's commissions, at 5 per cent..... 4,174 20 87,658 32 This sum, at 3 rubles the S. dollar, is.... $29,219 00 Value of vessel and appurtenances..... 8,500 00 37,719 00 Interest is claimed from time of capture. Place of capture not stated.	Condemned at Christiansand, Sept. 12, 1810, and sentence confirmed by the High Court July 2, 1811, at Copenhagen.	The barque was captured July 22, 1810. The claimants are native citizens of the United States of America, and were the sole and exclusive owners of the barque Mary and cargo. Captain Thomas B. Osgood went from Salem as master of the vessel, but being detained at St. Petersburg by business, he appointed his first officer, John Ropes, jr., as master for her voyage home. Every original paper relating to the vessel and cargo was kept by the captors, and the captain and crew driven on shore. The claimants state that if the vessel had returned to Salem from St. Petersburg, in the usual passage, her cargo and adventure would probably have sold for $45,000, clear of duties. On this supposition, their claim, including $8,500, the value of the vessel, would be $53,000.
85. Insurance Company of the State of Pennsylvania.	Denmark	.....	Capture	Ship Annawan, Donaldson master.	Paid December 20, 1810, $9,800. Place of capture not stated.	Condemned in the Royal Prize Court of Denmark. Date not stated.	Insured for John Donaldson. Bound from St. Petersburg to Philadelphia. Captured by five Danish gun brigs, and sent to Christiansand.
86. Insurance Company of the State of Pennsylvania.	Denmark	.....	Capture	Brig Elizabeth, Campbell master.	Paid March 4, 1811, insured for Jas. Robb $1,217 16 Jan., 1811, insured for Chas. Pleasants.. 11,760 00 12,977 16 Place of capture not stated.	Condemned at Christiansand. Date not stated.	The brig Elizabeth, bound from St. Petersburg for Philadelphia, was captured by sundry Danish gun brigs, and sent to Christiansand.
87. Insurance Company of the State of Pennsylvania.	Denmark . ..	....	Capture	Brig Julian, Abbott master.	Paid February 1, 1811, $8,624. Insured for John Boccalin. Place of capture not stated.	Adjudication by the Prize Court at Christiansand. Date not stated.	The brig Julian, from Philadelphia to Gottenburg, &c., was captured by a Danish privateer, sent to Christiansand, and cleared by Prize Court. Captors appealed, and cargo held.
88. Insurance Company of the State of Pennsylvania.	Denmark	....	Capture	Brig Ariel, Butler master.	$11,760. Place of capture not stated.....	Cleared by the court at Fleusbourg, but condemned by royal decree. Dates not stated.	Insured for Nixon & Walker, April 14, 1810, on two-thirds vessel's value, from Philadelphia to Gottenburg, and one other port. Captured July 31, 1810, by a Danish privateer, sent into the port of Kiel, and there long detained. Vessel taken possession of December 11, 1810, by Gen. Evault. Cleared by Fleusbourg court, and afterwards condemned by royal decree.
89. Marine Insurance Company of Philadelphia.	Denmark	1810.....	Capture	Brig Ariel, Butler master.	$5,500. Capture made on the brig's entering the port of Kiel.	No legal adjudication appears...	The Ariel was bound from Philadelphia to Kiel. She was released on surrendering one-half of the goods in lieu of duties.

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
90. Marine Insurance Company of Philadelphia.	Denmark	1810..... ...	Capture	Ship Fair Trader, Craig master.	$5,000. Capture made on the ship's entering the port of Kiel.	No legal adjudication appears...	The ship Fair Trader was bound from Philadelphia to Kiel. She was released on surrendering one-half of the goods in lieu of duties.
91. Marine Insurance Company of Philadelphia.	Denmark	1810.....	Capture	Ship Annawan, Donaldson master.	$10,000. Place of capture not stated	Condemnation in Norway. Date not stated.	This ship, bound from St. Petersburg to Philadelphia, was captured by Danish gunboats, and carried into Norway.
92. Marine Insurance Company of Philadelphia.	Denmark....	1810.....	Capture	Brig Elizabeth, Campbell master.	$12,000. Place of capture not stated.....	Condemnation in Norway. Date not stated.	The brig Elizabeth, bound from St. Petersburg for Philadelphia, was captured by Danish gunboats and carried into Norway.
93. Marine Insurance Company of Philadelphia.	Denmark....	1809.....	Capture	Ship Commerce, Skinner master.	$8,000. Place of capture not stated.....	Condemation in Con. Date not stated.	The Commerce was bound from Philadelphia to Gottenburg, was captured by Danish gunboats, carried into Norway and condemned.
94. Baltimore Insurance Company.	Denmark....	June 2, 1810...	Capture	Ship Oscar.....	$20,583 66. Place of capture not stated.....	Adjudication and acquittal, in the court of last resort, at Copenhagen, September 17, 1811.	The ship Oscar, John Cunningham master, sailed from the Chesapeake bay in April, 1810, bound to Gottenburg, laden with tobacco and cotton, was captured on the 2d of June, 1810, by a Danish cruiser, and carried into Norway, and, on the 27th of July following, was condemned by a Prize Court at Christiansand; appealed to Copenhagen, where vessel and cargo were acquitted, September 17, 1811. The Danish Government granted an indemnity for the detention, which was entirely inadequate; so much so that the claimants, by the detention and loss of market, absolutely lost the sum now claimed, viz: $20,583 66.
95. Edward M. Donaldson.	Denmark....	July 19, 1810...	Capture	Ship Annawan.....	Vessel—Freight..... $10,000 00 Goods..... 13,839 00 Amount uninsured. Place of capture not stated.	Condemned at Christiansand. Date not stated.	This ship, on a voyage from St. Petersburg to Philadelphia, all American property, and a very valuable cargo. She was captured by five Danish gunboats, and carried into Christiansand.
96. Edward M. Donaldson.	Denmar	July 19, 1810...	Capture	Ship Annawan.....	Detention ..... $1,250 00 Loss of fruit..... 3,000 00 Expenses..... 1,000 00 Amount, &c..... 5,250 00 Capture made off Elsineur.	No adjudication appears.....	This ship sailed from Norfolk, Virginia, March 23, 1809, to Madeira and Lisbon; there loaded with salt, fruit, wine, &c., on account of the owner, who was also the master, (the claimant,) and sailed for St. Petersburg, June 26, 1809. She was captured off Elsineur by a Danish cruiser, and carried to Copenhagen and detained fifty days. Cargo of fruit rotted. Released on paying $1,000 to captors, and obliged to winter in Russia, in consequence of the detention.
97. Samuel Keith.....	Denmark....	July 13, 1810...	Capture	Brig Ariel.....	9 bales cotton; half retained, $275 33. Place of capture not stated.	No legal adjudication appears ..	The goods were shipped by the claimant March 31, 1810. The vessel, bound from Philadelphia to Gottenburg and another port, was captured by privateer Tiger, carried to Kiel and released, and half the goods taken for duties.
98. Delaware Insurance Company of Philadelphia.	Denmark....	July 19, 1810...	Capture.....	Brig Elizabeth, Campbell master.	Goods. Paid $19,600. Place of capture not stated...	Condemned. When and where not stated.	Insured by William Hunt, Philadelphia, to St. Petersburg, and back, April 26, 1809, and St. Petersburg to Philadelphia, August 23, 1810. Captured by five Danish gunboats or brigs, and carried to Norway.

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
99. Delaware Insurance Company of Philadelphia.	Denmark....	July 19, 1810...	Capture	Ship Annawan.....	Goods. Paid $17,000. Place of capture not stated..	Condemned. When and where not stated.	Insured by J. Donaldson, April 3, 1810, and by Pratt & Kurtz, July 28, and August 6, 1810, Petersburg to Philadelphia. Captured by five Danish brigs, and carried to Norway.
100. Delaware Insurance Company of Philadelphia.	Denmark....	1809.....	Capture	Ship Commerce, Skinner master.	Goods, $3,000. Place of capture not stated.....	Condemned at Christiansand, November, 1809.	Insured May 13, 1809, by T. C. Clifford, Philadelphia, to St. Petersburg, with liberty of Gottenburg. The Commerce was captured and sent to Christiansand.
101. Delaware Insurance Company of Philadelphia.	Denmark....	July 31, 1810...	Capture	Ship Fair Trader, Craig master.	Goods. Paid $5,192 33. Place of capture not stated	No legal adjudication appears...	Insured May 31, 1810, by G. & H. Cilham, and August 24, 1810, by W. Hunt, Philadelphia, to Gottenburg and another port. The Fair Trader was captured by the privateer Tigre, carried to Kiel, and released, but one-half of the goods were taken for the duties.
102. Delaware Insurance Company of Philadelphia.	Denmark....	July 13, 1810...	Capture.	Brig Ariel, Butler master.	Indigo. Paid $5,960 62. Place of capture not stated.	No legal adjudication appears..	Insured April 21, 1810, by Charles Francis, Philadelphia to Gottenburg and another port. Captured by the privateer Tigre, carried to Kiel and released, but half the goods taken for duties.
103. Delaware Insurance Company of Philadelphia.	Denmark....	June 1, 1810 ...	Capture	Schooner Fame, Perry master.	Paid $6,847 82. Place of capture not stated.....	No legal adjudication appears...	Insured by George Harrison, April 8, 1811, Baltimore to St. Petersburg. The schooner Fame was captured by cutters and sent into Fahrsund. Released, but loss and expenses.
104. Estate of Wm. Russell, N. Silsbee, D. L. Pickman, and others.	Denmark....	Sept. 20, 1810..	Capture	Schooner Iris, Russell master.	Value in the United States of property captured, $15,000. Capture made on the coast of Norway.	Condemned in Admiralty Court at Christiansand, and afterwards, on an appeal, by the High Court at Copenhagen, July, 1811.	The Iris was captured on the coast of Norway and sent in.
105. John Andrew.....	Denmark...	June 15, 1809 ..	Capture	Ship Pacific, Becket master.	Rice .... $1,694 52 S tea..... .... 1,793 60 H. S. tea .... 231 70 H. S. tea .... 641 40 Sugar .... 171 69 H. S. tea ..... 283 80 Short price..... ..... 4,816 65 Vessel .... 9,500 00 Freight..... ..... 6,000 00 Expenses in Norway ..... 3,000 00 23,316 65 Freight for 12 or 15 shippers..... 16,422 00 Amount, &c..... 39,738 65 Place of capture not stated.	Condemnation of vessel and cargo by the Prize Court at Christiansand, July 3, 1809.	On the 15th of June, 1809, the ship Pacific was captured by the privateer Nouske Tar, Captain Matthias Perry, on the ground that Captain Becket, of the Pacific, after having been hailed, had refused sending his boat, as also to give up his papers, besides other alleged suspicious circumstances.

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
106. Social Insurance Co. of Salem.	Denmark....	May 26, 1811...	Capture	Brutus	Amount insured, $7,750. Capture made off the Naze of Norway.	No legal adjudication appears...	This vessel was captured by Norwegian privateers. Papers, protest, &c., with Nathan Robertson and D. L. Pickman, &c., owners. The insurance in this case was made for Noah Amory, one of the owners, to whose statement the claimants refer.
107. Union Marine Insurance Company of Salem.	Denmark....	March 9, 1810..	Confiscation.....	Schooner Lydia, Chever master.	Insured for Samuel Gray on effects, $10,000.....	No legal adjudication appears...	Confiscated in Denmark by the French. The claimants state that this amount is probably included in the claim of the assured, he being in possession of the documents.
108. Robert and John Oliver.	Denmark....	1810.....	Capture and detention....	Ship Mary.....	$15,000. Place of capture not stated.....	No legal adjudication appears...	The ship Mary was captured by Danish privateers, carried into Copenhagen and detained upwards of twelve months, by which a loss was sustained in a sum greater than that here stated.
109. Marine Insurance Company.	Denmark ...	1810.....	Capture	Ship Oscar	$20,000. Place of capture not stated	Condemnation at Christiansand. Date not stated.	Captured by a Danish privateer.
110. A. Kintzing, for his son, B. H. Kintzing.	Denmark...	May, 1809	Capture.....	Ship Commerce, Skinner master.	..... $3,318 60 Interest to October, 1826..... 3,452 45 Total loss..... 6,771 05 Place of capture not stated.	Condemned at Callanburg after a trial. Date not stated.	The ship Commerce, bound from Philadelphia to Gottenburg, was captured at sea by a Danish privateer.
111. Elijah Hall.....	Denmark....	July 20, 1810..	Capture.....	Ship Aurora, Hall master.	$31,391 10. Place of capture not stated. See last column.	Condemned in the Lower Prize Courts of Denmark.	The ship Aurora, bound from Sandaignia to Bergen, was captured July 20, 1810, by the Danish privateer New Devil, Captain Simmerson, and carried into Fleckefeird. The claimant, in his explanatory remarks, states the amount of his loss to have been $16,000, the value of the vessel of which he was proprietor; that he owned no part of the cargo at the time of the capture; that the ship was on charter, the amount of which is not known, the papers having been detained by the captors or court; that she was captured between Sandaignia and Bergen, to which latter place she was bound, and that she was sent into Fleckefeird.
112. Maryland Insurance Company, assignees of R. Gilmer & Sons.	Denmark....	June, 1810.....	Capture and detention ...	Ship Oscar, Cunningham master.	About $17,000. Place of capture not stated.....	Subjected to legal adjudication, and acquitted in the court of last resort at Copenhagen. See last column.	The ship Oscar sailed from the Chesapeake bay in April, 1810, bound to Gottenburg, in Sweden, laden with tobacco and cotton. She was captured the 2d of June, 1810, by a Danish cruiser, and carried into Norway, and on the 27th July following was condemned by a Prize Court at Christiansand. An appeal was taken to Copenhagen, where the vessel and cargo were acquitted 17th of September, 1811. The Danish Government granted an indemnity for the detention, which was entirely inadequate, so much so, that the claimants, by the detention of vessel and loss of market, absolutely lost about seventeen thousand dollars.
113. John Brazer.....	Denmark....	Not stated.....	Unknown to claimants...	Brig Radius.....	$2,000 loss sustained at Copenhagen.....	No legal adjudication appears...	The claimant states that the brig Radius and cargo was captured or injured, and that the imperial decrees of 1811 are the act complained of.

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
114. John Brazer.....	Denmark....	Not stated.....	Unknown to claimant....	Ship Andromache..	$5,000 loss sustained at Copenhagen.....	No legal adjudication appears...	The claimant states that the ship Andromache and cargo were captured or injured, and that the imperial decrees of 1811 are the act complained of.
115. Wm. Gray's estate.	Denmark....	July, 1810.....	Capture.....	Brig Hope, Meek master.	Loss to William Gray, insurer on vessel. $2,000 00 Cargo 8,000 00 10,000 00	Vessel and cargo condemned by the High Court of Admiralty at Copenhagen, of July 2, 1811.	This vessel, bound from St. Petersburg to the United States, was captured in the Baltic by Danish gun brigs and sent into Christiansand, July 19, 1810. The sum claimed was insured by William Gray for R. & J. Hooper, of Marblehead.
116. Wm. Gray's estate.	Denmark....	1810.....	Seizure.....	Barque Wm. Gray, Foster master.	See last column. Loss to William Gray, as insurer on vessel, $1,000. Seizure made at Copenhagen.	Condemned by the High Court of Admiralty at Copenhagen, February 13, 1811.	The barque William Gray was bound from St. Petersburg to New York, and was taken by order of the Danish Government while lying at Copenhagen, where she had put in for repairs. The sum claimed was insured for Pickering Dodge, of Salem, by William Gray.
117. Wm. Gray's estate.	Denmark....	June, 1810.....	Capture	Schooner Cremer, Swazey master.	Loss to William Gray, as insurer on cargo, $18,000. Place of capture not stated.	Condemned by the High Court of Admiralty at Copenhagen. Date not stated.	The Cremer was captured in the Baltic by Danish privateers, on her passage from Gottenburg to the Baltic, June 22, 1810, and sent into Copenhagen. The sum claimed was insured by William Gray, viz: For C. Coolidge & Co., Boston ..... $15,000 00 Captain Swazey..... 3,000 00 18,000 00 C. Coolidge & Co. gave William Gray a power of attorney to prosecute this claim for his benefit.
118. Wm. Gray's estate..	Denmark.....	March, 1811....	Capture	Ship Brutus, Fenno master.	Loss of Gray, insurer on cargo, $11,000. Place of capture not stated.	Condemned by the High Court of Admiralty at Copenhagen, April 7, 1812.	This vessel, bound from New Orleans to St. Petersburg, was captured in the Baltic by five Danish privateers, and sent into a port in Norway, March 26, 1811. The sum claimed was insured by William Gray for D. L. Pickman and Nathaniel Robinson, of Salem.
119. Wm. Gray's estate..	Denmark....	June, 1809.....	Capture	Barque Pacific, Becket master.	Loss to William Gray, as insurer on cargo, $1,000. Place of capture not stated.	Condemned by the High Court of Admiralty at Copenhagen, July, 1809.	The sum claimed was insured for Joseph Mosely, of Salem, by P. Lander, agent of William Gray. The Pacific, from Salem to the North of Europe, was captured by the Danish privateer North Star, June 15, 1809, and sent into Christiansand.
120. C. F. Kalkman.....	Denmark...	1809, 1810.....	Sequestration.....	Grand Seignior, Bolton master; Temperance, Southcomb master; N. America, Tucker master; Geo. Albert, Norman master.	The cargo of the Grand Seignior was of the invoice value of $69,000; that of the Temperance, $83,000; that of the North America, $6,200; and that of the George Albert, $1,005. The detention of these cargoes occasioned, in some instances, a loss of 50 per cent., and in some a total loss. The damage really ascertained to have been suffered is not less than $79,000. See last column.	No legal adjudication appears...	The cargoes were shipped in June and July, 1809, from Baltimore for Tonninger Hassun and other Danish ports. On their arrival at those ports, they were seized and sequestrated by the King of Denmark, under the pretext of their being British property, without any testimony to support the charge. They were detained at least eight months, and not released until the summer of 1810. The owner accompanied the property, and used every effort to relieve it from this unfounded arrest. The expenses and the difference, in the meantime, in the market prices, occasioned a heavy loss on the original

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.		Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
120—Continued.....	.....	.....	.....	.....	.....		.....	cost of the property, as stated by the claimant. In some instances the heavy freight, and other expenses incurred during the detention, were not covered by the proceeds of the particular cargoes.
121. Phin. Drinkwater..	Denmark....	1809.....	Capture.....	Ship North America.	6 hhds. sugar, 10 casks rice, 20 bales cotton, as per appraisement made at St. Petersburg, Russia.....	$1,352 17	No legal adjudication appears...	The ship North America, of which the claimant was master, was taken by a Danish privateer, and carried into Christiansand.
					Claimant's time for 11 months, at $3 per day	1,002 00		
					Expenses on shore, at $2 per day.....	668 00		
						3,022 17		
					Simple interest on the amount for 17½ years, at six per cent.....	3,173 28		
					Amount, &c.....	6,195 45		
					Place of capture not stated.			
122. John Coulter.....	Denmark....	Aug. 13, 1810..	Capture. See last column.	Brig Ariel.....	Loss sustained.....	$6,133 20	No legal adjudication appears...	To prevent confiscation at Kiel, such American property as was in Holstein and Sleswick was declared for exportation to Hamburg, subject to the duties of the French tariff, and an additional duty of six per cent. imposed by the Danish Government. These unlawful duties were paid in *kind*, which was one-half of the property brought into Hamburg.
					Interest from Aug. 13, 1810, to Sept. 13, 1826, 16 years 1 month, at 6 per cent..	5,918 50		
						12,051 70		
					Value of property in Philadelphia, $2,174 51.			
					For place of loss see last column.			
123. John Coulter.....	Denmark....	Aug. 13, 1810..	Capture. See last column.	Ship Stranger	Loss sustained.....	$2,946 12	No legal adjudication appears...	Same as in No. 122.
					Interest from Aug. 13, 1810, to Sept. 13, 1826, 16 years 1 month, at 6 per cent..	2,843 05		
						5,789 17		
					Value of property in Philadelphia, $1,862 75.			
					For place of loss see last page.			
124. John Coulter.....	Denmark....	1807....	Capture. See last column.	Ship Bourdeaux Packet and the Helena.	Loss sustained.....	$1,064 08	No legal adjudication appears..	None.
					Interest from October 12, 1812, to Sept. 13, 1826, 13 years and 11 months, at 6 per cent.....	888 50		
						1,952 58		
					Seizure made at Antwerp.			

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
125. John Coulter.....	Denmark....	Aug. 13, 1810...	Capture.....	Ship Minerva Smith	Loss sustained..... $3,000 00 Interest from Sept. 1, 1810, to Sept. 13, 1826, 16 years, at 6 per cent..... 2,880 00 5,880 00 Place of capture not stated.	No legal adjudication appears...	Captured by a Danish privateer.
126. Francis Mayerhoff..	Denmark or France.	June, 1811.....	Spoliation.....	Ship Indian Queen, Stephen Hammond master.	$15,000. For place of loss see last column.....	No legal adjudication.....	The Indian Queen sailed from New York on the 10th of March, 1810, arrived at Kiel on the 1st of May, 1810, and discharged her freight in the usual way and time. After the discharge of the cargo at Kiel, the Danish Government issued a proclamation in October, 1810, avowing an agreement made with Napoleon, by which all American importations to Kiel were to be removed to Hamburg, then in possession of the French. The goods were accordingly removed on the 19th April, 1811, by the Danish Government to Hamburg, and there placed in the custody of the French authorities. The French then, under pretence of a duty, claimed and retained two-thirds of the cotton and six-tenths of the tobacco, leaving for the owners the residue, which, in the case of this claimant, did not more than cover the expenses of transportation, insurance, &c. The cargo consisted of cotton and tobacco, of which the claimant's proportion was worth the amount claimed.
127. William Dall and the heirs of Isaac Vose, of Boston.	Denmark....	Aug. 9, 1809...	Capture and detention...	Brig Joseph, Turner master.	Loss sustained, $35,823 68. Interest from February 26, 1810. Capture made off the Naze of Norway.	Trial and acquittal of vessel and cargo at Christiansand, 1809. Appeal to the High Court of Christiana, and acquittal in 1810.	The brig Joseph, owned by William Dall and Joseph Vose, sailed from Boston in June, 1809, bound direct for St. Petersburg, her papers and documents in perfect order. On her passage she was captured by two Danish privateers, and carried into a small port near Christiansand, called Hitteroe. The captain and crew were turned ashore, and the vessel and cargo taken possession of by the privateers' crew, in whose possession she remained from the time of her arrival in August, 1809, till her final liberation in July, 1810. The vessel was brought to trial in Christiansand in November following, and cleared. The captors appealed to the High Court of Christiana, and she was again cleared, without allowance of damages or charges of any kind. While in possession of the captors the vessel was exposed to the sun and rain for about ten months, which occasioned her seams to open, and the rain and snow during the winter to penetrate through the decks. The cargo, consisting partly of coffee, cotton, rice, and other articles subject to injury by wet, was thus very much damaged. Those articles were landed after acquittal,

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
127—Continued.....	.....	.....	.....	.....	.....	.....	and were sold to prevent a total loss by damage, and also to pay immense expenses incurred by defending this very unjust capture. The papers containing an account of this transaction are stated to have been forwarded to the Department of State in 1811 or 1812.
128. Charles Williams, Francis Watts, and John Williams.	Denmark....	July 13, 1812...	Capture.....	Ship Antelope, Christopher Fowler master.	Value of vessel ..... $16,000 00 Freight..... 6,666 67 22,666 67 Capture made off the North Cape of Lapland.	Claimants know of no legal adjudication.	The ship Antelope, of Kennebunk, sailed from London, taken in charter by the agent of Pickering, Dodge & Co., of Salem, Massachusetts, to go in ballast and take a cargo of sail-cloth, iron, hemp, &c., at Archangel to Salem. She sailed from Gravesend in the morning of June 27; and on July 13, in sight of Lapland, North Cape, latitude 70° 45′, 19° east longitude, land ten leagues distant, was taken by Danish gunboat No. 97, carried on shore among the rocks and anchored. On August 2, gunboat on a cruise was chased into port by boats of the British frigate Horatio, which captured gunboat, a schooner in company, and the ship Antelope, and carried them to England. There was then war between England and Denmark, as also between England and the United States; but the latter fact was not known to the captain of the frigate, nor to Captain Fowler, till his arrival in England. There was a total loss of all the property. It was necessary to support the men in England, and pay for their transportation to London.
129. Joseph Moody, for self and other owners.	Denmark....	May 1810.....	Capture.....	Brig Columbia.....	$6,000. See last column	Subject to legal adjudication at Copenhagen, August 10, 1810.	The brig Columbia, John Sullivan master, Joseph Moody, Richard Gilpatrick, and Jeremiah Paul, owners, was bound from Lisbon, with a cargo of salt and fruit for Gottenburg, where she touched for information, and thence proceeded with her cargo for Riga, in the Baltic. After having touched at Elsinore and paid the regular Sound dues, she was cleared, and proceeded on her voyage; but shortly after her departure from that port was taken possession of by a Danish privateer and carried into Copenhagen, and there detained for trial. The master, mate, and crew, compelled to leave the vessel and provide for themselves on shore, at the expense of the owners, from about the 1st of May to the 1st of Septemper, 1810. It appears by an authenticated copy of the records of the Prize Court of Copenhagen, now in the possession of the claimants, that a trial was had on the vessel and cargo, and sentence pronounced on the 10th day of August, 1810, in the following words: "The ship in question, Columbia, Captain Sullivan, together with her cargo, is hereby released, save, however, that the expenses before the court, and a sum of five hundred rix dollars to be paid to P. Madson, are to be paid out of the ship and cargo." From this sentence, as appears by the records of

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
129—Continued	.....	.....	.....	.....	.....	.....	the court, the captors appealed. In consequence of their so doing, Captain Sullivan, to avoid a further detention of three or four months, and probably in the Baltic during the approaching winter, and a further accumulation of costs without any prospect of redress, was induced to pay the captors one thousand rix dollars in addition to the sums before mentioned, to obtain his release. On so doing, he was permitted to depart with his vessel and cargo, except the fruit, which was taken out and disposed of by the captors, by which claimants suffered considerable loss, besides all the costs above mentioned, and a detention of the vessel and crew three and a half months. Captain Sullivan has been absent for many years, and the claimants presume that he is dead. Adverting to his accounts of charges and losses, they amount to $5,052 85, but as there may be other charges, the sum claimed is stated at $6,000.
130. Nathaniel West....	Denmark....	July 7, 1809....	Capture	Ship Commerce, Sam. B. Ingersoll master.	Fine paid by order of court 400 rix dollars. $56 00 Value of articles delivered owners of privateer for abandoning their appeal to High Court..... 1,100 00 Paid owners of another privateer abandoning claim..... 70 00 Port charges, bribe to judge, and other expenses ..... 1,000 00 Loss of voyage by detention ..... 15,000 00 Demurrage 61 days, at $80 per day..... 4,880 00 Insurance outward, at 7 per cent..... 4,900 00 Freight, £7 on 200 tons ..... 6,216 00 Amount, &c..... 33,222 00 Place of capture not stated.	Tried by Danish court at Christiansand, and ship and cargo released. Date not stated.	The ship Commerce, with a valuable cargo, was captured on the 7th July, 1869, by a Danish privateer, and sent into Norway. After a detention of 61 days, she was liberated by the Danish court, and allowed to proceed on her voyage. This ship was, when captured, on her voyage to Gottenburg, in Sweden, and had every document to prove the property to be American. After a ruinous detention, which rendered it much too late to proceed to St. Petersburg, where she was bound for a return cargo for Salem, the Commerce, on the 16th of September, 1809, set sail for Christiansand, and was the next day overtaken by a violent gale of wind and totally lost on the coast of Sweden, as also was a large part of her cargo.
131. John Derby and B. Pickering.	Denmark....	1810.....	Capture.	Brig Mary	Not stated.....	Condemned on the 12th September, 1810, by the High Court of Christiansand.	The brig Mary, owned by the claimants, having on board a valuable cargo, on her passage from Gottenburg for the United States, was captured and carried into Christiansand. The papers respecting this claim were in the possession of Mr. Erving, minister of the United States at the Court of Denmark.

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
132. Samuel Page, Samuel Endicott, and John H. Andrews.	Denmark....	Sept. 3, 1811...	Capture	Schooner Jeremiah, Wm. R. Russell master.	Vessel and cargo..... $42,937 51 Interest on ditto..... ..... 1,101 84 Damages ..... 10,000 00 Vessel's expenses, rix dollars..... 22,173 28 Privateer's expenses, rix dollars ..... 377 58 See last column. Capture made in the Sound, 8 miles from Elsineur Castle.	Cleared in the High Court of Admiralty at Copenhagen. Date not stated.	The schooner Jeremiah sailed from Salem on the 28th of July, 1811, bound for St. Petersburg, with a cargo of white Havana sugars. She was captured by a Danish privateer, sent to Copenhagen, and condemned in the first court, but afterwards cleared in the High Court, after a detention of 142 days; she being obliged to pay the privateer's and all other expenses. When cleared, it was too late for her, during the season, to proceed up the Baltic. Amount of claims, exclusive of interest, on vessel and cargo, is, in United States money, $74,688 98.
133. Samuel Page, Samuel Endicott, and John H. Andrews. Samuel Endicott, and John H. Andrews.	Denmark....	May 24, 1812...	Capture	Sloop Jorgan.....	Property captured amounting to 31,723.13.0 marks banco, equal to $——. Property captured amounting to 30,743.3.0 marks banco, equal to $——. Amount of the two claims included in this case is 62,477 marks banco, equal, at 33⅓ cents a mark banco, to $20,825 66. Loss sustained at Cappel.	No legal adjudication appears...	On the 21st of May, 1812, an American agent shipped on board the Danish sloop Jorgan, Captain H. Beix, sixty-two bales and two boxes of Saxony and Silesia linens, from the port of Eckenford, in the Duchy of Holstein, in the Kingdom of Denmark, to be transported across the Great Belt and landed at Corsoeur, in the island of Zealand. After sailing from Eckenford, in consequence of contrary winds, the sloop was obliged to put into Cappel, Denmark. On the 24th of May said sloop was cut out of the port of Cappel by the boats of two British ships-of-war, in consequence of the dilatoriness and neglect of the Danish commanding officer of artillery in not coming to rescue the sloop, since it was in his power, had he made proper despatch, to have prevented the enemy from taking away the sloop, as his troops were stationed not more than two English miles from the harbor of Cappel, and the enemy were more than three hours in getting the sloop out of the harbor.
134. Arthur McLellan and Geo. McLellan.	Denmark....	May 4, 1809....	Capture.....	Ship Jane.....	Cargo taken on board at Charleston, South Carolina, in December, 1808, including shipping charges. .. .. $19,130 31 Charter of ship ..... 1,344 00 Disbursements on ship during the voyage, including provisions, seamen's wages, custom-house fees, &c..... 750 00 Disbursements, &c., from January 15 till the day she sailed for Gottenburg, March 15, 1809, for wages, stores, &c., for voyage ..... 1,085 18 Disbursements, &c., during her detention, till final condemnation, per Isaac Isaackson, American Consul at Christiansand..... 1,321 00	Condemned in the High Court of Admiralty at Christiansand, December 18, 1809.	The vessel was owned by George McLellan, the cargo by Arthur McLellan. She was captured, May 4, 1809, by two open boats, manned with sixteen men each, without carriage guns, and carried to a place called Eguog. The cause assigned for the condemnation of the ship was that she was British property; and the reasons given by the High Court of Admiralty for this opinion were, that she had on board 250 unwrought handspikes and 40 sticks of timber, which they called ship timber, and pronounced contraband. The Secretary of State's signature was not on the sea papers, and mention was made of the office being vacant; no signature of his (Secretary of State) having been received at the custom-house (Christiansand) prior to the ship sailing; that in the ship's journal was found noted, under date of March 30, 1809, that a man named John Ellis was delivered on board an English brig of Liverpool; and under date 18th of April, that the same man was lost overboard in a gale. The reason of its

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.		Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
134—Continued.....	.....	.....	.....	.....	Disbursements, &c., by George McLellan, master.....	$1,006 48	.. ..	being noted that he was put on board of an English ship was to prevent his impressment in case of being boarded by an English ship-of-war. That on board were two passengers that were not found on the muster roll, and had no passports, Englishmen by birth; and that the ship was addressed to an English house of trade, and directed to receive orders from said house. Those and other reasons given by the court for the confirmation of the sentence, were readily explained to the court by the master of the ship. The charter of said ship to Charleston, and back, began October 14, 1808, and ended January 15, 1809, three months, at $2 per month per ton.
					Loss of Arthur McLellan, owner of the cargo, without interest.....	24,636 97		
					Ship Jane, purchased of Arthur McLellan in March, 1809, per register.....	6,000 00		
					Freight to be paid on delivery of the cargo at Gottenburg, per bill of lading, £900 sterling.....	4,000 00		
					Loss of Arthur McLellan, owner of the ship, without interest.....	10,000 00		
					Whole amount.....	34,636 97		
135. Asa Clapp and Matthew Cobb's administrator.	Denmark....	June 5, 1810...	Capture.....	Brig Minerva, Wm. Baker master.	Capture made off the Naze of Norway.		Vessel and cargo were tried by the High Court at Copenhagen, and acquitted, June 17, 1811, by payment of costs.	Brig Minerva sailed from Portland on the 3d day of April, 1810, bound to St. Petersburg, Russia, laden with sugar, coffee, pepper, indigo, cotton, and rum. On the 5th June, 1810, she was captured by a Danish privateer, Captain ——, and carried into Fahrsund, in Norway. The papers were sent to Christiansand, and there, after a long delay, there was a trial, and the vessel and cargo cleared. The captors appealed to the High Court of Copenhagen, and the trial took place on the 17th June, 1811, when the vessel and cargo were cleared by paying costs. The Minerva had all the necessary papers to prove the neutrality of the vessel and cargo. She had certificates of the Danish, French, Swedish, and Russian Consuls. The late Matthew Cobb and Asa Clapp were the sole owners of the vessel and cargo. The appraisement of the damage was made at St. Petersburg, the port of her destination.
					Wages of officers and seamen, from June 5, 1810, to August 30, 1811, at $240 per month.....	$2,836 00		
					Expenses in Norway and cost of court..	3,600 00		
					Provisions.....	500 00		
					Damages, by appraisement, of sugar, coffee, indigo, and cotton.....	10,543 08		
					Charter of the brig, 188 tons, 13 months and 27 days, at $2 per ton per month..	5,226 40		
					Amount.....	22,705 48		
					Interest on this sum from June 5, 1810, to December 5, 1826, 16½ years, at 6 per cent. per annum.....	22,478 42		
						45,183 90		
136. Asa Clapp and Matthew Cobb's administrator.	Denmark....	April 30, 1809..	Capture.....	Ship North America, Phineas Drinkwater master.	Capture made near the Naze of Norway.		Cleared in the High Court of Admiralty, in Denmark, on the payment of charges. Date not stated.	The ship North America, 354 tons burden, sailed from Portland on the 28th of March, 1809, for Gottenburg, in the Kingdom of Sweden, laden with cotton, rice, and sugar. She was captured on the 30th of April, 1809, by two Danish privateer boats, and carried into Christiansand,
					Expenses and charges attending the courts of justice.....	$3,454 00		
					Wages of officers and seamen for eleven months, at $301 per month.....	3,311 00		

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
136—Continued.....	.....	.....	.....	.....	Charter of the ship 11 months, at $2 per ton..... $7,788 00 Provisions for 14 men, 11 months..... 902 00 Damages to the cotton, sugar, and rice, by the detention of the ship, by appraisement, at St. Petersburg..... 20,121 00 35,576 00 Interest on this sum from April 30, 1809, to October 30, 1826, 7½ years, at 6 per cent..... 37,354 80 72,930 80	.....	in Norway. She was tried in the Lower Court, and, after a detention of eleven months, she was cleared in the High Court of Admiralty by paying all charges. The damage of the cargo was ascertained at St. Petersburg, where it was landed. The ship had all the necessary papers to prove the neutrality of vessel and cargo. The ship and cargo were owned by the late Matthew Cobb and Asa Clapp.
137. Asa Clapp and the administrators of Matthew Cobb.	Denmark....	June 9, 1809...	Capture.....	Ship Harriet, Jos. Weeks master.	Wages of officers and seamen, from June 19 to September 19, 1809, at $280 per month..... $840 00 Expenses at Copenhagen, cost of court, and 500 rix dollars to the captors..... 4,430 50 Provisions for seamen..... 312 00 Charter of the ship three months, at $2 per month per ton..... 1,566 00 Amount..... 7,148 50 Interest on this sum from June 19, 1809, to December 19, 1826, 17½ years, at 6 per cent. per annum..... 7,405 92 14,554 42	Adjudged at the Prize Court in Copenhagen, on the 6th Aug., 1809, and cleared on paying expenses, and 500 rix dollars to the captors.	The ship Harriet, 261 tons, sailed from Portland on the 17th of May, 1809, bound to St. Petersburg, Russia, laden with mahogany, logwood, rice, sugar, rum, cotton, and hops. On the 19th June, 1809, she was captured by three Danish privateers, commanded by Jans Neilson, Lars Bentzum, Hans Fredrict, and carried into Copenhagen. The Harriet had all the necessary papers to prove the neutrality of the vessel and cargo, and the certificates of the Danish, French, and Russian Consuls. The late Matthew Cobb and Asa Clapp were the sole owners of the vessel and cargo.
138. Stephen Higginson, Sam'l G. Perkins, and heirs of Geo. Higginson; Marine Insurance Company, Suffolk Insurance Comp'y, and C. Bradbury, insurance broker.	Denmark....	April 11, 1811..	Capture.....	Brig Charlotte.....	Capture made near the coast of Denmark. Cost of vessel and cargo in Boston, with premium of insurance..... $31,765 88 Portage bill..... 1,594 67 Expenses in the Baltic..... 3,007 22 Abandonment..... 5 00 Freight of brig..... 4,413 84 Interest from August, 1810, to August, 1826, sixteen years..... 39,155 14 79,941 75 For place of capture see the last column.	Condemned at Eartholm, April 25, 1811.	The brig Charlotte, belonging to Stephen Higginson & Co., sailed from Boston August 12, 1810, for Gottenburg and a market, with a cargo of cotton, wool, tobacco, rice, and logwood, belonging to the said Higginson & Co., and stopped at Greenock, in Scotland, for the purpose of landing some passengers, and gaining information as to market, &c. She proceeded again on her voyage on the 15th September, and arrived about the 7th October, in distress, at Gottenburg, where the cargo was landed, for the purpose of repairing the ship. She proceeded, with her outward cargo on board, the 11th November, for Leibau, in Prussia. The port of Elsineur being considered as blockaded by the British, she went to Copenhagen for the express

CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
138—Continued.....	.....	.....	.....	.....	.....	.....	purpose of paying the Sound dues. Here she was strictly examined by the commander of the Crown Battery, received a Sound pass, and was suffered to proceed to her port of destination on the 19th of November; but, in consequence of the lateness of the season and extremely tempestuous weather, could not reach any port in Russia or Prussia, and was obliged to put into Carlscrona on the 29th November, where she continued during the winter. On the 11th of April, 1811, the said brig sailed from Carlscrona for Stockholm, where the markets were favorable for the cargo. On the same day, in sight of the Swedish shore, she was captured by the Danish privateer Dansburg and ordered for Eartholm, where she arrived the day following. The insurance was made in Boston. The condemnation proceeded on the unfounded presumptions that the insurance had been made in England, and that the vessel and cargo were to be considered, in a certain manner, as English property; and on the allegations that the vessel had no "grand bill of sale," and that a passport from the French Consul at Boston was found on board, which the French Government had declared to be false.
139. John McIntire and James Kelso.	Denmark....	May 8, 1810....	Capture.....	Ship Adamant, Robert master.	$40,000. For place of capture see last column.....	Condemnation in the Vice Admiralty Court at Christiansand, which, on appeal to the Admiralty Court in Copenhagen, was confirmed. Date of neither decree is stated.	The Adamant sailed from New York for Holland in October, 1805, and arrived in the Texel Roads in December, where she discharged her cargo, and, in the year 1806, took in a cargo at Wismar, in the Baltic, where she was chartered, for $40,000, to perform a voyage to Batavia, and back again to Wismar. She arrived at and sailed from Batavia in the year 1807, and, on her return towards Wismar, got on a reef of rocks on the coast of Norway, which compelled her to go into Christiansand for repairs. During her stay in that port, an embargo was laid, which detained the ship after she had been repaired, and greatly enhanced her expenses; to pay which she was chartered, by the authorized agent of the owners, to the Prussian Consul in Christiansand for two voyages, and sailed from that port with the license of the King of Denmark on board. After delivering the cargo at her destined port, and on her return to, and within a few hours' sail of, Christiansand, whither she was going for the second cargo, agreeably to contract, a Danish privateer, commanded (it was said) by Captain Wolfson, of Copenhagen, took possession of the ship on the 8th of May, 1810, and carried her into Christiansand, where she was condemned in the Vice Admiralty Court. John McIntire owns five-sixths, James Kelso one-sixth, of the ship Adamant. The amount claimed includes the value of the vessel, and the loss arising from her detention, exclusive of freight.

INDEX TO SUPPLEMENT TO CLAIMS ON DENMARK.

Names of claimants.	Number.	Amount.	Names of claimants.	Number.	Amount.	Names of claimants.	Number.	Amount.
Adams, Isaac, and another	10	$15,000 00	Homer, Benjamin P., treasurer, &c	31	$838 00	Pratt & Kintzing	27	$75,363 59
Bartlet, William, and another	11	88,771 00	Do do	32	558 00	Phœnix Insurance Company of New York	4 to 6	47,654 64
Do do	12	5,900 00	Do do	33	505 00	Pierce, Benjamin, and others	9	106,533 70½
Brown, Moses, and others	19	36,800 00	Hays, Samuel	2	22,000 00	Scott, Allen, surviving, &c	1	125 00
Boston Marine Insurance Company	24	11,200 32	Hale, Benjamin, and others	18	29,711 64	Sharp, Robert, and others	23	130,000 00
Coffin, David, and others	7	25,074 04½	Hovey, Thomas, surviving partner, &c., and another	20	20,307 84	Thurlo, Paul, and another	13	17,600 00
Cushing, John N., and others	8	171,821 96	Nimmo, Henry	3	37,421 08	Wheelwright, Abraham and Ebenezer	14	34,515 67
Davis, George	34	.....	New York Firemen's Insurance Company	21	10,000 00	Wood, Abner, and another	15	35,268 00
Homer, Benjamin P., treasurer, &c	28	6,029 69	Do do	22	24,000 00	Do do	16	31,112 00
Do do	29	2,400 00	Pratt & Kintzing	25	1,745 19	Wood, Abner	17	54,802 09
Do do	30	1,000 00	Do	26	36,605 56	Amount of supplementary claims on Denmark	.....	489,761 92½

SUPPLEMENT TO CLAIMS ON DENMARK.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
1. Allen Scott, surviving partner of Sabret Scott & Son, of Georgetown.	Denmark	May 24, 1810	Capture	Schooner Antelope, Riley master.	For 12 months' detention of vessel and cargo of coffee, actual expenses $2,200 00 Demurrage 5,075 00 7,675 00 12 months' interest on value of cargo 1,450 00 9,125 00 Place of capture not stated.	Proceedings were had in the court of Christiansand, and the vessel and cargo were released; but the captors appealed to the Supreme Tribunal at Copenhagen, which confirmed the release. Date not stated.	The Antelope, of 104 36-95 tons, bound from Georgetown, District of Columbia, to Gottenburg and a market, and loaded with coffee, was captured by the Danish cutter No. 6. She was not finally released till after twelve months' delay, and the captured were made to pay all expenses.
2. Samuel Hayes, of Philadelphia.	Denmark	1810	Capture and confiscation.	Ships Minerva, Smith, and Fair Trader.	Value of property $22,000 00 16 years' interest 21,120 00 43,120 00 See last column.	Adjudicated and liberated, by various courts in Denmark, as American property. Date not stated.	These vessels sailed from Philadelphia bound to Kiel, in Denmark, and were captured by a privateer going into said port, where they were libelled. The supercargo was detained two years in following the claim. The expenses, with the cost of suit, made a general average of 45 per cent. After the adjudications referred to in the next preceding columns, the King of Denmark decreed that he would have half the property in lieu of the duties he then imposed; whereas the duties, when the vessels arrived in port, were only two per cent.

SUPPLEMENT TO CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
3. Henry Nimmo, of Providence, R. I.	Denmark....	About Jan. 1, 1810.	Capture	Ship Rebecca, Nimmo master.	Value of ship when taken..... .... £3,000 ster. Freight, per charter ..... 2,000 Primage on freight, at 5 per cent..... 100 Repairs of vessel, cost and expenses of courts..... 1,400 Detention of ship 8 months, at £8 per day, about..... 920 £8,420 ster. Equal to..... $37,421 08 Place of capture not stated.	Condemned by a court in Copenhagen, February or March, 1810.	The ship Rebecca was taken by the Danes January 1, 1810, on her passage from Dantzic to Bristol, England, or to Teneriffe, with a cargo of pipe staves, and was carried into Copenhagen.
4. Phœnix Insurance Co. of New York.	Denmark....	April 27, 1810..	Seizure	Ship Fair Trader, Craig master.	$2,250. $3,304 75 interest, at 7 per cent., to October 1, 1826. Seizure made at Kiel.	Condemned. When and where not stated.	The shipment was made by Jacob Barker, and its amount was $3,000. It was seized by the Danish Government.
5. Phœnix Insurance Co. of New York.	Denmark....	April 5, 1810....	Capture	Ship Devotion, Miller master.	$13,969 64. $14,040 62 interest, at 7 per cent., to October 1, 1826. Place of capture not stated.	Condemned. Where and when not stated.	The shipment was made by H. A. & J. G. Coster, and its amount was $13,500. This vessel was captured by the Danish lugger Le Revenant, and sent into Elsineur.
6. Phœnix Insurance Co. of New York.	Denmark....	Sept. 26, 1810..	Capture	Brig Nimrod, Smith master.	$31,435. $31,658 33 interest, at 7 per cent., to October 1, 1826. Place of capture not stated.	Condemned. When and where not stated.	The shipment was made by Minturn & Champlin, and its amount was $30,000. This ship was captured by the Danish ship Resolution, and sent into Aalborg. The alleged cause of capture was trading to an English port.
7. David Coffin, James Meyer, and Benjamin Lunt.	Denmark....	April 26, 1810..	Capture	Ship Mary Pike, Meyer master.	Vessel..... $10,000 00 Cargo..... 1,288 95 Freight..... 6,645 05 Expenses... ..... 3,140 04½ Insurance .. .. 4,000 00 Amount, &c..... 25,074 04½ Place of capture not stated.	Subject to adjudication at Copenhagen, and condemned, as prize, June 23, 1810. Appeal taken to the High Court, which affirmed the sentence, with additional costs.	The ship and cargo were wholly American. Her cargo, which was salt, would have sold at her port of destination at $3 per bushel. She had been solely and exclusively engaged in legal commerce, and had on board all the necessary documents to prove the neutrality of herself and cargo. She was captured by a Danish privateer, carried into Copenhagen, and there taken possession of by persons acting in the name of the Danish Government.
8. John N. Cushing and Sewell Topham.	Denmark....	July 15, 1809; July 19, 1810.	Capture..... ...	Ship Hesper, Cushing master.	Expenses paid while under detention, including amount paid the captors by compromise after appeal..... $25,743 45 Ship and appurtenances..... 18,000 00 Cargo of owners..... 17,345 91 Freight, damages, and expenses ..... 30,000 00 Adventure of J. Cushing 2,603 60 93,692 96	After the first capture acquitted in a Danish court, and after the second condemned at Christiansand. Date not stated.	The ship Hesper and cargo were wholly American. She sailed from Boston May 15, 1809, with a cargo of cotton, which she discharged at Greenock; sailed thence for Russia, was captured by a Danish privateer, and tried in a Danish court. From her acquittal there an appeal was taken by the captors. To avoid further and greater detention the owners were induced to compromise with them and pay 1,000 rix dollars and heavy expenses for permission to proceed. The ship and cargo were again captured on sailing from Russia, having on board a very valuable cargo, partly belonging to the owners of the vessel; the largest part to William Bartlet, of Newburyport, and partly to Thomas C. Amory & Co., of Boston. She was captured by five Government Danish brigs, carried into Christiansand, and there, with her cargo, condemned. She had on board evidence of he
William Bartlet.....	.....	.....	.....	.....	Part of the cargo of the same vessel not included as above..... 78,129 00 Amount, &c..... 171,821 96 Places of capture not stated.		

SUPPLEMENT TO CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
8—Continued							complete neutrality. By her detention in the first instance she was prevented from arriving in season to dispose of her cargo; and, by the setting in of winter, detained over the season, to the ruin of her voyage. Cargo—hemp, iron, and manufactures, wholly American property. The value of this last amount is stated at the price for which such property was selling when the vessel would have arrived in the United States.
9. Benjamin Pierce	Denmark	1810	Capture	Brig Topaz, Herrick master.	Vessel $15,000 00 Cargo 27,000 00 Freight 19,200 00 Expenses 4,000 00 Insurance 12,500 00 $77,700 00	Condemned at Christiansand. Date not stated.	Vessel and cargo belonged to claimants. She was captured by three open boats, with upwards of 45 armed men, belonging to privateers from Norway, who took away the papers. They were proceeding, when they fell in with an English frigate and were recaptured. Afterwards, on the 9th August, the brig was again captured by two Danish privateers, carried into Fleceñerd, and on the 13th September following the vessel and cargo were condemned as prize to the captors at Christiansand.
Francis Todd					Sugar and coffee, cost 1,517 52½		
Elias Hunt					Sugar 8,198 00		
Joseph Toppan					Sugar 1,810 08		
Amos Knight and Moses Night.					Sugar 3,008 60		
Samuel Coffin					Sugar 8,223 70		
Micajah Lunt					Sugar and coffee 570 40		
John Moody					Coffee 5,244 40		
Robert Clark					Sugar 260 00 106,533 70		
					Place of capture not stated.		
10. Isaac Adams and Samuel Swett.	Denmark	July 19, 1810	Capture	Brig Ellen Maria, Swett master.	$15,000. Place of capture not stated.	Not known; the papers being stated to be mislaid.	The property wholly belonged to the claimants. The vessel was captured by a Danish privateer.
11. William Bartlet	rk	July 19, 1810	Capture	Ship Janus, Gaum master.	Vessel $15,000 00 Cargo 73,571 00 Adventure 200 00 Amount, &c 88,771 00	Condemned at Christiansand. Date not stated.	The Janus left Newburyport 27th May, 1809; carried out a cargo of colonial produce to Amsterdam, which was there sequestered. She afterwards went to St. Petersburg, and while sailing thence for the United States with a cargo of hemp, iron, and cordage, she was captured by five Danish gun brigs, carried into Christiansand, where vessel and cargo were condemned. The property is estimated at the price for which such goods were selling at Boston at the time when the vessel would probably have reached that place.
William Bartlet, jr.					Interest claimed from time of capture. Place of capture not stated.		
12. William Bartlet	Denmark	Not stated	Capture	Barque Wm. Gray.	Property on board belonging to claimant, $6,000. Place of capture not stated.	No legal adjudication appears.	This vessel, wholly American, was sailing from St. Petersburg for the United States with a cargo of Russian goods when she was captured. The value of the goods is stated at the price they would have brought in the United States. Interest is claimed.

SUPPLEMENT TO CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
13. Paul Thurlo and Nathaniel Knap.	Denmark....	July 14, 1810....	Capture	Brig Hannah, Dennis master.	Value of vessel..... $10,000 00 Cargo, part ..... 600 00 Freight ..... 7,000 00 Amount, &c..... 17,600 00 First capture made off the Naze of Norway. Place of second capture not stated.	Subject to adjudication at Christiansand, and July, 1810, condemned by the Prize Court. On appeal to a higer court acquitted, Aug. 8, 1810, and, after her second capture, again subject to adjudication and acquitted; where and when not stated.	This vessel was wholly owned by the claimants, American citizens. She sailed from Boston May 27, 1810, with a cargo of cotton, coffee, logwood, and indigo, on freight, and belonging to citizens of the United States. Her papers were regular. She was captured off the Naze of Norway by a Norwegian privateer, and carried into Christiansand. She was again captured by a Danish privateer, a French cruiser in company, carried into Copenhagen, detained 15 months, and, although acquitted, she was finally lost to the owners; a sum not more than sufficient to pay expenses being realized from the sales.
raham and Ebenezer Wheelwright.	Denmark....	May 11, 1810....	Capture	Ship Argo, Wheelwright master.	Ship valued at..... $12,000 00 Cargo, cost ..... 500 00 Freight, actual..... 13,349 00 Detention and expenses of the ship, costs, &c..... 8,666 67 34,515 67 Place of capture not stated.	No legal adjudication appears ..	The cargo was captured by a Danish privateer called Jagerson, commanded by Anderson.
15 Abner Wood, Isaac Stone.	Denmark....	Aug. 5, 1809 . ..	Capture.....	Ship America, Stone master.	Charter usages, costs, and expenses..... $17,571 00 Loss on cargo of coals..... 4,000 00 Ship's expenses ..... 1,200 00 Expenses paid captors..... 497 00 Freight..... 12,000 00 35,268 00	Subject to adjudication at Christiansand, and condemned. On appeal to the High Court this sentence was reversed, but the expenses of the captors were decreed to be paid out of the ship and cargo.	She sailed from the United States May, 1809, with tobacco, on freight, for Newcastle, England; from thence to proceed for Gottenburg with a cargo of coals, on the sole account of the owners of the ship, citizens of the United States, intending to load home with iron and hemp from St. Petersburg. The object was defeated, and voyage broken up, and heavy expenses and losses ensued. The ship and cargo were in all respects completely neutral, furnished with every document to prove the same, and so acknowledged by the High Court. The claimants have estimated the loss or damage at $12,000. Much larger loss can be proved.
16. Abner Wood.....	Denmark....	July 9, 1809....	Capture.....	Brig Alexander, Michael Hodge, jr., master.	Expenses..... $1,487 00 Loss on sales..... 20,625 00 Interest during detention..... 2,700 00 24,812 00	Subjected to adjudication at Aalborg, and acquitted Aug. 11, 1809. On appeal to the High Court of Copenhagen the acquittal was confirmed. See last column.	This vessel was freighted by Abner Wood to take a cargo to St. Petersburg, or place north and east of the British channel, of colonial produce, wholly American, with proper evidence of neutrality. She was captured by two Danish privateers near the coast of Jutland; was carried into Aalborg. The acquittal there was confirmed, but she was detained under adjudication until May 2, 1810. The difference in prices, occasioned by the detention, is claimed.
David Coffin.....	.....	.....	.. ..	.....	Detention, charter, wages, and provisions for crew of vessel .... 9,000 00 33,812 00 See last column.		

SUPPLEMENT TO CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
17. Abner Wood.....	Denmark....	Aug. 14, 1811..	Capture	Ship Neptune.....	Vessel ..... $25,000 00 Loss of funds for return cargo ..... 8,222 00 Expenses..... ..... 1,580 00 Freight or reasonable estimate of profits. 20,000 00 Amount, &c..... 54,802 00 Capture made at Elsineur Roads.	Subjected to adjudication at Copenhagen, and condemned Aug. 29, 1811, and in the High Court at the same place Nov. 12, 1811.	The Neptune was a new, first rate coppered ship of 357 tons. When captured, she was on a voyage from the United States for England, and thence for St. Petersburg, to load for home with iron, hemp, and manufactures, on the sole account of the claimant. She was captured while at anchor by officers and men from Danish gunboats. The ship and funds were claimant's sole property. Her capture occasioned the loss of funds, and much greater loss of her cargo homeward. It would have netted a profit exceeding $20,000.
18. Benjamin Hale, Hen. Furlong, Stephen Holland, Benj. Merrill, Ephraim Titcomb, Joseph Brown.	Denmark....	Aug. 12, 1811..	Capture	Brig Washington...	Loss for detention and on vessel, cargo, and freight ..... $28,911 64 Loss of adventure and perquisites..... 800 00 Amount, &c ..... 29,711 64 Place of capture not stated.	Subjected to adjudication at Copenhagen, and condemned. On appeal, cleared at the High Court, after a detention of more than six months. Date not stated.	The vessel, with her cargo, the sole property of the claimants, sailed from Newburyport June 28, 1811, for St. Petersburg; her cargo consisting of coffee, sugar, logwood, mahogany, pepper, and prunes, with proper evidence of neutrality. She was captured by a Danish privateer called the Good Hope, and, although cleared by the High Court at Copenhagen, the cargo, by reason of the long detention, was nearly destroyed. The coffee was entirely so, and produced on the whole sale but a small sum. The vessel, remaining unfit for sea at Copenhagen, was necessarily left when the war between England and the United States commenced, and became, therefore, nearly a total loss to the claimants. Hale and Furlong were the owners of the vessel and cargo; the rest of the claimants were shippers, as also were Hale and Furlong.
19. Moses Brown, Leonard Smith, Steph'n Holland, Joseph Pike, for vessel & cargo.	Denmark....	Sept., 1811	Capture	Ship Nancy, Eveleth master.	Loss sustained.....	Subject to adjudication at Copenhagen, and condemned. Appealed to the High Court, and cleared on payment of 1,000 rix dollars and heavy expenses. Date not stated.	The ship Nancy and cargo were wholly the property of the claimants; she sailed from Gottenburg September 2, 1811, with a valuable cargo; she arrived at Elsineur September 5, 1811, and paid Sound dues; sailed on the 10th, and was captured within about five leagues of her port by two Danish privateers and carried into Copenhagen. The master was taken out and carried to the Crown Battery, and there detained. The cargo was taken out and afterwards returned on board. On the 15th of October the condemnation of vessel and cargo was notified to the master. The claimants appealed to the High Court, where she was afterwards cleared, but required to pay 1,000 rix dollars and heavy charges, which, with the long detention and consequent injury to the cargo, occasioned nearly a loss of the whole. The ship had passed through the Sound and paid her Sound dues, and was not under convoy; she was detained nearly a year, and actual expenses of nearly $10,000 were incurred.
Benj. Price, Alexander Coldwell, jr., William Coldwell, John Boardman, Steph. S. Hodge, Wm. Stone, shippers.	.....	.....	.....	.....	Loss sustained, $36,800. Place of capture not stated.		
20. Thomas Hovey, surviving partner of Stevens & Hovey,	Denmark....	May 20, 1808...	Capture	Ship Laura, Coffin master.	Ship and appurtenances..... $13,640 00 Officers' and seamen's wages, provisions, and outfits... ..... 1,550 00	Condemned August 28, 1808, in the Prize Court at Copenhagen; and on appeal by the	The Laura sailed from New Orleans May 20, 1811, for Liverpool, England. She sailed thence for Gottenburg, where she arrived safe. On her passage from Gottenburg for Riga, in Russia, she was cap-

SUPPLEMENT TO CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
& Amos H. Cross, administrator of Jonathan Stevens, deceased.	.....	.....	.....	.....	Charter ..... $3,616 31 Expenses and charges of trial ..... 1,501 50 20,307 84 Interest to August 21, 1826 ..... 21,627 85 41,935 69 Place of capture not stated.	captain to the High Court of Admiralty, the sentence was confirmed Nov. 15, 1808.	tured May 20, 1808, by two boats belonging to the island of Zealand. The Laura was American property, and duly registered; had all necessary papers, and was pursuing a lawful voyage. The captors took from the master some of the most important of the ship's papers, which were never restored, and were not exhibited on either of the trials. The production of them would have falsified the pretences and allegations on which the condemnation proceeded. The charter-party was from May 20, 1808, to the ensuing 15th November—about 240 tons, at $2 50 per ton per month.
21. N. York Firemen's Insurance Company.	Denmark....	1810.....	Capture	Ship Resolution, Eldridge master.	Amount of insurance, September 28, 1810, $10,000. Place of capture not stated.	Condemnation at Christiansand. Date not stated.	This vessel, bound from New York to Gottenburg, was captured by a Danish privateer and carried into Christiansand. The vessel and cargo were the property of Minturn & Champlin, of New York.
22. N. York Firemen's Insurance Company.	Denmark....	July 29, 1811...	Capture	Brig Nimrod, Smith master.	Amount of insurance, Sept. 25, 1810 .... $20,000 00 Proportion of expenses in prosecuting this and the next preceding claim, No. 21.. 4,000 00 Amount, &c..... 24,000 00 Place of capture not stated.	The vessel and cargo were condemned in the Lower Court. An appeal was prosecuted, and, after a long detention, the property was given up. Date not stated.	The brig Nimrod, bound from New York to Elsineur, and one other port in the Baltic, was captured by the Danish privateers Resolution, Captain Jorgen Thorst, and Provister, Captain Jorgen Neilson, and carried into Aalborg, North Jutland. Vessel and cargo were the property of Minturn & Champlin, of New York. The loss sustained by the claimants was extremely heavy, the proportion of net proceeds attaching to the policy, as stated by Minturn & Champlin, being only $4,400, no part of which has ever been recovered of them.
23. Robert Sharpe, Thos. Warner, & David Dunham.	Denmark....	1809.....	Capture	Ship Ann Louisa, Roche master.	Cargo sold for ..... $120,000 00 Ship ..... 10,000 00 Amount, &c. ..... 130,000 00 Place of capture not stated.	Condemnation in the Prize Court and in the Court of Admiralty at Copenhagen. Dates not stated.	This vessel sailed from New York April 23, 1809, for St. Petersburg, Russia. She put into Ireland to repair. She was captured by four privateers, and carried into Copenhagen.
24. Boston Marine Insurance Company.	Denmark....	1809.....	Capture	Barque Wm. Gray..	Amount insured ..... $11,000 00 Expenses 200 32 11,200 32	Condemned at Copenhagen. Date of condemnation not stated.	The vessel was owned by citizens of the United States, and was insured from St. Petersburg to the United States.
25. Pratt & Kintzing, of Philadelphia.	Denmark.....	July 18, 1810...	Capture.....	Ship Industry.....	$1,745 19. The expenses incurred. See last column.	Subjected to legal adjudication, and cleared October 3, 1810. Where not stated.	The capture was made on a voyage from Philadelphia to Tonningen and the Baltic by the Danish privateer Fordeusald and two royal gunboats, and the ship was carried into Callunborg.
26. Same.....	Denmark....	May 19, 1809...	Capture.....	Ship Atlantic	$36,605 56 for expenses incurred, and for damages sustained in the vessel and cargo. Capture made off the Naze of Norway.	Subjected to legal adjudication, and condemned by the Inferior Court on June 9, 1809, and the sentence reversed by the Superior Court on the 23d of December following.	This ship was captured on a voyage from Reedy Island, Delaware, to Marstrand, a small port in Sweden, near Gottenburg, off the Naze of Norway, by a Norway privateer called the Norway Girl, and was carried into Christiansand.

SUPPLEMENT TO CLAIMS ON DENMARK—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
27. Pratt & Kintzing, of Philadelphia.	Denmark	Capture made June 18, 1809.	Capture and condemnation.	Ship Commerce ...	$75,363 59. See last column	Condemned by the Inferior Court at Christiansand July 28, 1809, by the superior Judge, the inferior one not concurring. An appeal from the sentence was taken to the High Court of Admiralty for Norway at Christiana, which confirmed the sentence of condemnation March 12, 1810.	The ship Commerce was captured on her voyage from Philadelphia to Gottenburg by two Danish privateer sloops off the coast of Norway, and was carried into Egvog, from thence to Fahrsund, and from thence to Christiansand. In addition to the property of the claimants, goods were shipped by other persons amounting to $39,955 34, making the loss $115,318 93.
28. Benjamin P. Homer, Treasurer of the Commercial Insurance Office, in Boston.	Denmark	July 5, 1810 ...	Capture and detention ...	Brig Cygnet.....	$6,029 69. Place of capture not stated.....	Subjected to legal adjudication, but where or when does not appear. The vessel was cleared in the Lower Court, and afterwards, finally, on an appeal of the captors.	The Cygnet was taken into Fahrsund, in Norway, and the claimant expresses an inability to read the papers, the same being in the Danish language. The amount claimed is alleged to have been paid by the company to C. Coolidge & Co., (who were the owners or agents of the vessel,) and W. Matchet, on policies No. 85 and 89.
29. Same.....	Denmark	1812.....	Capture	Brig Orange.....	$2,400. Place of capture not stated.....	Condemned at Copenhagen. No date mentioned.	This vessel was proceeding from St. Michael's to Russia, and was the property of Thomas Hickling & Company. Policy No. 1098.
30. Same.....	Denmark	June 2, 1810....	Capture	Ship Ganges	$1,000. It was not explained where the capture was made.	Condemnation at Copenhagen; but when is not apparent.	The ship Ganges was bound from Cadiz to Riga, was owned by Nahum Piper and Barker & Bridge, of Boston, and was insured by policy No. 175.
31. Same	Denmark	1810.....	Capture and detention....	Brig Columbia, Capt. Sullivan.	$838. The place of capture not stated.....	Detained at Copenhagen; subjected to legal adjudication; cleared in the Lower Court. An appeal was made by the captors, and withdrawn on their receiving $1,000, and the vessel finally acquitted.	Joseph Moody, of Kennebunk, owned this vessel, which was from St. Ubes for St. Petersburg. Policy No. 181.
32. Same.....	Denmark	1810.....	Capture	Brig Joseph.....	$558. Where captured not stated.....	Detained, and finally cleared; but where, when, or in what manner, is not shown.	Owned by William Dall.
33. Same.....	Denmark	1810.....	Capture	Brig William	$505. No place of capture mentioned.....	It does not appear whether or not there was any legal adjudication.	Owned by C. Coolidge.
34. George Davis	Denmark	1809.....	Capture	Brig Belle Air.....	Not stated.....	Not stated.....	The claimant states that in 1809 a capture was made, under Danish authority, of property committed to his care as supercargo of the brig Belle Air, and expects damages from Denmark or France for detention and loss of market; a statement of which, immediately after his acquittal, he duly forwarded to Copenhagen.

Appendix containing claims on France, and claims (only 47, 48, 49, amounting to $35,000) on Holland, for losses sustained previously to the year 1805.

INDEX TO APPENDIX.

Names of claimants.	Number.	Amount.	Names of claimants.	Number.	Amount.
Baltimore Insurance Company	34	$1,200 00	Gibson, James, administrator	15	$9,367 84
Do do	35	11,500 00	Do do	16	4,955 48
Do do	36	5,748 86	Griffith, Robert J	22	108,649 90
Do do	37	9,000 00	Gilpin, Joshua, surviving partner, &c., for self, &c.	27	71,207 30
Do do	38	16,000 00	Hatch, Henry, administrator	17	56,000 00
Do do	39	1,000 00	Hovey, Thomas, and another	23	12,930 17
Do do	40	12,000 00	Huntress, heirs of Daniel	6	6,904 28
Do do	41	2,500 00	Do do	7	2,500 00
Do do	42	19,874 25	Long, Nathaniel	50	6,450 00
Do do	43	14,233 33	Logan, Oliver	91	.....
Do do	44	19,079 50	Mactire, Alexander	9	18,333 00
Do do	45	3,500 00	Marine Insurance Company of Alexandria	10	5,640 00
Do do	46	20,000 00	Do do	11	10,000 00
Do do	47	20,000 00	Do do	12	4,000 00
Do do	48	4,000 00	Maryland Insurance Company	28	23,600 00
Do do	49	11,000 00	Do do	29	5,248 00
Barr, John, for self and others	18	899 82½	Marine Insurance Company	23	337,089 79
Bell, Joseph, and others	19	7,924 00	Marine Insurance Company of New York	61-65	34,250 00
Carter, Joshua	53	11,755 28	Melcher, estate of William	21	32,000 00
Clarke, William L., for self and others. See No. 2, appendix	25	.....	Nelson, Jeremiah, and others	60	10,333 75
Chesapeake Insurance Company	80	11,200 00	Oliver, Robert and John	30	23,911 02
Do do	81	1,257 00	Pearson, John, and others	58	14,664 48
Do do	82	10,000 00	Penniman, Mary	5	22,000 00
Do do	83	10,000 00	Prince, Henry, and another	31	9,374 06
Do do	84	8,000 00	Roulet, J. S., including claim of Icard's estate	32	12,937 76
Do do	85	9,500 00	Roach, heirs of Thomas	26	2,080 00
Do do	86	13,333 00	Read, William	24	94,560 47
Do do	87	2,200 00	Smith & Buchanan, trustees of	8	16,422 00
Do do	88	4,500 00	Stocker, E., and others	52	25,838 26
Cornell, Robert C., and others	2	99,759 44	Do	59	11,348 79
Coffin, David, and others	54	24,000 00	Thorndike, Israel, and another	14	20,000 00
Do do	55	14,178 42	Union Insurance Company of Maryland	66 to 78	140,401 00
Coffin, David	56	5,800 00	Wheelwright, Abraham & Ebenezer, and others	57	23,196 48
Dorr, Andrew C	3	10,433 02	West, Nathaniel	20	37,669 73
Do	4	4,922 51	Winchester, D., surviving partner	89	4,125 00
Franklin Robinson & Co., assignees of, and others.	1	165,921 87	Winchester, D	90	9,975 00
Fitch, Peletiah	79	8,000 00	Woodbury, Caleb, and others	51	18,711 87
Fry, Benjamin	13	13,540 57	Amount of claims contained in appendix	.....	1,854,436 30½

APPENDIX TO CLAIMS ON FRANCE.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
1. The assignees of the estate of Franklin Robinson & Co., and others, enumerated in the last column.	France	April, 1798....	Seizure.....	Ship Hunter, Whitlock master.	Loss sustained... ..... $165,921 87 Value of property in 1789 ..... 137,977 98 Seizure made at Algeziras.	No legal adjudication	The vouchers in support of this claim are among the papers transmitted to the Department of State by order of the Board of Commissioners under the 11th article of the Florida treaty. Those quoted (OO) (PP) (RR) (TT) (UU) (VV) (3–V) (3–V) show that the loss sustained amounted at least to $165,921 87, independently of interest. The vessel and cargo were seized in the port of Algeziras, in Spain, by the French privateer The Chasseur Barque. The parties to this claim, beside the assignees of the estate of Franklin Robinson & Co., are the North American Insurance Company, Insurance Company of Pennsylvania, Baltimore Insurance Company; private underwriters in the office of George Keeports, insurance broker in Baltimore; private underwriters in the office of Barton & Lewis, insurance brokers in Philadelphia; private underwriters in the office of Shoemaker & Barrett, insurance brokers in Philadelphia; and private underwriters in the office of Joseph Taylor, insurance broker in Boston. William Whitlock, captain of the Hunter, and Joseph L. Dias, supercargo thereof.
2. Robert C. Cornell, on behalf of the heirs of Jacob Doty; James Strong, in behalf of Julia Post, late Julia Wattles; the heirs of John G. Clark.	France	May 13, 1799...	Capture	Schooner Frederick.	Loss sustained, $99,759 44. Place of capture not not stated.	Condemned by the Council of Prizes at Paris, September 16, 1800.	The Frederick sailed from New York in March, 1798, on a trading voyage between Senegal and Hamburg. On her second return to Hamburg she was captured at sea, on the 13th May, 1799, by the French privateer L'Arriege, and sent into Corunna, in Spain. On the 3d of June, 1799, she was cleared, with costs, by the French Consul, as perfectly neutral, and the papers appearing regular. The captors appealed from the consular sentence to the Tribunal of Nantz, where the property was condemned, on the 4th of November, 1799, on the ground that a sea letter could answer only for a single voyage. Captain John G. Clark, on behalf of himself and the other owners, appealed from said condemnation to the Council of Prizes at Paris, where, on the 16th September, 1800, it was affirmed, and ordered to be transmitted to the French Consul at Corunna, there to be carried into effect; which, being done, the loss thereby became total to the owners. J. Lopez Dias is agent for the claimants.
3. William & Andrew C. Dorr.	France	Nov., 1796.....	Seizure	Schooner Jane, Atwood master.	Value at the lowest estimation at the time of seizure, $10,433 02. Vessel and outfit estimated at cost, and cargo at the time of seizure. Seizure made at Cape François, in St. Domingo.	No legal adjudication	On the arrival of the vessel at Cape François an entry of the cargo was made immediately; a guard of soldiers was put on board, and, the orders of the captain not admitting a credit, the cargo was taken by the Government by force, for the supply of the troops. The captain abandoned the vessel and cargo, and returned home.

APPENDIX TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
4. Andrew C. Dow.....	France	About June, 1797.	Capture	Schooner Rebecca, Rogers master.	Loss sustained, livres 26,053 16.6, equal to $4,922 51. See last column.	No legal adjudication as to the seizure.	The schooner Rebecca was captured by a privateer and cleared by the court, and nearly all the property restored. It was afterwards taken by force, by order of the Government, and a part of the cargo was taken to supply the soldiers at St. Domingo. For the amount claimed an obligation was given by the Government of that place, but never paid. It was sent to France and presented under the Louisiana treaty, but the funds proving inadequate, it was not paid.
5. Mary Penniman, widow of John Penniman, deceased.	France	July 30, 1796...	Capture	Brig Pearl, Webb master.	$22,000. Place of capture not stated.....	No legal adjudication	Brig Pearl cleared out from the port of New London the 30th of July, 1796, for Hispaniola. On her passage she was captured by the French privateer L'Adelaide, Captain Fetaid, and carried into Jeremie, where vessel and cargo were seized by the French Government. The property appears to have belonged to Penniman & Griffing.
6. Heirs of Daniel Huntress.	France	Sept. 19, 1798..	Capture	Brigantine Sterling, Brown master.	Amount claimed, $6,904 28. Capture by the Vigilant, made in latitude 40° 20′ north, and longitude 20° 30′ west. The amount claimed arises from deducting $6,041 22 from the following account, viz: Value of brig..... $6,000 00 Premium of insurance on brig from Lisbon to Portsmouth, at 18 per cent.... 1,080 00 37 puncheons of rum on board, which probably averaged 110 gallons when shipped, say 3,700 gallons, allowing 10 gallons each for leakage, which costs 7-6 Tobago currency ..... 3,363 63 Cash paid for 37 puncheons, at $8 each.. 296 00 To freight of said rum, at $8 per hhd ... 296 00 To premiums of insurance on ditto, $3,955 63, at 18 per cent..... 712 01 To 62 moys salt, which cost at Lisbon rs. 160,822, equal to..... 201 02 To expense loading the rum and salt at Lisbon, estimated..... 25 00 To freight of the salt from Lisbon, 62 moys, at $5 per moy ..... 310 00 To premium of insurance on salt, at 18 per cent..... 96 48 To freight of 44 puncheons rum from Lisbon, at $8..... 352 00	No legal adjudication appears...	On February 15, 1798, Daniel Huntress was owner of the Sterling, burden 149 tons, and of a cargo on board of her of the invoice value of $3,454 25, consisting of lumber, seal and codfish, salmon, beef, flour, and oil. On that day she sailed from Portsmouth on a voyage to Tobago, in the West Indies, and thence back. The original instructions to the captain were to proceed to Curaçoa; but they were subsequently countermanded. On the vessel's arrival at Tobago, the captain sold the outward cargo, and with the proceeds thereof purchased 52 puncheons of rum. With this cargo, and certain merchandise on freight consigned to different persons, &c., she sailed on May 6 for Portsmouth, and on May 26 was captured by the French privateer Mercury and ordered to proceed to Bordeaux. On June 27 she was recaptured off Cape Finisterre by the British sloop-of-war Petterell, and carried into Lisbon. On September 6, pursuant to a previous adjustment of the claim which the recaptors had made for salvage, 16 puncheons of rum were delivered to the agent of the said sloop-of-war. In order to obtain funds for defraying the expenses occasioned by the capture and recapture aforesaid, and for making the necessary repairs and outfits, and for purchasing salt to complete the lading, 25 puncheons of the rum were sold at Lisbon. The Sterling, with the residue of the cargo of rum, and 62 moys of salt, purchased at Lisbon on account of D. Huntress, sailed, September 13, 1798, from Lisbon for Portsmouth, and on the 19th day of the said month was captured by the French privateer Vigilant, of Nantz, and carried into the port of Muros, in Galicia, in Spain. The vessel and cargo were, on October 17, 1798, by sentence of the French Vice Consul in Galicia, ordered to be sold on the alleged ground that the

APPENDIX TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
6—Continued.....	.....	.....	.....	.....	To premium of insurance on said freight, 18 per cent .. .. $63 36 To commissions paid at Tobago and Lisbon, estimated.. ..... 150 00 Amount, exclusive of interes 12,945 50	....	vessel had on board rum, the produce of an English island, and the proceeds, after the customary deduction for the invalids of the marine, to be paid to the owners and crew of the Vigilant. The captain claimed an appeal to the tribunal at Nantz, but the claimants are ignorant whether it was prosecuted. The executors of Daniel Huntress presented to the Commissioners under the treaty of February, 1819, between the United States and Spain, the account against Spain, stated in a foregoing column. Of the amount thereof the said Commissioners awarded the sum of $6,041 22, as per the following note of their allowance: Vessel, $4,000; freight home, $516; Huntress' cargo, $976 02; insurance, 10 per cent. Divided thus: To the executors of D. Huntress, $2,791 22; to the underwriters on vessel and cargo the precise amount on which they had underwritten, $3,250; and this sum, $6,041 22, having been deemed the just amount due said Huntress from the Kingdom of Spain, the uncollected balance, being $6,904 28, said executors claim as due from the Kingdom of France, or such an allowance as they may be entitled to on account of the unjust and illegal capture of the said brigantine and cargo.
7. Heirs of Daniel Huntress.	France	1798.....	Capture.....	Schooner Lark.....	Value of vessel and cargo supposed to be between $2,000 and $3,000.	No legal adjudication appears...	The agent for the claimants states that it is believed the documents concerning this case were transmitted some years since to the Department of State.
8. Thomas Ellicott, Jonathan Meredith, trustees of S. Smith and Buchanan.	France	1797.....	Capture.....	Brig Freemason....	The amount of invoice cost of Smith and Buchanan's portion of the cargo was $16,422. Place of capture not stated.	No legal adjudication appears...	The brig Freemason was bound to Bremen in the year 1797. The vessel and cargo were captured by the French, and the owners dispossessed of their property, although no definitive sentence of condemnation ever took place.
9. Alexander Mactier, Baltimore Chesapeake Insurance Company, Baltimore Insurance Company.	France	Nov. 4, 1804 ...	Capture.....	Sloop Henry, Travers master.	Loss on vessel..... $5,000 00 Loss on cargo..... 13,333 00 Amount, &c..... ..... 18,333 00 Capture made off Cuba.	No legal adjudication	The schooner Henry was legally cleared at the custom-house of Baltimore for Jacmel, on her return from which place she was captured by a French privateer and carried into St. Jago.
10. Marine Insurance Company of Alexandria.	France	August, 1803...	Capture	Brig Lucy	$5,640. Place of capture not stated.....	This vessel was subjected to legal adjudication at Port Royal, Martinico, and sold in 1803.	See preceding column.
11. Marine Insurance Company of Alexandria.	France	May, 1804	Capture	Schooner Saucy Jack.	$10,000. Place of capture not stated	No legal adjudication	None.

APPENDIX TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
12. Marine Insurance Company of Alexandria.	France	May, 1804	Capture	Schooner Union	$4,000. Place of capture not stated.	No legal adjudication	None.
13. Benjamin Fry, Newport, R. I.	France	Dec. 19, 1800, is the date of the capture.	Capture and condemnation.	Brig Favorite, Benjamin Seabury master.	Value of brig and cargo, and incidental charges ..... $12,051 50 Interest on this item from December, 1800, to October, 1826, 25 years, 9 months, at 6 per cent. ..... 18,619 56 Cash paid for fees to claimant's attorney in Paris ..... 116 33 Charge for claimant's time and expenses at and from Paris, in 1802, to obtain restitution of his brig and cargo ..... 1,372 74 Amount, &c ..... 32,160 13 The brig was captured on her passage from Newport to St. Christopher, in the West Indies, but it is not stated where.	Condemned at Guadaloupe about January 2, 1801.	The brig Favorite was loaded by the claimant, on his own account, at Portsmouth, with articles not contraband of war, and was cleared at the custom-house of that place November 24, 1800, for St. Christopher. On her passage she was captured by the French privateer General Dugommier, commanded by Captain Rogondin, and owned by Joseph Thalezand.
14. Israel Thorndike and William Leech.	France	1799	Capture	Schooner Alert, Oliver master.	$20,000. Capture made in the harbor of St. Andero.	Condemned by the Chamber of Commerce at Bayonne, in 1799.	The schooner Alert, Jacob Oliver master, with a cargo of codfish and fish oil, bound to Bilboa and St. Andero, in Spain, sailed from Beverley December 5, 1798, was taken within the habor of St. Andero by three French privateers, carried into Bayonne, in France, and, with her cargo, condemned for having no roll of equipage.
15. James Gibson, administrator of Peter McCall.	France	Feb. 13, 1798	Capture	Ship New Jersey	Amount of goods per invoice ..... $11,232 00 Interest from July 16, 1798, to November 4, 1805, 7 years, 3 months and 19 days. 4,921 48 16,153 48 Deduct received under the Louisiana treaty ..... 1,864 16 14,289 32 Interest is claimed on this balance from November 4, 1805, till paid. Place of capture not stated.	Condemnation at St. Domingo, 1798.	Peter McCall and John Gibson were supercargoes of the ship New Jersey, of Philadelphia, owned by Nicklin & Griffith and others. On her return voyage from Canton, she was captured by the French and carried into Porto Rico.
16. Jas. Gibson, administrator of John Gibson.	France	Feb. 13, 1798	Capture	Ship New Jersey	Amount of goods shipped, per invoice ... $5,905 05 Interest from July 16, 1798, to November 4, 1805, 7 years, 3 months and 19 days. 2,587 38 8,492 43 Deduct received under the Louisiana treaty ..... 949 57 7,542 86 Interest is claimed on this balance from November 4, 1805, till paid. Place of capture not stated.	Condemnation at St. Domingo, 1798.	Same as in No. 15.

APPENDIX TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
17. Henry Hatch, administrator *de bonis non* of Crowell Hatch.	France	Probably in 1797	Capture	Ship Maria, Rich master.	Value of ship ..... $12,000 00 Cargo ..... 40,000 00 Expenses ..... 4,000 00 Amount, &c ..... 56,000 00 Place of capture not stated.	Condemned by the Tribunal of Commerce in Basseterre, in 1797.	The ship and cargo were captured within sight of the island of Barbadoes by the French privateer La Flibustier, Captain Anthony Fuet, carried into Point Petre, in the island of Guadaloupe, on the 20th Prairial, year 5 of the French Republic. The condemnation was made under an arrete of the Executive Directory of the 27th of Ventose, year 4, and the vessel and cargo were confiscated according to that article. The claim for compensation was made on the French Government, through the agency of Mr. John Duballet, in Paris, and the documents are now in the possession of the French Government, in the Chamber of Commerce.
18. John Barr, of Salem, Massachusetts, for himself and others.	France.....	Oct. 6, 1800....	Capture	Brigantine Neptune, Robert Barr master.	Money belonging to John Barr ..... $566 7½ Money belonging to Robert Barr..... 240 00 Adventures of John and Sally Barr ..... 11 00 Adventure of Mary Wright..... 28 00 Adventure of Benjamin Cheever..... 26 00 Adventure of Charles McClure..... 18 00 Amount, &c..... 899 82½ Place of capture not stated.	No legal adjudication appears ..	John Barr was owner of the brigantine Neptune. She cleared from Salem about the middle of July, 1800, and was captured on her voyage by the French privateer La Liberte, and the money (in specie) taken from her, and divided among the officers and crew of the privateer. She was carried into Porto Rico and there, together with her cargo, sold.
19. Joseph Bell and Joseph Watson, for themselves, and as executors of William Bell, deceased.	France.....	Dec. 1, 1803....	Non-payment of bills of exchange.	The schooner Olive Branch carried the property in purchase of which the bills were given.	*Francs.* One set of bills of exchange, dated 22d Ventose, year 11, No. 1064, for..... 15,800 One set, &c., dated as above, No. 1106, for 6,000 One set, &c., dated as above, No. 1120, for 22,000 Total francs..... 43,800 Which, at 5 francs 10 centimes per dollar, were received in value for..... $7,294 00 Interest from December 1, 1803, to October 1, 1826, 22 years 10 months, at 6 per cent..... 10,855 88 Amount, &c ..... 18,779 88 See last column.	No legal adjudication.....	The claimants freighted and loaded the schooner Olive Branch, James Burns master, with a cargo of provisions suitable for the French forces then at Cape François, (which could not be obtained from the interior,) and despatched her on March 1, 1803, consigned to John Joseph Fraissinet, the supercargo on board. On his arrival at Cape François he sold for account of the claimants the whole invoice of cargo to Bernard Castaing, Agent General of the Military Hospital, for $10,800. It was agreed that $2,000 thereof were to be paid in cash, to defray the duties and freight, and the residue, $8,800 in bills on the French Government. On the discharge and delivery of the cargo, it being discovered that some of the articles (perishable in their nature) were damaged, they were rejected by Mr. Castaing, and a deduction of $1,150 from the amount of the sale was made for the damaged articles, thereby reducing it to $9,650. Of this sum, conformably to the original contract, $1,726 was payable in cash, and $7,924 in bills, which was accordingly done by the said agent general. The bills were drawn on the Payer General of Marine, Citoyen Villemont, at Paris, by H. Darne, Colonial Prefect, in virtue of an order of the Captain General of the colony of St. Domingo, of

APPENDIX TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
19—Continued.....	.....	.....	.....	....	.....	....	20 Ventose, year 11, at 60 days after sight, payable to Dat & Brocar, or order, endorsed by them, and countersigned by the Payer General of the Army. They were received from Fraissinet on his return, and remitted by the claimants, on June 20, 1803, to Messrs. George Barclay & Co., of London, for collection, after being made payable to them or order, over the blank endorsement of Dat & Brocar. Barclay & Co. forwarded them for collection to their friend, M. Ricamier, banker, in Paris; but he was unable to obtain payment of said bills, and they have never yet been paid.
20. Nathan West, for himself and others, owners of the ship.	France.....	Nov. 2, 1800....	Capture.....	Ship Prudent, Crowninshield master.	Articles plundered ..... $310 00 Merchandise spoiled..... 8,850 00 Loss by detention on residue of merchandise..... 3,629 89 Damage to the ship..... 2,500 00 Expenses of defending the ship on her trial ..... 2,175 40 Demurrage..... 12,640 00 Insurance ..... 3,360 00 Freight ..... 4,444 44 Total..... 37,669 73 Place of capture not stated.	Trial and acquittal in the Spanish court. Date not stated. See last column.	The ship Prudent sailed from Falmouth, in England, October 22, 1800, bound for Palermo, in Sicily. She was captured on the 2d of November by three French and two Spanish privateers, and taken into Algeziras, in Spain. After trial and acquittal in the Spanish court, the French Vice-Consul took possession of the papers, and finally gave them up, April 9, 1801. During her detention the cargo of the Prudent became much injured, and the pilchards, a part of it, were ordered by the Board of Health at Algeziras to be thrown overboard.
21. Estate of William Melcher, of New Castle, Me.	France.....	March 17, 1800.	Capture.	Schooner Polly, Allen master.	Value of schooner..... $32,000 00 Value of cargo when taken, £1,708 18s. 6d., equal, if sterling, to..... ..... Amount, &c..... See last column.	Condemned April 12, 1800, at St. Eustatia, by a French Prize Court.	The schooner Polly was captured on a voyage from St. Vincent's to New Castle on the Damariscotta, four days from St. Vincent, by a French privateer called La Bonne Mere. The claim appears to be for the value of the schooner only.
22. Robert I. Griffith, as surviving partner of Nichlin & Griffith, of Philadelphia, attorney in fact for the assignees of said firm, and acting executor of Geo. W. Bryan.	France	Feb. 13, 1798...	Capture	Ship New Jersey, Clay master.	Balance due estate of Nichlin & Griffith.. $96,098 36 Sum due estate of N. & G. as insurers on property of Thomas Henry on board... 6,924 00 Balance due estate of George W. Bryan. 5,627 54 108,649 90 Interest is claimed on each of the above items, from November 4, 1805. See last column.	Condemned at the city of St. Domingo in 1798; whether by legal adjudication does not appear. The claimant mentions, also, an award made by the Council of Prizes at Paris in September, 1804, but does not state its contents.	The ship New Jersey was captured on the high seas by a French privateer, and carried into Porto Rico.

APPENDIX TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
23. Thomas Hovey and Lemuel Tucker, administrator of Daniel Tucker, deceased.	France	Sept. 28, 1803..	Capture	Sch'r Fair Lady, Snow master.	Amount of loss..... $12,930 17 Interest to August, 1826 ..... 18,748 76 31,678 94 The above amount of loss is thus obtained, viz: The net amount of sales, at Gen. Noailles' prices, was $6,500, and would have purchased 20,310 pounds of coffee, at 16 cents; 2,031 pounds added for French weight, equal to 22,341 pounds, which would have sold at 25 cents per pound exclusive of duties, amounting to $5,585 25; also, 3,251 cubic feet of mahogany, which would have sold for 23 cents per superficial foot of one inch, amounting to $8,972 76. Aggregate of these amounts..... $14,558 01 Deduct freight of coffee, at $1 per cwt..... $223 41 Freight of mahogany, at $36 ....1,404 43 Cost, as above.....6,501 00 8,128 84 Profits..... 6,429 17 Add cost..... 6,501 00 Amount of loss, as above..... 12,930 17 Place of capture not stated.	No legal adjudication.....	The Fair Lady, laden with a cargo of lumber and provisions, and bound from Portland to the Island of Jamaica, was captured by a French armed vessel, and carried into Cape Nichola Mole, then closely besieged, and the garrison in great distress. The cargo was sequestered, under the name of a purchase, at prices fixed by himself, by the French General Noailles, to supply the garrison, who gave the captain an order for $6,501, payable in mahogany and coffee, at ——. The order was never paid, that place having been evacuated before the captain's arrival there. General Noailles then promised him a bill of exchange on the French Government, but he could obtain nothing but an order on General Rochambeau, at Cape François, for the bill. The captain demanded permission to sail thither for the bill, but it was refused, and, after the vessel had been detained thirteen days, was ordered to sail, with 200 sick and wounded French soldiers, to Charleston, and did not receive the bill of exchange till March 12, 1804. This bill was on that day drawn by M. Pichon, Commercial Agent of the French Government, then residing in Washington, in favor of Hovey & Tucker, for the sum of 35,750 francs 62 centimes. The French Government disapproved of M. Pichon's interference, and the various efforts of the parties to obtain payment of the bill have proved unsuccessful. Hovey and Daniel Tucker were the owners of the property.
24. Wm. Read, for the late firm of Wm. Read & Co., of Philadelphia, and as administrator of Arch. McCall and Geo. Plumsted.	France	Feb. 13, 1798...	Capture	Ship New Jersey, Clay master.	Balance due William Read & Co., Nov. 4, 1805..... $38,867 98 Balance due estate of Arch. McCall, deceased, Nov. 4, 1805..... 32,957 67 Balance due estate of Geo. Plumsted, deceased, November 4, 1805..... 22,734 82 Amount, &c..... 94,560 47 See last column.	Condemned at the city of St. Domingo in 1798. The claimant mentions also, but not particularly, an award by the French Council of Prizes at Paris.	The ship New Jersey was captured on the high seas by a French privateer, and carried into Porto Rico.

APPENDIX TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
25. Wm. L. Clark, for himself and the representatives of John G. Clark. See No. 2, App.	France and Spain.	May 13, 1799...	Capture	Schooner Frederick, John G. Clark master.	Actual sales of the property at Corunna May 18, 1801, as per the Government books,..... $85,128 00 Charges and expenses of Captain Clark's defence of the property in the different suits at Corunna, Nantz, and Paris, during nearly two years..... 4,218 63 Total. ..... 89,346 63 Had the Frederick been permitted to prosecute her voyage her cargo would have sold at Hamburg for a much larger sum, as was fully shown to the Commissioners under the last treaty with Spain. Messrs. Gorge, Smith & Co., merchants, of Hamburg, at the time of the capture, in a letter dated July 26, 1809, advised that on the 1st of that month the property would have sold at the current prices, as follows, viz: Cargo ..... $94,759 44 Vessel..... 5,000 00 Total..... 99,759 44 See last column.	On appeal by the captors from the decision of the French Consul to the tribunal at Nantz, the vessel and cargo were condemned, November 4, 1799. This latter sentence was confirmed by the Council of Prizes at Paris, September 16, 1800.	In March, 1798, the Frederick sailed from New York for Senegal, with an assorted cargo, for a trading voyage or voyages between Senegal and Hamburg. She arrived safe at Senegal, where the captain disposed of his cargo; took in another for Hamburg; there disposed of it; took another cargo; sailed again for Senegal, and there disposed of it. After taking there another cargo he sailed April 11, 1799, for Hamburg; and on May 3, 1799, the Frederick was boarded at sea by the French armed brig Le Votour, Captain Ball, who, finding on examination the papers to be all clear and neutral, allowed the schooner to continue her voyage. On the 13th of that month she was captured at sea by the French privateer L'Arriege, of Bordeaux, Capt. Henry, and sent for adjudication into Corunna, in Spain. On the 16th she arrived there, and a Spanish guard took possession of the vessel and cargo, unbent the sails, unhinged the rudder, and sent the captain and crew ashore. The crew of the Arriege returned and loaded their own vessel, and left the Frederick and cargo wholly in Spanish custody, which continued until the final condemnation, sale, and sequestration. On May 19, 1799, Captain Clark wrote to Colonel Humphreys, the minister of the United States in Spain, soliciting his interference and advice; but Colonel Humphreys, owing to the extreme injustice of the French tribunals, was unable to suggest any efficient mode of redress. On June 3, 1799, they were brought to trial before the French Consul, and cleared, with costs. On appeal by the captors to the Tribunal of Nantz they were condemned on the allegation that a sea letter could answer only for a single voyage, and that this was a case of a multiplicity of voyages. The captain appealed on behalf of himself and other owners from this decision to the Tribunal of Cassation, whence the appeal was subsequently removed to the Council of Prizes at Paris. The decision was there confirmed, and ordered to be transmitted to the French Consul at Corunna to be carried into effect. This was accordingly done, the vessel and cargo were sold, the proceeds of sale were sequestered, and the loss thereby became total to the owners. The captain, being left at Paris, where his vessel and cargo were then finally condemned, returned to New York by the way of Hamburg. On February 25, 1823, the Commissioners, under the 11th article of the treaty with Spain, having taken up this case, entered on the records, under No. 33, that they disallowed it on the ground that the testimony filed was insufficient to establish it. The testimony is on file in the office of the Secretary of the Commission.

APPENDIX TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
26. Heirs of Thos. Roach, late of Portsmouth, N. H., deceased.	France	Jan. 18, 1797...	Capture	Brig Two Sisters ..	Detention of the vessel 25 days, &c., at $24 per day ..... $600 00 Plunder of sundry articles aboard the brig 120 00 Captain's wages and bills drawn on T. Roach while in search of the brig..... 160 00 Salvage ..... 1,200 00 Amount, &c..... 2,080 00	Libelled in the Vice Admiralty Court at Basseterre, St. Christopher, February 21, 1797, and one-eighth salvage and costs decreed to the recaptors.	The brig Two Sisters, burden about 140 tons, sailed from Portsmouth December 20, 1796, bound to Martinique; and on January 18, 1797, was captured by a French privateer under English colors, which ordered her to be carried into Basseterre, Guadaloupe. On her passage thither she was recaptured by the British ship Vengeance, and brought into Basseterre Road, St. Kitts, on January 20.
27. Joshua Gilpin, surviving partner of Edward Dunant, for himself and others:					Value of property captured, $7,625. Capture made near Fort Royal bay.		
E. Dunant and J. Mackee.	France	July 10, 1793...	Detention of goods.....	Sloop Rainbow, Mackee master.	Bill for goods detained and agreed to be paid for by the Administration of Cape Francois, St. Domingo..... $2,215 03	No legal adjudication appears...	This case is numbered 284 in the printed list exhibited to the Board of Commissioners for determining the claims of American citizens at Paris. This amount is there stated to be 11,075 livres of France.
E. Dunant and J. Gilpin.	France	June 3, 1793...	Detention of goods.....	Brig Hope, Poole master.	For goods detained and sold to the Administration of Cape Francois 11,130 55	No legal adjudication appears ..	This item is numbered 332 in the list aforesaid. Its amount is there stated to be 50,142 livres of France.
E. Dunant and for M. Cullock.	France	Mar. 7, 1795 ...	Seizure and detention ...	Brig Anna, Forster master.	For seizure of goods in port and detention of vessel by the Administration of Leogan, in St. Domingo..... 16,145 25	No legal adjudication appears ..	This sum is numbered 314 in the list aforesaid. Its amount is there stated to be 90,524 livres of France. Additional for freight and demurrage, &c., 32,712 livres of France. Loss and damage, 65,820.
Dunant and Gilpin...	France	June 9, 1795 ...	Seizure and detention ..	Brig George, McQuirk master, and brig Liberty, Anderson master.	Goods and vessel carried into Port du Paix. Goods taken and vessel detained. A connected voyage 36,917 93	No legal adjudication appears...	This item is numbered 155 in the bill aforesaid. Its amount is there stated to be 59,537 livres of France.
E. Dunant and J. Gilpin.	France	Mar. 23, 1795...	Seizure and detention....	Sloop Martha, McWilliams master.	Goods taken into port and vessel detained..... 4,798 54 Amount, &c..... 71,207 30 On each of the items of loss which constituted this amount interest is claimed from the respective dates of the acts complained of.	No legal adjudication appears...	None.
28. The Maryland Insurance Company, assignees of William Prestman for D. Alexander.	France	October, 1803 ..	Capture.....	Sloop John and Henry, W. C. Penninger master.	Cargo, $23,600. The loss appears to have been sustained near the Mole of St. Nicholas.	No legal adjudication.....	The ship, on a voyage from Charleston to Port Republic, was captured by the French felouche L'Effionte, Captain Morlet, out of the Mole of St. Nicholas, then in the possession of the French army of St. Domingo, under the command of General Noailles. This officer took the cargo for the use of the garrison; and having neither specie nor produce, he gave an order on M. Magnitot at Cape Francois for the payment of said cargo in coffee. As Capt. Penninger was proceeding in his ship from the Mole to the Cape, he was captured by

APPENDIX TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
28—Continued	.....	.....	.....	.....	.....	.....	the British and sent to Jamaica, and while there the Cape and Mole were evacuated, and, of course, an end put to all chance of procuring payment. In 1804 the documents were forwarded to Luke Callaghan, Esq., of Paris, who has been strenuously endeavoring to recover the amount, aided by the several ministers of the United States, but without effect.
29. The Maryland Insurance Company, assignees of S. Smith and Buchanan.	France or Holland.	March 29, 1804.	Capture	Brig Lear, Bounds master.	$5,248. Place of capture not stated.....	No legal adjudication.....	The brig Lear sailed from Baltimore the 30th of March, 1804, and on the 29th of same month was captured by a French privateer, which sent eight men and a prize master on board, and ordered Captain Bounds on board the privateer. The Lear was directed to proceed to Curacoa, and arrived there the 5th of April, 1804. On the 20th the Dutch and French Commissioners broke open the hatchways, and ordered the cargo to be landed without being legally condemned, nor would they give Captain Bounds any satisfaction for their proceedings.
30. Robert and John Oliver.	France or Spain.	June, 1799.....	Capture	Ship Ann.....	$23,911 02. Place of capture not stated	No legal adjudication.....	The ship Ann was bound from Lisbon to Batavia, and was captured and carried into Cadiz by the French privateer Mouche, where the ship and cargo were condemned by the French authorities. The sum of $23,911 02 was shortly recovered under the Spanish treaty.
31. Henry Prince and Stephen Philips.	France.....	1802.....	Sale to the French authorities.	Brig Sukey.....	49,995 francs, equal, at 18¾ cts. a franc, to $9,374 06.	No adjudication.....	The claimants were joint owners of the brig Sukey and cargo of flour. Said brig sailed from Alexandria, D. C., for the island of Hispaniola. On the 10th December, 1802, she arrived at Jacmel, in said island. The flour was delivered by order of the French authorities into the public stores, for which bills were received in payment for the colonial prefect of St. Domingo, drawn on the Commissary of Marine in Paris. These bills have never been paid.
32. John S. Rowlet, surviving partner of G. Rossier and Roulet.	France.....	April, 1804.....	Capture	Brig Dove, Hussey master.	Short insured on cargo ..... $8,752 00 Freight not insured..... 4,185 76 12,937 76 Int. on this sum, at 6 per ct. per annum.. 17,401 29 30,339 05 One-half of this sum is the amount of loss sustained by the claimant. See last column.	Condemnation by a French court in St. Domingo. Date not stated.	The brig Dove was captured on her return voyage from Port au Prince to New York by the French privateer Confiance, and carried into Mayaguet island, where vessel and cargo were sold by the privateer. They were the property, one-half of the late Joseph Icard, and one-half of G. Rossier and Roulet, all citizens of the United States, and merchants of New York. A claim for this property was brought before the Commissioners under the Florida treaty, but was not considered by them to come within its stipulations.
33. Marine Insurance Company.	France.....	Date not stated. Before 1805.	Capture	Not stated.....	$337,089 79. See last column.....	Not stated.....	The claimants merely state that this claim is for the amount of losses paid by them for captures made by the French prior to 1805.

APPENDIX TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
34. Baltimore Insurance Company.	France.....	Nov. 6, 1803....	Capture.....	Schr. Ann, Captain Hamilton.	$1,200. See last column.....	Not known to have been subject to legal adjudication.	Captured, on a voyage from Jeremie to Baltimore, by the French privateer L'Froute, Captain Bonne, and carried to St. Jago de Cuba, where she arrived November 13, 1803. This and the following cases numbered 35 to 41, inclusive, were urged under the Florida treaty, and not allowed.
35. Baltimore Insurance Company.	France.....	Feb. 7, 1804....	Capture	Schr. Cygnet, Capt. Wickham.	$11,500. See last column.....	Not known to have been subject to legal adjudication.	Captured, proceeding from Cape Francois to Port au Prince, by the French privateer Regulator, Captain John Forest, and carried to St. Jago de Cuba, where she arrived February 9, 1804.
36. Baltimore Insurance Company.	France.....	Dec. 24, 1804...	Capture	Schr. Henry, Capt. Travers.	$5,748 86. See last column.	Condemned in Guadaloupe 13th Thermidor, 13th year.	Captured, proceeding from Jacmel to Baltimore, by the French privateer brig Regulus, Captain Mathieu, and ordered for Guadaloupe, but carried to St. Jago de Cuba, where she arrived about 20th Nivose, 13th year.
37. Baltimore Insurance Company.	France	Jan. 10, 1804...	Capture	Schooner Maria, Captain Chase.	$9,000. See last column.....	Not known to have been subject to adjudication.	Captured, proceeding from Port Republican to Baltimore, by the French privateer Regulator, Captain Mathieu, and ordered to St. Jago de Cuba. Captain Chase having been taken on board the privateer, arrived in her at St. Jago de Cuba on January 21, 1804, where he found the schooner Maria. On his return to Baltimore, his owner purchased a new schooner, called her Maria, gave him command of her, and despatched her on the same voyage; she met the same fate.
38. Baltimore Insurance Company.	France.....	Dec. 8, 1804....	Capture	Schooner Maria, Captain Chase.	$16,000. See last column.....	Not known to have been subject to adjudication.	Captured, on a voyage from Baltimore to a port in the island of St. Domingo, by a French privateer, (her name concealed,) and proceeded, with the Maria in company, to the port of Baracoa, in the island of Cuba, where they arrived December 11, 1804.
39. Baltimore Insurance Company.	France.....	Feb. 20, 1804...	Capture.....	Schooner Peggy....	$1,000. See last column.....	Not known to have been subject to adjudication.	Captured, proceeding from Charleston to Cape Francois, by the French privateer Regulator, Captain John Forest, and ordered to St. Jago de Cuba, where she arrived February 25, 1804.
40. Baltimore Insurance Company.	France.....	Nov. 1803	Capture	Schooner Tartar, Captain Easton.	$12,000. See last column	Not known to have been subject to adjudication.	Captured, proceeding from Baltimore to St. Jago de Cuba, or Jeremie, by the French privateer Regulator, Captain Jean Jacques Mathieu, and carried to a port in Cuba.
41. Baltimore Insurance Company.	France.....	Nov. 25, 1804..	Capture.....	Brig Ruby, Captain Wannell.	$2,500. See last column.....	Not known to have been subject to adjudication.	Captured, proceeding from Aux Cayes to Baltimore, by the French privateer Virginia, and carried to the port of Bataband, on the south side of the island of Cuba.
42. Baltimore Insurance Company.	France.....	Nov. 20, 1804..	Capture.....	Schooner Superb ..	$19,874 25. See last column.....	Condemned in the city of St. Domingo, 27th Frimaire, 13th year.	Captured, proceeding from Baltimore to Cape Francois, by the French privateer L'Hereuse Rencontre, Captain Rosseait, and sent to the Bay of Samana, on the north coast of St. Domingo.

APPENDIX TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
43. Baltimore Insurance Company.	France.....	Sept. 5, 1804 ...	Capture	Schr. Abba Thule, Captain Jones.	$14,233 33. See last column	Not known to have been subject to adjudication.	Captured, proceeding from Charleston to Cape Francois, by the French privateer L'Aimable, commanded by Pierre Joiet, who took Captain Jones and all his crew, except one man, out of the Abba Thule, and put a crew on board from the privateer, and ordered her to a French port.
44. Baltimore Insurance Company.	France.....	Sept. 22, 1800 ..	Capture.....	Schr. Lion, Captain Frazier.	$19,079 50. See last column.....	Condemned in Guadaloupe, 28th Vindemiaire, 9th year.	Captured, proceeding from Port Republican to Baltimore, by the French privateer L'Harmonie, and carried to Guadaloupe. This vessel and cargo having been condemned after the date of the convention of September 30, 1800, the documents relating to the capture and condemnation were transmitted to the company's agents, Messrs. Hottenguer & Co., at Paris, to claim restitution.
45. Baltimore Insurance Company.	France	1800.....	Capture.....	Schooner Nancy, Captain Jones.	$3,500. See last column.....	Condemned in Guadaloupe, 17th Frimaire, 9th year.	Captured, proceeding from Baltimore to Trinidad, by the French privateer L'Bejou, and carried to Guadaloupe. This vessel, as in the case of the Lion, having been captured and condemned after the date of the convention of the 30th September, 1800, the documents relating thereto were transmitted to Paris, to Messrs. Hottenguer & Co., the company's agents, to claim restitution from the French Government.
46. Baltimore Insurance Company.	France	July 14, 1799...	Capture.....	Ship Venus, Capt. Dashiell.	$20,000. See last column	Not known to have been subject to adjudication.	The Venus sailed from Gibraltar June 29, 1799, bound to Batavia, in the island of Java, having on board $30,000, (Spanish milled dollars, on which this company had insured $20,000,) and a small amount of other cargo. Having encountered bad weather and lost some spars, and several casks of water having leaked out, Captain Dashiell determined to put into the island of St. Jago, (one of the Cape de Verd Isles,) to repair and fill up his water; he accordingly brought his ship to anchor in that port July 13. On the next day three French frigates and a schooner came in and anchored; at 8 p. m. a boat boarded the Venus from the Media frigate, the officer commanding ordered Captain Dashiell, with his papers, on board the Concorde, 50 gun ship; at 9 p. m. the boat returned, put on board the Venus thirty-two Frenchmen, and took eighteen of her crew on board the frigate. At midnight the whole stood to sea, taking the Venus with them. The next day they commenced plundering her; took out the $30,000, and everything they could lay their hands on; threw her cannon overboard, and carried off the ammunition and small arms; put on board the Venus twenty-six Americans and thirty-four Englishmen, and gave Captain Dashiell a passport as a cartel for America. The voyage being thus broken up, Captain Dashiell returned to Baltimore with his ship.

APPENDIX TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
47. Baltimore Insurance Company.	Holland	Feb. 10, 1800...	Not restoring property to American claimants.	Ship Mary, Capt. Phillips.	$20,000. See last column.....	Not known to have been subject to adjudication.	Captured, proceeding from Batavia (island of Java) to Baltimore, by French privateer L'Renomeo, Captain Joseph Rodignan, and carried to the Dutch island of Curacoa, where she arrived on 10th February, 1800, where she was taken possession of by the Fiscal of the island, the hatches sealed, and a guard of Dutch soldiers put on board. On Tuesday, the 18th day of February, the Government ordered the cargo to be unloaded, that afterwards it and the ship might be sold at public vendue, and that the net proceeds might remain in the custody of the Government, subject to the order of those to whom they might be adjudged to belong. Restitution was claimed from the Government of Holland many years ago without success.
48. Baltimore Insurance Company.	Holland	March 12, 1798.	Permitting French privateers to bring into its ports, and there sell, American vessels and cargoes.	Schooner Betsey, Capt. Emmons.	$1,000. See last column.....	Condemned in Guadaloupe, 5th Germinal, 6th year.	Captured, proceeding from Alexandria, Virginia, to the island of Barbadoes, by the French privateer Buonaparte, and carried to a port in the Dutch part of the island of St. Martin, where she arrived March 12. The captors were allowed by the authorities of the island to appropriate the property to their own use.
49. Baltimore Insurance Company.	Holland	March 27, 1804.	Same as in No. 48.....	Brig Joseph, Capt. Penrice.	$11,000. See last column.....	Not stated.....	Captured, proceeding from Baltimore to a port in St. Domingo, by the French privateer schooner Foguies, commanded by John Dateie, and carried to the island of Curacoa, where she arrived March 27, 1804. As in the foregoing case, the authorities of the island allowed the captors to appropriate the property to their own use.
50. Nathaniel Long	France.....	Nov. 21, 1800 ..	Capture	Sch. Four Brothers, Eastman master.	Salvage and expenses $6,450.....	Not stated.....	The Four Brothers was captured by a French privateer, and recaptured by the English.
51. Caleb Woodbury, Elias Dudley, Daniel Isley, Eben. Gunnison, John Barrell, Clement Star, and Michael Smith.	France	March 26, 1804.	Capture	Schooner Joseph, Lurvey master.	Vessel, cargo, freight, and expenses, $18,711 87. See last column.	Not known.....	The Joseph and cargo were wholly the property of the claimants. She was captured on her passage from Jacmel by a French privateer called Adet, and carried into St. Jago de Cuba. She was there sold, and the proceeds distributed among the captors.
52. Eben. Stocker, Newburyport; Thomas C. Amory & Co., Boston; Andrew Frothingham, Jas. Prince, Jos. Cutter, Nath'l Bradstreet, and others.	France	Dec. 20, 1804..	Capture	Brig Swift Packet, Goodhue master.	Vessel, cargo, freight, and expenses, $25,838 26⅔. See last column.	It is believed that the property was not subject to any legal adjudication.	The vessel and cargo belonged wholly to the claimants, American citizens. On her passage to Jacmel, bound for New Orleans, she was captured by two French privateers called Sandource and Dolphin, carried into St. Jago de Cuba, and immediately sold there. The proceeds were distributed among the captors before any adjudication could have been had.

APPENDIX TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
53. Joshua Carter	France	Oct. 25, 1800	Capture	Brig Hannah, Chase master.	Vessel, cargo, and freight, $11,755 28. Place of capture not stated.	Not known	The vessel and cargo belonged wholly to the claimants. She was captured by a French privateer called the Peurto Reguina and carried into Porto Rico, where the principal part of the property was sold and distributed among the captors before any adjudication could have been had.
54. David Coffin	France	Nov. 12, 1800	Capture	Brig Nathaniel, Rutherford master.	Vessel $8,000 00 Freight 4,000 00 $12,000 00	Not subject to adjudication	This vessel wholly belonged to the claimant, an American citizen; was on charter to Messrs. Coffin & Otis, William Faris, and Ebenezer Stocker, to take a cargo to the West Indies and load back. She was captured by a French privateer called the Liberty, and cast away and lost on Cape Samana, east end of Hispaniola, then in possession of the French.
Coffin & Otis, William Faris, Eben. Stocker.	France				Cargo 12,000 00 Amount, &c. 24,000 00 See last column.		
55. David Coffin, James Kimball, Ammi Smith, and Joseph Lord.	France	Oct. 27, 1800	Capture	Brig Venus, Smith master.	Vessel $3,500 00 Cargo 10,678 42 $14,178 42 See last column.	Not subject to adjudication	The vessel and cargo were wholly the property of the claimants. The cargo was sugar and cocoa. She was on her voyage from Trinidada, bound for the United States; was captured by a French privateer called the Bon Mere, carried into St. Eustatia, and disposed of. The proceeds were distributed among the captors.
56. David Coffin	France	Oct. 31, 1800	Robbery	Brig Hero, Webster master.	Specie $5,000 00 Property 800 00 5,800 00 See last column.	Not subject to any adjudication.	Wholly belonging to the claimant. She was robbed at sea by a French privateer, on her passage from St. Thomas', bound for Turk's Island. All her specie, and a number of packages of dry goods, hats, boots, and other articles taken on board the privateer.
57. Abraham Wheelwright and Eben. Wheelwright.	France	February, 1804.	Capture	Schooner Peggy, Denney master.	Vessel $2,400 00 Cargo and adventures 19,660 39 22,060 39	Not known	Vessel and cargo, property of the claimants, American citizens, are claimed with adventures at their actual value. She was captured on her passage, by a French privateer called the Fleurde Mere, from St. Mark's, and carried to St. Jago de Cuba, and the whole sold and distributed among the captors, it is believed without any adjudication.
Thomas Pritchet					Property 1,136 09 23,196 48 See last column.		
58. John Pearson and others.	France	March, 1804	Capture	Brig John, Dale master.	Vessel $7,000 00 Cargo 2,946 10 Freight 4,162 00 Expenses 556 38 14,664 48 See last column.	Not known	Vessel and cargo wholly the property of the claimants, American citizens. She was, on her passage from Hispaniola for Jamaica, captured by a French privateer, carried to St. Jago de Cuba, and there disposed of. The privateer was called the Liberty.

APPENDIX TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
59. Ebenezer Stocker and others.	France	Nov., 1803	Capture	Schooner Polly, Morris master.	Vessel $2,000 00 Cargo 7,848 79 Freight 1,500 00 11,348 79 See last column.	Not known	The vessel and cargo were wholly the property of the claimants, American citizens. She was captured on her outward voyage for the West Indies by a French privateer, Herondelle, carried to St. Domingo, and there disposed of.
60. Jeremiah Nelson and others.	France	April, 1804	Capture	Brig Minerva, Greenough master.	$10,333 75. Place of capture not stated	Not known	The vessel and cargo were wholly the property of the claimants. She was captured by a French privateer and rescued by the crew. Soon afterwards she was captured by the Spaniards, and principally lost.
61. Marine Insurance Co. in N. York.	France	1804	Detention or condemnation.	Brig Dove, Hussey master.	Loss on cargo, $5,000. The loss appears to have been sustained at Porto Rico.	Condemned by a French court. Where and when not stated.	The voyage was from Port au Prince to New York. The owners were G. Rossier & Roulet.
62. Marine Insurance Co. in N. York.	France	1804	Detention or condemnation.	Brig AmiableCreole, Allen master.	Loss on cargo, $5,000. The loss appears to have been sustained at Porto Rico.	Condemned by a French court. Where and when not stated.	The voyage was from Port au Prince to New York. The owners were B. M. Mumford and others.
63. Marine Insurance Co. in N. York.	France	1804	Detention or condemnation.	Ship Hopewell, Seeson master.	Loss on cargo, $10,000. The loss appears to have been sustained at Guadaloupe.	Not stated	The voyage was from New York to Aux Cayes. The owner was George Barnewall.
64. Marine Insurance Co. in N. York.	France	1804	Detention or condemnation.	Brig Rockland, King master.	Loss on cargo, $10,000. The loss appears to have been sustained at Guadaloupe.	Not stated.	The voyage was from New York to Aux Cayes. The owner was George Barnewall.
65. Marine Insurance Co. in N. York.	France	1804	Detention or condemnation.	Schooner Joseph, Survey master.	Loss on cargo, $4,250. The loss appears to have been sustained at St. Jago de Cuba. Amount, &c., $34,250.	Condemned by a French court. Where and when not stated.	The voyage was from Jacmel to New York. The owner was Joseph Icard.
66. Union Insurance Co. of Maryland.	France	Sept. 5, 1804	Capture	Sch'r Abbe Thule, Jones master.	$9,452. The place of loss in this and the following cases to No. 78, inclusive, is not stated. (See last column.)	See last column	These claims are the amounts insured by the claimants, and paid on American vessels, which were captured by French armed vessels on the high seas, and either illegally condemned or converted to the use of the captors without condemnation. The stated items of loss are the respective amounts paid by the claimants in consequence of such captures.
67. Union Insurance Co. of Maryland.	France	Dec. 12, 1804		Snow Eliza, Powell master.	$14,000.		
68. Union Insurance Co. of Maryland.	France	Aug. 21, 1804		Sch'r Lydia, Chamberlain master.	$20,349.		
69. Union Insurance Co. of Maryland.	France	May 16, 1804		Brig Neptune, Clapp master.	$400.		
70. Union Insurance Co. of Maryland.	France	Nov., 1804		Brig Ruby, Wannell master.	$11,500.		
71. Union Insurance Co. of Maryland.	France	July 7, 1804		Sch'r Sally, Hellman master.	$3,000.		
72. Union Insurance Co. of Maryland.	France	April 14, 1804		Ship Sukey, Whipple master.	$7,600.		
73. Union Insurance Co. of Maryland.	France	Sept. 6, 1804		Schooner Surviving Brother, Gardner master.	$13,650.		

APPENDIX TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
74. Union Insurance Co. of Maryland.	France	July 5, 1804		Schooner Tartar, Doane master.	$1,750		For remarks see No. 66.
75. Union Insurance Co. of Maryland.	France	July, 1804		Schooner Hopewell, Sesson master.	$13,000.		
76. Union Insurance Co. of Maryland.	France	July, 1804		Brig Rockland, Akins master.	$6,700.		
77. Union Insurance Co. of Maryland.	France	July, 1804		Schooner Nancy, Winter master.	$20,000.		
78. Union Insurance Co. of Maryland.	France	Sept., 1804		Schooner Ardent, Smith master.	$19,000.		
79. Peletiah Fitch	France	1797	Capture	Sloop Hiram	Value of sloop $5,000 00 Value of cargo 3,000 00 Amount, &c 8,000 00 Interest is claimed on these items. See last column	Condemned in 1797. Place not stated.	The sloop Hiram, while on her voyage from Norfolk to Jamaica, was, with her cargo, captured by the French. The claimant states that the papers in this case are on file in the Clerk's office of the House of Representatives.
80. Chesapeake Insurance Company.	France	Sept. 6, 1804	Capture	Schooner Surviving Brothers, Gardner master.	$11,206. See last column	No legal adjudication	This vessel was taken, on her passage from Port de Paix to Baltimore, by a French privateer, the crew dispossessed, and the vessel ordered into port. It is not known whither she was carried.
81. Chesapeake Insurance Company.	France	Nov. 20, 1804	Capture	Schooner Superb, Shever master.	$1,257. See last column	Condemned at the city of St. Domingo, 27th Frimaire, 13.	Taken, on her passage from Baltimore to Cape Francois, by the French privateer L'Heureuse Rencontre.
82. Chesapeake Insurance Company.	France	July 7, 1804	Capture	Brig Delaware, Deal master.	$10,000. Capture made in Fortune Island	See last column.	This vessel was taken, on her passage from Aux Cayes, in St. Domingo, to Baltimore, by the French privateer Regulator. She had got ashore when she was captured. At a subsequent date she may have been condemned at the city of St. Domingo. On her arrival at Baracoa, July 13, 1804, the property was disposed of without any legal process. This and the following claims, to No. 88, inclusive, were unsuccessfully preferred under the Florida treaty.
83. Chesapeake Insurance Company.	France	July 13, 1804	Capture	Schooner Sally, Hillman master.	$10,000. See last column	Condemned at Basseterre, 25th Vindemiaire, 13.	This vessel was captured, on her voyage from —— to Baltimore, by the French privateer Plutus, and carried, July 27, 1804, to Baracoa, when and where the property was disposed of without legal proceedings. The condemnation which ultimately took place rests on the trade with St. Domingo being interdicted by France.
84. Chesapeake Insurance Company.	France	May 21, 1804	Capture	Schooner Brothers, Hippins master.	$8,000. See last column	No legal adjudication appears	Taken on her passage from Jeremie to Charleston. The property disposed of without legal form.
85. Chesapeake Insurance Company.	France	June 2, 1804	Capture	Schooner Paragon, Davis master.	$9,500. See last column.	Condemned at the city of St. Domingo, 13th Fructidor 12.	This vessel was taken on her passage from Baltimore to Cape Francois and to Mayaquez, in Porto Rico, by the French privateer Democrat. The property was disposed of prior to the condemnation.

APPENDIX TO CLAIMS ON FRANCE—Continued.

Name of claimant.	Name of the Government on which the claim is made.	Date of the act complained of.	Nature of the act.	Name of the vessel captured or injured.	Amount of loss sustained, and value of property captured, and where.	Subjected or not to legal adjudication; where and when.	Remarks to explain or elucidate the general nature of the claim.
86. Chesapeake Insurance Company.	France	Dec. 24, 1804...	Capture	Schooner Henry, Travers master.	$13,333. See last column.....	Condemned at Basseterre, 13th Thermidor, 13.	Taken on her passage from Jacmel to Baltimore by the French privateer Regulus, and the property disposed of on arrival at St. Jago, about 20 Nivose, 13, prior to the condemnation. The condemnation rests on the illegality of the trade.
87. Chesapeake Insurance Company.	France	Nov. 25, 1804 ..	Capture.....	Brig Ruby, Wannell master.	$2,200. See last column.....	No legal adjudication appears...	Taken on her passage from Aux Cayes to Baltimore, and to a port on the south side of Cuba, by the French privateer Virginia. Property disposed of without legal adjudication on arrival at Cuba.
88. Chesapeake Insurance Company.	France	Dec. 19, 1804 ..	Capture.....	Schooner Elesenor, King master.	$4,500. See last column	No legal adjudication appears...	Taken on her passage from Cape Francois to Baltimore by a French privateer. Property disposed of at St. Jago without legal adjudication.
89. D. Winchester, surviving partner of J. Ogleby and D. Winchester.	France	1803.....	Non-payment of bills of exchange.	.....	22,000 francs, equal, at 18¾ cents a franc, to $4,125, amount of bills.	.....	Bills of exchange in the sum of 22,000 francs were drawn at Cape Francois, in the island of St. Domingo, by the Agents or Commissioners of the French Army on the Payer General of Marine at Paris, and have never been paid.
90. D. Winchester.....	France	Date appears to be in 1803.	Non-payment of bills of exchange.	.....	Amount of bills, 53,200 francs, equal, at 18¾ cents a franc, to $9,975.	.....	Bills of exchange in the amount of 53,200 francs were drawn, probably, as those mentioned in No. 89 were never paid.
91. Oliver Logan.....	France	Date of capture not stated; probably in 1797.	Capture.....	Not stated.....	Not stated.....	Condemned in March, 1797, by the municipality of the island of Guadaloupe.	John Logan was the sole owner of the vessel and cargo. They were taken by a French privateer and carried into Basseterre, Guadaloupe.

19TH CONGRESS.] No. 452. [2D SESSION.

APPOINTMENTS OF MINISTERS TO AND THEIR DUTIES AT THE CONGRESS AT PANAMA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES FEBRUARY 3, 1827.

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives of the 9th ultimo, relating to the appointments of Chargés des Affaires, and to the commissions and salaries of the Ministers and Secretary to the mission to Panama, I transmit herewith a report from the Secretary of State, with accompanying documents.

JOHN QUINCY ADAMS.

WASHINGTON, *February* 3, 1827.

DEPARTMENT OF STATE, *Washington, January* 31, 1827.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 9th instant, requesting the President to communicate to the House "whether any, and if any, what number of Chargés des Affaires have been appointed since the 4th day of March, 1789, without the advice and consent of the Senate, and whether, in any case, such appointment has been made after notice had been given of the intention of a minister abroad to return, and after his successor had been appointed; if so, by what authority and what length of time did said temporary appointment continue, what the general duties to be discharged, and what the compensation paid; and that the President also inform this House from what period the persons appointed Minister and Secretary of Legation to Panama received their commissions, and from what period they have been paid their salaries," has the honor to report:

The resolution requires, first, information as to the number of the appointments of Chargés des Affaires which have been made, if any, without the advice and consent of the Senate, since the 4th day of March, 1789; secondly, whether, in any such instances, the appointments were made after notice had been given of the intention of a minister abroad to return, and after his successor had been appointed; thirdly, if so, by what authority, and for what length of time did such temporary appointments continue; fourthly, what were the duties to be discharged by Chargés des Affaires so appointed; fifthly, what compensation did they receive; and, sixthly, from what period the persons appointed Ministers and Secretary of Legation to Panama received their commissions, and from what period they have been paid their salaries.

1. On the first point, the following cases are stated from the records of the Department of State, in none of which, except that of Mr. Short, were the persons appointed nominated to the Senate.

William Short was nominated to the Senate on the 16th of June, 1789, as Chargé d'Affaires at the Court of France, *during the absence* of the minister plenipotentiary at that Court, (Thomas Jefferson,) and commissioned as such on the 6th April, 1790, during the pleasure of the President of the United States. Thomas Jefferson was, on the 26th of September, 1789, appointed Secretary of State, and thereby vacated his office as minister plenipotentiary to the Court of France. W. Short, without further nomination to the Senate, was commissioned as above, there being no minister plenipotentiary at the Court of France until the appointment of Gouverneur Morris, January 12, 1792. Mr. Short was presented as Charge d'Affaires by Mr. Jefferson, on his taking leave of the French Court, on the authority of a letter from Mr. Jay, Secretary of Foreign Affairs, of June 19, 1789, which also permitted that minister's return on a visit to the United States.

John H. Purviance was left in the charge of our affairs at London, on the 8th of October, 1804, by Mr. Monroe, during his absence in Spain.

George W. Erving was appointed Secretary of Legation to Madrid, with the advice and consent of the Senate, November 22, 1804, and appointed provisionally by the President, without the co-operation of the Senate, to act as Chargé d'Affaires at Madrid until the arrival of Mr. Bowdoin, appointed minister 22d of November, 1804.

Jonathan Russell was left in the charge of our affairs at Paris by General Armstrong, and commissioned as such by the President.

John S. Smith was left Chargé d'Affaires at London by Mr. Pinkney, May 1, 1811, but no commission ever issued to him as such.

Jonathan Russell was sent, by the direction of the President, from Paris to London in October, 1811, as Chargé d'Affaires.

Levitt Harris was left Charge d'Affaires at St. Petersburg by Mr. Adams, in April, 1814, by direction of the President.

John L. Lawrence, left Chargé d'Affaires at Stockholm by Mr. Russell, June 6, 1814.

Henry Jackson, left Chargé d'Affaires at Paris by Mr. Crawford, April 26, 1815, while Mr. Gallatin, appointed minister to France February 28, 1815, was in London, assisting in the negotiation of the convention of that year.

Thomas L. L. Brent, Secretary of Legation at Madrid, was left Chargé d'Affaires there, by Mr. Erving, in August, 1815.

And again, by Mr. Forsyth, November 23, 1820, during his return, on leave, to the United States.

Christopher Hughes, Secretary of Legation at Stockholm, was designated by the President to act as Chargé d'Affaires on the 10th September, 1816, in the event of the retirement of Mr. Russell, and he was accordingly so left by Mr. Russell in October, 1818.

Charles Pinkney, left Chargé d'Affaires at St. Petersburg by Mr. Pinkney, in February, 1818. Mr. Campbell was appointed minister April 16, 1818.

He was again left there in charge of our affairs by Mr. Campbell, July 8, 1820, by the direction of the President. Mr. Middleton was appointed minister April 6 of that year.

John James Appleton was left Chargé d'Affaires at Madrid by Mr. Forsyth, March 3, 1823. Mr. Nelson was appointed minister January 15, 1823.

Daniel Sheldon, left Chargé d'Affaires at Paris by Mr. Gallatin, May 16, 1823, under the direction of the President.

John A. Smith, left Chargé d'Affaires at London by Mr. Adams, in June, 1817, by order of the President.

He was again left in charge of our affairs by Mr. Rush, in May, 1825, under the direction of the President. Mr. King was appointed minister May 5, 1825.

John M. Forbes became Chargé d'Affaires at Buenos Ayres on the death of Mr. Rodney, June 10, 1824. He was afterwards nominated to the Senate in that character, and confirmed 9th of March, 1825.

John A. King, left Chargé d'Affaires at London by Rufus King, July 1, 1826, with the approbation of the President. Mr. Gallatin was appointed minister May 10, 1826.

He was again left in charge of our affairs by Mr. Gallatin during a short excursion which he made to Paris in the fall of 1826.

Beaufort T. Watts, left Chargé d'Affaires at Bogota by Mr. Anderson, March 26, 1825, till January 20, 1826, during the return of that minister, on leave, to the United States.

He was again left (and yet remains in charge of our affairs) on Mr. Anderson's leaving Bogota, June 12, 1826, to proceed on the mission to Panama.

2. Most of the preceding appointments of Chargés des Affaires were made whilst we had ministers appointed to reside near the same Governments. Mr. Purviance was so appointed by Mr. Monroe, being the regular minister of the United States in London at the time. Mr. Erving, being the Secretary of Legation at Madrid, was intrusted with the charge of our affairs until the arrival of Mr. Bowdoin, our minister. Mr. Harris, at St. Petersburg, was left in charge of our affairs whilst Mr. Adams was absent on the duty of assisting in the negotiation of peace with Great Britain. Mr. Lawrence was left Chargé d'Affaires by Mr. Russell whilst this gentleman was absent from Stockholm on the same service of treating of peace. Mr. Jackson was left chargé at Paris after Mr. Gallatin's appointment, but before his arrival in France, as the minister of the United States. Mr. Brent was intrusted with the charge of our affairs during Mr. Forsyth's return to the United States. In the same character, at Stockholm, Mr. Hughes was left by Mr. Russell on his return home. Mr. Pinkney was left by Mr. Campbell in charge of our affairs in July, 1820, Mr. Middleton having been appointed minister the preceding April. Mr. Appleton was left in charge of our affairs by Mr. Forsyth, at Madrid, in March, 1823, Mr. Nelson having been appointed minister the preceding January. Mr. Watts was left at Bogota, in charge of our affairs, in the year 1825, during Mr. Anderson's absence on a visit to the United States. And, lastly, Mr. John A. King was left by Mr. Rufus King in charge of our affairs after the appointment, but before the arrival of Mr. Gallatin at London. The necessity of confiding temporarily to a chargé the affairs of a Government, which is ordinarily represented by a minister plenipotentiary, arises out of the absence of the minister, no matter from what cause. It is supposed not to be affected by the fact of a minister's having notified his intention to return and the appointment of his successor.

3. The authority under which the above appointments were made is believed to be furnished by the Constitution of the United States, and the public law and usage of nations. So important is it regarded to preserve, without interruption, the diplomatic intercourse between nations which are mutually represented by ministers, that upon the death of a minister the Secretary of Legation becomes, by established usage, *ipso facto*, Chargé d'Affaires until his Government is advised and provides for the event. The period during which they respectively continued to act in the character of Chargé d'Affaires will be seen by an inspection of the annexed abstract from the books of the Treasury, marked A, to which a reference is respectfully requested.

4. The duties to be performed by a Chargé d'Affaires, so appointed, are to be found in the same public law and usage, and may be stated, in the general, to be the same as those of the minister whose place he supplies. He transacts the ordinary business of the legation; keeps its archives and an office; corresponds with the Government where he is accredited, and with his own; and sustains an expense and maintains an intercourse with the diplomatic corps corresponding with the new station to which he is elevated.

5. The compensation received by the several persons so appointed (with the exception of Mr. John A. Smith and Mr. Watts, whose accounts are not yet closed, but will be finally liquidated on the same principles,) may be seen in the above extract from the Treasury. From that abstract it appears, 1st. That the allowance of salary in the character of chargé, in the cases there stated, has been uniform; 2d. That the allowance of an outfit has been most usually, but not always, made; 3d. That in some instances the temporary appointment has been continued after the intervention of the session of a Senate, as in the cases of Mr. Purviance, Mr. Russell, Mr. Lawrence, Mr. Jackson, Mr. Brent, Mr. Hughes, and Mr. Sheldon; and in two cases (those of Mr. Erving and Mr. Harris) after the intervention of several sessions of the Senate; and 4th. That in the case of Mr. John A. King the allowance made to him was a medium between the highest and lowest allowances that had been previously made. The highest was made in the cases of Mr. Russell and Mr. Jackson, to each of whom, besides the outfit and salary of a chargé, a quarter's return salary was allowed. Mr. King was not allowed salary as a chargé during the absence of Mr. Gallatin on his visit to Paris last fall; nor was he allowed a quarter's return salary as chargé. He was moreover the bearer of a convention, the first intelligence of the conclusion of which reached the Department by his delivery of the instrument itself. Such a service is always regarded in the transactions of Governments as one of peculiar interest. He might have been, but was not, allowed the usual compensation made to bearers of despatches. An extract from a letter addressed by the late Secretary of State to the chairman of the Committee of Ways and Means, marked B, accompanies this report.

6. The commissions of the Ministers to Panama and Secretary of Legation bear date March 14, 1826.

Mr. Anderson's salary, as one of these ministers, commenced, and his salary as minister to Colombia ceased on the 12th of June, 1826, when he left Bogota to proceed to Panama. Mr. Sergeant's commenced on the 24th of October, 1826, when he was notified to prepare to proceed on the mission. Mr. Rochester's salary, as Secretary of the Legation, commenced with the date of his commission. The considerations which induced the fixation of its commencement at that period were these: he resided in the interior of New York, remote from the seaboard, and was required, shortly after the confirmation of his appointment, to repair to the city of New York, where he accordingly came, to proceed on the mission, which it was then expected would depart in the course of the last spring. Subsequent events, not chargeable to him, prevented his departure. He moreover resigned, about the period of his nomination to the Senate, a

judicial station which he held under the State of New York to enable him to accept this new appointment, and held himself in readiness to depart on the mission from the date of his appointment to the period when he actually sailed from the United States.

All of which is respectfully submitted.

H. CLAY.

A.

The Register of the Treasury, to whom was referred the resolution of the House of Representatives of the 9th instant, for such information as his office affords on the subject-matter of said resolution, has the honor to report the following, being extracts from the accounts of such of the Chargés des Affaires of the United States at foreign Courts as are, from the strictest research, to be found on the files of his office:

William Short, Chargé d'Affaires to Versailles.

No.			
13937.	For his salary as Chargé d'Affaires at Versailles, from September 24, 1789, to June 30, 1790, 9 months and 6 days, at $3,000 per annum		$2,300 00

John H. Purviance, Chargé d'Affaires at London.

25576.	For salary as Chargé d'Affaires at London, from October 8, 1804, to July 17, 1805, 9 months and 9 days, at $4,500 per annum		$3,485 95
	Deduct for same period, as Secretary of Legation, at $1,350 per annum		1,045 79
			2,440 16

George W. Erving, Chargé d'Affaires at Madrid.

23587.	For his salary, from October 24, 1805, to April 5, 1810, 4 years, 5 months, and 13 days, at $4,500 per annum		$20,035 27
	Three months' salary for his return home		1,125 00
			21,160 27

Jonathan Russell, Chargé d'Affaires at Paris.

26818.	For his salary, from August 10, 1810, to October 25, 1811, 1 year and 2½ months, at $4,500 per annum		$5,437 50
	For outfit, equal to one year's salary		4,500 00
			9,937 50

John S. Smith, Chargé d'Affaires at London.

26548.	For salary, from May 1, to November 16, 1811, 200 days, at $4,500 per annum		$2,465 75
	Half an outfit as Chargé d'Affaires	$2,250 00	
	A quarter's salary for returning home	1,125 00	
			3,375 00
			5,840 75

Jonathan Russell, Chargé d'Affaires at London.

26819.	For his salary, from October 26, 1811, to July 27, 1812, 275 days, at $4,500 per annum		$3,390 41
	For outfit, equal to one year's salary	$4,500 00	
	One quarter's salary, allowed for returning home	1,125 00	
			5,625 00
			9,015 41

Levitt Harris, Chargé d'Affaires at St. Petersburg.

223.	For salary, from April 17, 1814, to February 21, 1817, at $4,500 per annum		$12,812 50
	For one quarter's salary, allowed for returning to the United States		1,125 00
			13,937 50

John L. Lawrence, Chargé d'Affaires at Stockholm.

428.	For his salary during the absence of Mr. Russell, the minister who was engaged with the joint mission at Ghent, from June 7, 1814, to May 19, 1815, 11 months and 13 days, at $4,500 per annum		$4,289 83

Henry Jackson, Chargé d'Affaires at Paris.

No.		
302.	For salary, from April 27, 1815, to July 17, 1816, 1 year, 2 months, and 21 days, at $4,500 per annum	$5,512 50
	For this sum allowed him as an outfit and his return to the United States	5,625 00
		11,137 50

Thomas L. L. Brent, Chargé d'Affaires at Madrid.

1802.	For his salary as Acting Chargé d'Affaires during the absence of Mr. Erving, on a visit to the United States, from August 5, 1815, to August 23, 1816, 1 year and 19 days, at $4,500 per annum	$4,732 33
	For this sum, being the difference between his salary as Secretary of Legation and that of Chargé d'Affaires, the duties of which he was performing during the absence of Mr. Forsyth, on a visit to the United States, from November 28, 1820, to August 18, 1821	1,813 86
		6,546 19

Christopher Hughes, Chargé d'Affaires at Stockholm.

1313.	For salary, from November 1, 1816, the date of his appointment, to December 14, 1817, the period of Mr. Russell's return to Stockholm, 1 year, 1 month, and 14 days, at $4,500 per annum	$6,038 04
	For salary, from October 22, 1818, to December 31, 1822, 4 years, 2 months, and 10 days, at $4,500 per annum	18,868 20
	For amount of his outfit, on his first entering upon the duties thereof, in 1816	4,500 00
1705.	For amount of an outfit on Mr. Russell's second departure from Stockholm, in 1818, as United States minister there	4,500 00
	For salary, from January 1, 1823, the period to which it was last adjusted, to July 15, 1825, the day on which he left Stockholm, making 2 years, 6 months, and 15 days, at $4,500 per annum	11,433 42
		44,339 66

Charles Pinkney, Chargé d'Affaires at St. Petersburg.

1249.	For his salary, from February 1, 1818, to January 31, 1819	$4,500 00
	For his salary, from June 21, 1820, to June 6, 1821	4,326 93
		8,826 93

John J. Appleton, Chargé d'Affaires at Madrid.

1575.	For his salary, from March 3 to December 3, 1823, this last being the day on which Mr. Nelson arrived to assume the duties of minister, making 9 months and 1 day, at $4,500 per annum	$3,395 10

Daniel Sheldon, Chargé d'Affaires at Paris.

1672.	For salary, from May 16, 1823, to April 2, 1824, 10 months and 17 days, at $4,500 per annum	$3,968 40
	For amount of his outfit	4,500 00
		8,468 40

John A. King, Chargé d'Affaires at London.

1829.	For his salary, from July 1, 1826, the day on which his duties commenced, to August 31 following, when they terminated, 62 days, at $4,500 per annum	$758 15
	For amount of his outfit, equal to 1 year's salary	4,500 00
		5,258 15

All which is respectfully submitted.

JOSEPH NOURSE, *Register.*

TREASURY DEPARTMENT, *Register's Office, January* 20, 1827.

B.—*Extract of a letter from Mr. Adams, Secretary of State, to Lewis McLane, Esq., Chairman of the Committee of Ways and Means of the House of Representatives of the United States.*

DEPARTMENT OF STATE, *Washington, March* 10, 1824.

"I have the honor of informing you that outfits have usually been allowed to Secretaries of Legation, who have been left as Chargé des Affaires, on the return of ministers plenipotentiary to the United States upon the termination of their missions.

"They have not been allowed in cases of temporary absences of ministers, whether upon public concerns or for their personal accommodation.

"Instances of the allowance, in the cases referred to by your letter, are, of Mr. Henry Jackson, on the return of Mr. Crawford from Paris in April, 1815, and of Mr. J. A. Smith, on my return from London in June, 1817; also, of Mr. C. Hughes, on the return of Mr. Russell from Sweden in 1819, and of Mr. A. H. Everett, on the return of Mr. Eustis from the Netherlands in 1819."

19TH CONGRESS.] No. 453. [2D SESSION.

SPOLIATIONS BY FRANCE PRIOR TO SEPTEMBER 30, 1800.

COMMUNICATED TO THE SENATE FEBRUARY 8, 1827.

Mr. HOLMES, from the Select Committee, to whom were referred the petitions of Joseph Emerson, and many others, praying to be remunerated for losses sustained by captures and other injuries under authority of the French Republic, made the following report:

The petitioners have presented claims against the United States for captures and other injuries inflicted under authority of the French Republic, previously to the convention of September 30, 1800, for which no indemnity was provided by that convention. They state, in substance, that their property was taken from them in contravention of the laws of nations and existing treaties; that the United States have not only failed to enforce their claims against France, but have expressly relinquished them for a fair consideration, and they therefore ask an indemnity to the amount of the claims relinquished.

The petitioners have furnished no evidence of the injuries of which they complain, nor of the amount of their losses; and, in ordinary cases, the committee would be justified in a report against them, for want of proof.

But, inasmuch as it was admitted, by the ministers of both parties to the convention of 1800, that illegal captures and detentions had been made, under the authority of the French Republic, against citizens of the United States; that the injuries sustained were of considerable amount; and as it appears that the claims for these were relinquished by the United States, in discharge of alleged infractions of the treaty of commerce with France of 1778, and to release us from the guaranty in the treaty of alliance of the same date, and the consular convention of November 14, 1788, it is fair to presume the petitioners expected that the Senate would determine the *preliminary question* whether, under the circumstances of the case, the United States were obliged, in equity, to make to them *any* compensation.

In this view of the case, the committee consider it their duty to answer this question, and present the answer and the reasons to the Senate for their consideration and decision. If the petitioners are entitled to any portion of their claims, there can be no good reason to withhold it from them; and if not, it is due to them that we should definitively refuse them, and assign the reasons for such refusal. To do this, it will be necessary to present to the Senate the state of the controversy between France and the United States at the time these claims were relinquished.

By the 17th article of our treaty of commerce with France of 1778 her armed ships, with the prizes taken from her enemies, were entitled to shelter and protection in our ports, while those of her enemies were excluded. By the 25th article of our treaty of 1794 with Great Britain, *her* armed ships, with their prizes, were admitted, and those of her enemies excluded, with a *proviso*, however, in favor of nations with whom we had existing treaties. France, nevertheless, complained, and, in many instances, her complaints were by no means groundless—that, contrary to our express stipulations with her, British armed ships, with their prizes taken from her citizens, were admitted and protected in the ports of the United States. It was insisted by France that the 25th article of the British treaty was a direct infraction of ours with her, and that the *proviso*, whatever its intent, had no practical effect in her favor. The coalition against France had agreed to enforce the extraordinary principle, that articles of ordinary sustenance might *become* contraband of war. To this coalition, formed by the treaties of Pavia and Pilnitz, in 1791, Great Britain was, though not an ostensible, a real party. It was afterwards extended to embrace other Powers, and the stipulations were to prohibit the exportation of provisions to France, shut their ports against her, employ all means in their power to injure her commerce, and to unite all their efforts to prevent neutral Powers from giving any protection whatever, directly or indirectly, to the commerce or property of the French on the sea, or in the ports of France. Pursuant to this combination, not only against France, but against all neutral commerce, Great Britain, early in 1793, captured our vessels bound to French ports. In retaliation, the French Republic, by the decree of May 9, 1793, authorized the capture of neutral merchant vessels bound to British ports. In each case a limited and very inadequate compensation was to be awarded for cargo, freight, and detention. The decree of May 23 excepted our vessels from the operation of that of the 9th; that of May 28 included us; that of July 1 exempted us, and that of July 27 comprised us within its provisions. The reason, or rather excuse, for this, given by the French minister to Mr. Morris, in his letter of October 14, 1793, is, "the extreme rigor with which the English and other belligerents treat all neutrals destined for France." To which he adds, "The difficulty of distinguishing our allies from our enemies has often been the cause of offences committed on board your vessels; all that the administration could do is to order indemnification to those who have suffered, and to punish the guilty." Pressed by this formidable coalition, and distracted by the events and atrocities of the revolution, France was constantly vibrating between a retaliation upon her enemies on the one hand, and a wish to conciliate us on the other. This extraordinary attempt to reduce, by *famine*, such a nation as France, as wild and extravagant as it was unjust to neutrals, was justly condemned as a direct contravention of

the laws of neutrality. But by the 18th article of our treaty with Great Britain of 1794 it was, in effect, conceded that provisions and other articles bound to the ports of her enemies might *become* contraband; that the vessel might be carried into a British port, and the cargo disposed of, paying the value and an ordinary mercantile profit. It is easily perceived that this humiliating concession was little relished in the United States, and much less in France. The second article of the treaty of commerce of 1778 having provided that concessions to others should become common to the parties, it was not unreasonable to expect that France would insist on a right corresponding with that conceded to Great Britain. To allow that our legitimate commerce might be diverted from its destination, and our cargoes be carried to and sold in a glutted market, was, *indeed, a concession*, and would seem to demand a corresponding concession to France. Unfortunately for us, this concession to Great Britain became a great annoyance to our commerce. The combination against the trade of neutrals with France, and the facility with which Great Britain, by the superiority of her Navy, could intercept that commerce, had rendered the prices of all articles of sustenance exceedingly high in France and low in England. The rule of compensation with the former was *the port of destination;* with the latter, the *port of entry;* and both nations paid us, if they paid at all, the price in the cheapest market. If France could not sustain the position that this concession to Great Britain was the extension of a corresponding right to her, still it is not clear that the concession itself was not an injury to her. Her complaints on this point, whether groundless or not, perplexed and annoyed us, and it was exceedingly desirable to be relieved from them.

By the 23d article of the treaty of commerce of 1778 it was stipulated that free ships should give freedom to *goods and persons*, contraband of war and soldiers in the service of an enemy excepted. By the treaty of 1794 with Great Britain it was conceded that the property and persons of her enemies might be taken from our ships. The result was, that while the property and subjects of Great Britain were, on board of our vessels, protected from French cruisers, those of France were denied such protection from British cruisers, and subjected to capture. It was contended that, by this provision in the British treaty, that of 1778 became *modified*, and that the right resulted to France to seize and capture British property and subjects on board of our vessels, since we had conceded to the latter the right to take those of the former. Such a claim your committee will not attempt either to resist or support. It was one which our own Government might have resisted by arguments very satisfactory to themselves, but very unsatisfactory to France. It was a subject of controversy.

In our treaty with Great Britain we had extended the articles of contraband far beyond all reasonable limits, and many articles, particularly materials for ship building, were included in the list, which were expressly exempted in our treaty with France. Whether this was a concession, entitling France to corresponding rights or privileges, or a just ground of complaint, is not now necessary to be determined; it was complained of as an injury; it was a claim from which it was desirable to be relieved.

Another injury of which France complained, and perhaps justly, was our submission to the British rule of 1756, prohibiting all commerce of a neutral with her enemy's *colonies* not permitted in time of peace. By the decrees of the national convention of February 19 and March 26, 1793, the ports of France and her *colonies* were opened to neutrals on the same terms as to her own citizens. On November 6, of the same year, Great Britain, by an order in council, or "additional instructions" to the officers of her Navy, revived this rule against our trade with the French colonies.

It would seem that the admission of a neutral into French colonies on favorable terms was an act of which her enemy had no right to complain. To interrupt it was an aggression, perhaps, which, in ordinary cases, the neutral ought to resist or counteract. France, therefore, might very justly complain, that to submit to it was a concession to her enemy at her expense. If a neutral nation submits to an unlawful interruption by *one* belligerent of its commerce with *the other*, this other may have good reason to complain, provided such neutral possesses the means of resistance.

Other claims were pressed upon us by France for injuries of which she complained: such as our prohibiting the sale of her prizes in our ports; detentions by embargo; our refusal to permit her to fit out and commission privateers; denying these privateers an asylum in our ports, and restoring their prizes to her enemy; permitting British ships-of-war, generally, to enter our ports *after having made prize of French vessels*, and to repair and refit; refusing to reclaim French prizes taken in or brought into our waters by British ships; granting facilities to Great Britain in the reduction of the French colonies in the West Indies; permitting the seizure and detention of French national vessels; submitting to the impressment of our seamen to strengthen the maritime power of her enemy; aiding the insurgents of St. Domingo, and many others not necessary to be named.

These complaints were for supposed infractions of the treaty of commerce—many of them were undoubtedly groundless; some, in their character, equivocal; and others, perhaps, valid and just. If any of the seizures and detentions of the property of our citizens can be justified by France, on the ground that the right resulted to her in consequence of concessions made to her enemy, still this would not discharge our Government from their obligation to remunerate our citizens for these losses. They, it would seem, ought to be protected in a commerce carried on conformably to the laws of nations and existing treaties, *as expounded* by the Government of the United States. If, in this exposition, the United States were in the wrong, yet we can see much reason why citizens who adventure under the faith of their own Government should be compensated for losses thus sustained. If an international tribunal should determine that, in some points of the controversy, France was right, and that the seizures, under her authority, of the property of our citizens was conformable to the laws of nations and existing treaties, still the American sufferer might well demand of his Government compensation for injuries arising from its own error. Be this as it may, it is most certain that from 1792 to 1800 property of our citizens, to a large amount, was wrested or plundered from them by authority of the French Government without color of right, and even without the formality of adjudication. For these palpable injuries the United States were most unquestionably bound to demand indemnity *in behalf of the sufferers.*

Your committee will now proceed to examine the claims of France arising under *the treaty of alliance.*

By the 11th article of that treaty "the two parties guaranty mutually, for the present and forever, against all other Powers, to wit: The United States to his most Christian Majesty the present possessions of the Crown of France in America, as well as those it may acquire by the future treaty of peace; and his most Christian Majesty guaranties to the United States their liberty, sovereignty, and independence, absolute and unlimited, as well in matters of Government as commerce, and also their possessions, and the possessions and additions or conquests that their Confederation may obtain during the war from any of the dominions now or heretofore possessed by Great Britain in North America, conformable to the 5th

and 6th articles above written. The whole, as their possession, shall be fixed and assured to the said States at the moment of the cessation of the present war with England." The 5th and 6th articles alluded to provided that if the United States should make conquest of the British possessions in North America or Bermuda, these should belong to them, and that France should renounce all claim to them; and it was further provided in the 12th article that "the reciprocal guaranty should have effect the moment the war should commence between France and England, or if no such war, then at the moment hostilities should arise between Great Britain and the United States." At the time of the ratification of this treaty the possessions of the Crown of France in America were, we believe, Cayenne, on the continent, and the islands of St. Domingo, Martinico, Guadaloupe, St. Lucia, St. Vincent, Tobago, Deseada, Marie Galante, St. Pierre, and Miquelon.

In the war of our Revolution France lost several of these islands, which were restored to her by the peace of 1783. This guaranty was "for the present and forever;" and should any other Power thereafter attempt a conquest of the possessions of either party thus guarantied, the party attacked might demand succor of the other, and, in case of failure and loss, an indemnity. It has not, we believe, been ever pretended that France, on her part, had failed to fulfil this guaranty. By the first article of the treaty of peace of 1783 his Britannic Majesty acknowledged the United States (the identical party to the treaty of 1778) to be free, sovereign, and independent, and relinquished all claim to them forever, and by boundaries perfectly satisfactory to the United States.

To the time of the convention of the 30th of September, 1800, our limits had not been disturbed, and our "liberty, independence, and sovereignty" continued "absolute and unlimited."

With France it was very different. She had been despoiled of many of her possessions in America; had lost the fine island of Martinico, with others of inferior note, and was in danger of losing the rest.

In 1791, when the coalition was formed against France by the treaties of Pavia and Pilnitz, she had been nearly four years distracted by a revolution sanguinary in its character beyond example. It was known that England was a party to that coalition. War, in fact, existed with England before France, in 1793, declared against her. Her ambassador had been sent home, and this, by the treaty of 1786 between the parties, was to be considered as a commencement of hostilities.

In this state of things, France, struggling with internal and external enemies, powerful and vindictive, her American possessions unprotected and exposed to the superior naval power of Great Britain, the President of the United States, in February, 1793, issued his proclamation of neutrality, avowing and defining the policy to be pursued by the Government, and prescribing the rule of strict and rigid impartiality towards the belligerents.

There can be no doubt that, at this time, the *casus fœderis* had occurred, if France had demanded a fulfilment of the guaranty. War between France and England actually existed; the French American possessions were threatened; early in April the British forces garrisoned Martinico; and during the next year most of the French possessions in the West Indies were captured by the British land and naval forces.

From the commencement of this war in Europe our Government was exceedingly apprehensive that France would require us to fulfil the stipulations of the treaty of alliance. On the 21st of December, 1792, Mr. Morris, our minister in France, in his letter to the Secretary of State, expresses his apprehension that "the question respecting the guaranty of American possessions may be agitated, especially if France should attempt to defend her islands," and, disclaiming the discussion of the question of our obligation, expresses his "wish that all our treaties (however onerous) may be strictly fulfilled, according to their true intent and meaning." This subject of the guaranty was one from which our Government felt much anxiety to be relieved. To the time of the convention of 1800 France had uniformly insisted that we were obligated to fulfil the guaranty; while in the United States public opinion had been much divided, and some of our most distinguished statesmen had taken opposite sides of the question. It was insisted that this was only a *defensive* alliance, and that in this war France was the *aggressor*. Whether this ground was tenable in point of *fact or principle* admits of much doubt. France, then distracted by internal commotions, was also contending against Europe in arms. The objects of the coalition were well understood, and it was well known that England was a party to that coalition from the first. France was to be coerced to restore her legitimate monarch, and by means, too, which violated all the laws of neutrality. If ever a nation is engaged in a *defensive* war, it is in resisting enemies whose professed object is to regulate its *internal government*. It is quite certain that one of the parties to the guaranty has not the exclusive right to determine whether the other is the *aggressor* in a war in which it may be engaged. France, perhaps, had a right to determine for herself when her honor and safety required that she should resort to arms; and had we been at war, and demanded of her the fulfilment of this *mutual* guaranty, we should have scarcely been satisfied with the answer, "this is a defensive alliance, and you are the aggressors." And it is, at least, *a subject of controversy*, whether, by this treaty of alliance, the *casus fœderis* did *only* occur when one of the parties is engaged in a *defensive* war. The United States guarantied to France, *for the present time and forever*, not only her *present* possessions in America, but those which she might acquire *by the future treaty of peace*. France, by the terms of the treaty, engaged voluntarily in the war with Great Britain, and as against her this war was clearly offensive, and with the expectation, too, of an acquisition of territory "by the future treaty of peace." The proclamation of neutrality by the President, of February, 1793, is no evidence that it was *his* opinion that the *casus fœderis* had not occurred. The question was presented to his Secretaries or "Cabinet," and they were equally divided—Messrs. Jefferson and Randolph taking the affirmative, and Messrs. Hamilton and Knox the negative of the question. Whatever may have been the opinion of the President himself, it does not appear that he ever expressed it. The Federal Government had then been in operation less than four years; its success had satisfied the expectations of its friends; the Revolutionary debt had been funded, and provision made for its extinguishment; we were fast recovering from the losses and sufferings of the Revolution, and from the state of almost anarchy which succeeded it. But our Northwestern posts were still held by the British, contrary to the stipulations of the treaty of peace; we were at war with the Indians; our citizens were poor, and public credit had scarcely revived. The war of the French revolution was extraordinary and sanguinary; and when and what was to be its termination no one could predict. Considering then our own weakness and necessities, and the superiority of the British as a naval Power, it was difficult and hazardous for us, if we should attempt it, to preserve to France her possessions in America. The President determined, very wisely, that, before any demand should be made on us by France, he would prescribe and enjoin a strictly impartial neutrality towards the parties at war, trusting to events, and preferring, perhaps, future indemnity to France for the loss she might sustain of her possessions in America,

rather than to be involved in a war of such a character, threatening wide desolation, and putting at hazard the prosperity, if not the independence, of the United States. Even admitting that the time had not come when France could claim the benefit of this guaranty, we were still entangled with this alliance; for the obligation was for the present and forever. Until the alliance should be dissolved by mutual consent or open war, we were liable to be involved in every war in which the French possessions in America might be in danger. And although the guaranty was *mutual*, yet, considering the relative condition of France and the United States, her obligation to us was merely nominal—it was worth nothing. But, inasmuch as it was necessary for France to exert her whole strength in her European wars, our guaranty of her American possessions was highly important to her; and, consequently, she in 1793 gave instructions to her minister here that, in any new treaty with us, he should make this guaranty an indispensable condition.

Whatever might have been our obligation to France under the provisions of the treaty of alliance, it was not to have been expected that she would have been convinced that we were exonerated, while we entertained such difference of opinion on the subject ourselves. And it is recollected that two of our most distinguished statesmen took opposite sides of the question, and engaged in the contest at great length and with much learning and ability. If the Government of the United States could have proved to *our* satisfaction that this claim for indemnity was utterly groundless, still it was necessary to go further, and satisfy France. This claim, just or otherwise, was *a subject of controversy*, which we severely felt, with which we were exceedingly perplexed, and from which we were extremely solicitous to be relieved. Your committee are well aware that it is believed by some that, in consequence of the collisions of 1798 and 1799, our treaties with France were annulled, and all obligations under them had ceased. France had, under various pretexts, taken and sequestered or condemned property of our citizens to a large amount. At that time our controversy with her was approaching a crisis; and such were our complaints that Congress, by the act of May 28, 1798, authorized the President to cause to be seized, and brought in for adjudication, the armed vessels of the French Republic which should have committed depredations on our citizens, or should be found hovering on our coasts for that purpose, and to retake any vessel captured; and by an act of the 7th of July of the same year our treaties and the consular convention with her were abrogated. A partial war ensued; there were several engagements on the ocean, and some of her national vessels were captured. Still we were not in such actual open war as would absolve us from treaty stipulations. It would be difficult to convince France that we could annul the treaties by an *ex parte* act of legislation; and as to the *contest*, it was never understood here that this was such a war as would annul a treaty. By the acts of Congress of June 13, 1798, and February 15, 1799, suspending our commercial intercourse with the French Republic, the President was authorized to discontinue the prohibitions and restore the intercourse, on satisfactory evidence that the French aggressions had ceased. And surely, if this had been an actual, open, flagrant war, such as would abrogate all treaties, Congress could not by law have authorized the President to *make peace*, but with the advice and consent of the Senate, two-thirds concurring. In the President's instructions to his envoys to France, (Messrs. Ellsworth, Davie, and Murray,) dated October 22, 1799, he says: "This conduct of the French Republic would well have justified an immediate declaration of war on the part of the United States; but desirous of maintaining peace, and still willing to leave open the door of reconciliation with France, the United States contented themselves with preparations for defence, and measures calculated to protect their commerce." The convention of 1800 was, moreover, not a treaty of peace, either in form or substance. The treaties of 1778 were the basis of the negotiation. The question between the negotiators was not so much whether war had annulled these treaties, as whether they should be annulled by negotiation. They were expressly recognized in the second article of the convention, and that article being afterwards expunged by mutual consent, these treaties thereby became null and void by convention, and not by war.

France never admitted that these treaties were annulled by war. In the negotiation which resulted in the convention of September 30, 1800, the French ministers insisted that "the treaties which united France and the United States are not broken; even war could not have broken them;" and that "the misunderstanding which existed was not a state of war, at least on the side of France."

The President, in his instructions to Messrs. Pinkney, Marshall, and Gerry, of the 15th of July, 1797—the same as those given afterwards to Messrs. Ellsworth, Davie, and Murray, in 1799—observes that "*specific succors* have the advantage of certainty, and are less liable to occasion war," and proposes that, "instead of troops or ships-of-war, it will be convenient to stipulate," in a future war, "for a moderate sum of money, or quantity of provisions, at the option of France," not to exceed the annual sum of two hundred thousand dollars; but cautions his ministers not to stir the question *of guarantee if France is silent on the subject.*

The American ministers who negotiated the convention of 1800 were, moreover, specially instructed to claim and insist on indemnities for illegal captures and detentions; and, in their first *project*, they, in the second article, proposed provision for mutual indemnification for individual citizens, but were cautiously silent on the subject of the guarantee. The French negotiators insisted on the advantages resulting from the priority of treaties. At length they proposed the simple alternative, "either the ancient treaties, with the advantages resulting from their priority, and the stipulation of reciprocal indemnities, or a new treaty, assuring equality without indemnity." Our ministers proposed: "1. A renewal and confirmation of former treaties. 2. The payment, in seven years, of three millions of francs, to reduce the right, as to privateers and their prizes, to those of the most favored nation. 3. In lieu of the mutual guarantee in the treaty of alliance, that, when either party should be attacked, the other should furnish and deliver property to the amount of one million of francs; either party to be exonerated from this stipulation on paying, within seven years, the gross sum of five millions. 4. To place commerce on a footing of the most favored nation. 5. A reciprocal stipulation for indemnity."

Finally, the last branch of the French alternative was substantially agreed to; for the second article of the convention provides, or rather declares, that "the ministers plenipotentiary of the two parties, not being able to agree at present respecting the treaty of alliance of the 6th of February, 1778, and the treaty of commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further at a convenient time; and, until they may have agreed on these points, the said treaties and convention shall have no operation." This convention was ratified by the United States, expunging this article, and limiting its duration to eight years. France agreed to the limitation, and to the "retrenchment" of the article, adding, however, a proviso, "that, by this retrenchment, the two States renounce the respective pretensions which are the object of the said article." This convention had been negotiated under the administration of Mr. John Adams; and Mr.

Jefferson, who had succeeded him, supposing probably that this proviso made such an alteration in the convention as to require the further advice and consent of the Senate, submitted it to their consideration; and, on the 19th of December, 1801, they resolved (two-thirds of the members present concurring therein) that they considered the said convention as fully ratified, and that it be returned to the President for the usual promulgation. It was accordingly promulgated in the usual form.

Although it has been doubted by some whether this convention was constitutionally ratified, yet, as it was made with the advice and consent of the Senate, two-thirds concurring therein; as it was observed during the eight years as the supreme law of the land, and, if null and void, would leave open the claims for reciprocal indemnity and mutual guarantee, your committee can see neither the reason nor policy of raising a doubt of its validity.

At any rate, it is certain that, by its provisions, the petitioners have lost all prospect of indemnity from France; and now the question presented by the petitioners recurs: Are the United States bound to remunerate them to *any* amount? That a nation is not obliged to press the claims of its citizens upon a foreign Power at the risk and expense of a war is readily admitted. It is obligated only to a fair exertion of its ability. As an *agent* of the claimant, it should not press his claims so far as to subject others to equal or greater injuries. The United States, therefore, in pressing these claims as far as they safely could, and seeing no prospect of success, might have been justified in waiving or postponing them, or taking a less sum than their actual amount. The late convention with Great Britain, taking a *gross sum* for slaves and property taken from our citizens during the late war, is an example. We obtained all we could for the claimants, reserving nothing to *ourselves*. But, clearly, the petitioners present no such case. Had the deficiency, in the case cited, been reserved for the benefit of the United States, or any part converted to their use, the claimants might have presented a case analogous to that of the petitioners. In this under the consideration of the committee France and the United States had reciprocal claims for infractions of the law of nations and existing treaties. Whether those of France were valid or not, they were matter of controversy which it was our interest to settle and adjust. Had the convention, as was proposed by our ministers, provided for reciprocal indemnites, and had Commissioners been appointed to liquidate the claims and determine their validity, it is impossible to say what might have been the result. Certain it is that, in such case, the United States would never have laid their hands on the adjusted claims of their own citizens to discharge those which might be allowed to France or her citizens. Such an offset would be taking private property for public uses without just compensation, and is expressly prohibited by the Constitution. And how would such a case vary from that of the petitioners? It is now too late for the United States to question the justice and validity of these claims as against France. We have pressed them upon her as valid and just; she has admitted them, and given us an equivalent to release them. We *have* released them; and, though they were unliquidated, still they were capable of liquidation, and either their amount or the value which we obtained for their discharge would be equitably due to the claimants.

Were the question between individuals the case would be clear. If one takes the claim of another, whether a matter of controversy or a liquidated debt, he is bound to respond for the full value. And if an agent, though held responsible only for a fair exertion of his ability, converts the property or rights of his principal to his own benefit, he should surely account to him, at least to the value of the benefit received. If we consider the United States in the character of agents for the claimants, accountable for a fair exertion of their ability, we should remunerate them for what we *did* obtain.

Were this a new principle, and we were now about to establish it as a *rule*, although we should do it with much caution and deliberation, yet we cannot perceive what better rule could be adopted. But it seems to your committee that it is already established, and one by which the United States have always professed to be governed, and by which, as we believe, they have generally acted.

In our compacts with several States, whenever we have taken for our own use property reserved by the compact to them, we have readily admitted our liability to respond. In that with the State of Georgia we had, among other things, stipulated to extinguish the Indian title within her limits. In attempting to fulfil this stipulation, we, in a treaty with the Indians, ceded to certain individuals a portion of the same lands as a part of the consideration for the extinguishment of title, thus taking for our own use part of the lands which we had stipulated to purchase for the use of Georgia to pay for another part which we did purchase. Georgia complained, and claimed an appropriation to extinguish the title to these "reservations." Her claim was too just to be refused, and we readily granted the appropriation. Many of our citizens had suffered injuries from Spain, similar to those of which the petitioners complain. Spain was unable to pay an adequate indemnity but by a cession of territory. We received the territory for our benefit, exonerated Spain from the claims of our citizens, and paid them what we deemed a fair equivalent for the cession. Should it be objected that it cannot be ascertained what was the value of the consideration paid by France for the release of these claims, the same difficulty was presented in the case of Spain. The claimants were obliged to submit to our estimate, and receive the amount which we determined the cession to be worth. Had we, in the case of Spain, obtained the cession of territory and made no provision to pay our citizens for claims released, this would have been a case against the petitioners. As it is, it is certainly a case in their favor. In each case the consideration for the release was worth *something*, and upon that something we ought, in the one case, as we did in the other, to fix a fair and reasonable value, and remunerate the claimants to that amount. A Board of Commissioners, such as was proposed by our ministers, might have burdened us with a debt equal to the losses of the French possessions, with the addition of indemnities for infractions of the treaty of commerce, and the sums thus awarded might have equalled, and even exceeded, the actual losses of all the claimants. They now ask us to determine the amount ourselves, to provide for the examination, liquidation, and payment of their claims, and they will then be satisfied that they have been treated *as others*.

The United States have faithfully fulfilled their engagements with foreign nations and the individual States; they have satisfied their citizens for Spanish spoliations. In the convention of 1803, for the purchase of Louisiana, they reserved twenty millions of francs out of the consideration to satisfy our citizens for "*debts*" due to them from the French Government prior to the 30th of September, 1800, and expressly stipulated in their favor in the fifth article of the convention of that date between the United States and France. They have, moreover, discharged a debt of gratitude to the indigent officers and soldiers of the Revolution; and the case of the petitioners seems to stand nearly alone, unadjusted, unsatisfied. Your committee, in fine, can see nothing in their case which takes it from the ordinary rule of justice, which requires that *an agent shall account for what he receives for his principal*, or from that avowed and practiced on by the Government in other cases; and they cannot perceive how we can with-

hold from these claimants their just due, consistently with the clause in the Constitution which provides that "private property shall not be taken for public use without just compensation."

Your committee have endeavored to ascertain the probable amount of these claims thus released, and, to that end, they wrote to the Secretary of State for information, and have received the answer marked A and the document marked B, by which it appears that the number of claims for losses by seizures and detentions, from 1793 to 1800, both inclusive, is 444, and for contracts for supplies, &c., 12; that those on which there has been an estimate are 88; and the estimated amount is $2,235,702 59, which is about one-fifth of the number, and probably much more than that proportion of the whole amount. There are, probably, many others which have not been returned to the Department, and many of those which have been so returned may not be sustained, for want of the necessary proof, or for other reasons; and the estimated amount of many is, doubtless, greatly exaggerated.

From the best consideration your committee have been able to bestow on the subject, they are of opinion that the claims of our citizens against France for indemnity, which were released by the convention of the 30th of September, 1800, when examined and liquidated, would not exceed $8,000,000.

Much of the evidence in support of these claims is wanting, and is supposed to be deposited with our minister, or the Agent for Claims at Paris. Your committee are of opinion that measures should be adopted to procure the evidence which is there, or elsewhere, that the claim should be examined and liquidated; and, thereupon, provision ought to be made for the payment of a reasonable sum for their final discharge. They therefore recommend the following resolution:

Resolved, That the President of the United States be requested to procure the evidence and documents relating to the claims of our citizens against France previously to the convention of the 30th of September, 1800, and to cause an abstract of the claims, and of the evidence and documents, to be laid before the Senate at the commencement of the first session of the next Congress.

A.

DEPARTMENT OF STATE, *Washington, January* 22, 1827.

SIR: I have the honor to transmit to you, in compliance with the request in your letter of the 1st instant, "a list of spoliations and other injuries on the property of American citizens by the French, from the year 1793 to 1800, both inclusive," as far as the documents on file in this office admit of the detail required by your committee. The statement, however, as you will perceive, is necessarily imperfect, from the deficiency of the materials on which it is founded.

In answer to the inquiry of the committee, whether any and all the evidence to support the claims be in this Department, and if not, where it could be obtained, I have the honor to state that, without a full and particular examination of that which is on file here, and which has been used in forming the present list, no conjecture can be hazarded (if it were proper to make one) as to its sufficiency in regard to the claims to which it relates; but it is believed that the list itself is essentially and greatly deficient as to the number of existing claims for the period which it comprehends.

The fact is not precisely known, but it is supposed that the papers in many of the cases included in this list are to be found in the office of the Agent of Claims at Paris.

I am, sir, respectfully, your obedient servant,

H. CLAY.

JOHN HOLMES, Esq., *Senate of the United States.*

B.

List of spoliations and other injuries on the property of American citizens by the French, from the year 1793 *to* 1800, *both inclusive.*

No. of claim.	Description and name of vessel.	Captain's name.	Owner's name.	When and where captured.	What port carried into for adjudication.	Description of cargo.	Amount.	Probable aggregate amount of claim.	How disposed of.	Remarks.
1	Ship Andrew	Samuel Makins	Messrs. King, Pratt, & others.	April 10, 1793, not stated	L'Orient	Rice and pimento	Not stated	Not stated	Released with loss	Some evidence on file.
2	Sloop Matty	Timothy Avery	Not stated	1795, not stated	Cape Francois	Not stated	do.	do.	Condemned	Do.
3	Schooner Two Sisters	John Parks	Messrs. Field, Harlan, & others	March 24, 1795, off the West Indies	do.	Dry goods and groceries.	$8,564 45	$18,593 08	do.	Do.
4	Schooner Active	Not stated	Mark L. Hill & Co	1794, off the West Indies	Guadaloupe	Not stated	Not stated	Not stated.	do.	A letter on file. Evidence presumed to be at Paris.
5	Brig Gayoso	James Graisbury	Messrs. Reed & Ford	Aug. 14, 1793, off the Capes of Delaware.	Philadelphia	do.	do.	2,386 90	Not stated	A statem't of the parties.
6	Brig Patty	Josiah Hem-tead	I. Riley	September 2, 1796, off Antigua	Guadaloupe	American produce	do.	Not stated.	Condemned	Evidence on file.
7	Ship Hope	John Rodgers	Buchanan & Young	January 16, 1797, 25 leagues off Sully	L'Orient	Not stated	do.	23,000 00	do.	Do.
8	Snow Jenny	— Delisle	Buchanan & De La Porte	1797, not stated	Gonaives	do.	do.	5,550 00	Cargo taken	A letter on file.
9	Snow Isabella	James Helm	James Buchanan and others	April, 1797, not stated	Point Petre, (Guadaloupe)	do.	do.	Not stated.	Condemned	Do.
10	Brigantine Friendship, of Salem.	George Hodges	Nichols & Hodges	June 27, 1797, latitude 27° 15′ north, longitude 54° 13′ west.	Cape Francois	Dry goods and groceries.	do.	do.	do.	Evidence on file.
11	Brigantine Despatch	Thomas Lunt	Messrs. Parry, Harn, & Lunt	Nov. 18, 1796, near Cape Nichola Mole	Port du Paix	Lumber and provisions.	do.	do.	do.	4 letters on the subject.
12	Brig Little Sarah	Joseph Lowry	Messrs. Holland & Mackie, owners of the cargo.	April, 1793, off the Delaware	Philadelphia	Flour and meal, &c	do.	do.	Cargo taken	A memorial of the parties.
13	Sloop Martha	Joshua McWilliams	Edward Dunant, owner of the cargo.	March, 1795, not stated	Port du Paix	Flour and almonds	do.	do.	do.	Memorial and letters.
14	Schooner Union	Henry Hooper	Robert Hooper	October, 1794, near Monte Christi	do.	16 negroes	do.	2,000 00	Condemned	Evidence on file.
15	Ship Pallas	Not stated	Messrs. Mari & Gordon	1797, off Charleston	Not stated	Not stated	do.	Not stated.	Not stated	A letter on file.
16	Ship Flora	Thomas Scott	Not stated	June 2, 1796, not stated	Pillaged & detained at sea.	do.	do.	do.	do.	Evidence on file.
17	Brig Mary	— Murner	Anthony Butler	September 25, 1796, not stated	Not stated	do.	9,100 00	18,000 00	Condemned	A letter on file.
18	Barque Providence	Not stated	do.	May, 1796, not stated	Guadaloupe	do.	2,000 00	5,000 00	do.	Do.
19	Sloop James	do.	do.	Apparently in 1797, not stated	Cape Nichola Mole	do.	11,500 00	17,600 00	do.	Do.
20	Brig Penelope	do.	do.	Apparently in 1796 or 1797, not stated	Jamaica	do.	Not stated.	12,000 00	do.	Do.
21	Brig Molly	do.	do.	do. do. do.	Not stated	do.	2,500 00	2,500 00	Cargo condemned	Do.
22	Ship Severn	— Goodrich	Stephen Deblois, John Othout & Co.	1794, not stated	Brest	do.	Not stated.	Not stated.	do.	2 letters on file.
23	Brig Samuel	Alexander Black	W. Arnold. (Gibbs & Channing owners of the cargo.)	April, 1796, not stated	St. Malo	do.	do.	do.	do.	A letter on file.
24	Schooner Clara	— Lathrop	Benjamin Williams	April 9, 1797, off Tortugas	Cape Nichola Mole	do.	do.	do.	Retaken by the English	Do.
25	Ship Paragon	Thomas Marshall	P. Nichlin & Co., owners of the cargo.	1794, not stated	Not stated	Flour and staves.	15,208 00	15,208 00	Condemned	Some evidence on file.
26	Schooner Active	Nathaniel Atkins	James Crawford	January 11, 1797, off Barbadoes	Guadaloupe	Rum and sugar	1,691 00	1,691 00	Cargo condemned	Do.
27	Sloop Lucy	Not stated	Nathaniel Eaton, owner of part of the cargo.	September, 1796, not stated	do.	Horses	Not stated.	Not stated.	do.	A letter on file.
28	Schooner George, of York	— Fraiser (app'rs)	Not stated	April, 1798, not stated	do.	Not stated	do.	do.	Condemned	Evidence on file.
29	Brig Amphion	Joshua Sayer	Robert Wilson	1796, not stated	Cayenne	do.	do.	do.	do.	A letter on file.
30	Schooner Juno	William Burgess	Patton & Dykes	July 18, 1796, off Port au Prince	Leogane, (Hispaniola)	Flour, meal, and bread.	do.	do.	do.	Some evidence on file.
31	— New Jersey	— Clay	Not stated	Apparently in 1798, not stated	Not stated	Not stated	do.	do.	Detained	Do.

B.—LIST OF SPOLIATIONS—Continued.

No. of claim.	Description and name of vessel.	Captain's name.	Owner's name.	When and where captured.	What port carried into for adjudication.	Description of cargo.	Amount.	Probable aggregate amount of claim.	How disposed of.	Remarks.
32	Brig Brothers	John Baptist Smith	Jas. Barry. (Smith & Buchanan owners of the cargo.)	1796, not stated	St. Bartholomew	Sugar moulds	Not stated	Not stated	Condemned	Some evidence on file.
33	Ship James	John Smith	Sam. & J. Smith, and S. Smith & Buchanan.	December, 1796, not stated	Guadaloupe	Flour	$16,674 00	$16,674 00	Released with loss	A letter on file.
34	Brig Abeona	Isaac Isaacs	Sam. & I. Smith, John Hollins, and Smith & Buchanan.	1797, not stated	Jean Rabel	Not stated	5,380 75	5,380 75	Escaped with loss	Do.
35	Brig Nathaniel	David Young	Gale & Young	August 1, 1797, off Cape Nichola Mole	Port de Paix	Staves, shingles, meal, &c.	Not stated	Not stated	Condemned	Evidence on file.
36	Ship Commerce	Godfrey Wood	Murray & Mumford	June 27, 1797, off the Capes of Virginia	Porto Rico	Salt, crockery ware, &c.	do.	do.	do.	Some evidence on file.
37	Ship Louisa	Holder Tallman	John Clark	February 13, 1797, off Turtle island	Jean Rabel	Staves, shingles, &c.	do.	do.	Not stated	
38	Ship Fame	Joseph Brown	Hall and McClintock	March 12, 1797, off Porto Rico	Curaçoa	Sugar	5,768 64	15,463 64	Condemned	Evidence on file.
39	Brig Harmony	Samuel Clapp	Francis Becker	June 21, 1797, off Nichola Mole	Jean Rabel	Staves, hoops, &c.	5,471 60	5,864 96	do.	Do.
40	Sloop Polly	John Dunn	Henry Ball	August 27, 1796, not stated	Leogane, Hispaniola	Molasses, &c.	Not stated	1,085 00	do.	Do.
41	Brig Juno	John Walker	James Sheafe	April 10, 1797, lat. 45° 30′, long. 18°	Nantz	Rice, coffee, &c.	do.	Not stated	do.	Two letters on file.
42	Schooner Paragon	Not stated	George Taylor	April 28, 1797, not stated	Tortuga	Not stated	10,000 00	14,000 00	do.	One letter on file.
43	Schooner Juno	do	George Taylor, (one of the underwriters.)	1796, near the West India islands	Not stated	do	Not stated	86,000 00	Cargo condemned	Do.
44	Schooner Hopewell	do	do	1796 or 1797, near the West India islands.	Cape Francois	do	do			
45	Brig Hope	do	do	do do	Guadaloupe	do	do			
46	Brig Joseph	do	do	do do	do	do	do			
47	Schooner Hannah	do	do	do do	Not stated	do	do			
48	Schooner Lucy	do	do	do do	Port de Paix	do	do			
49	Brig Virginia	do	do	do do	Guadaloupe	do	do			
50	Schooner Rebecca	John Hall	Valck & Co	October 5, 1796, near Barbuda	St. Martin	Dry goods and groceries.	31,910 88	35,160 88	do.	Evidence on file.
51	Brig Greenfield	John Stevenson	David & Gordon Mumford	April 24, 1796, not stated	Cape Nichola Mole	Not stated	Not stated	Not stated	do.	A letter on file.
52	Schooner Rebecca	Mildmay Smith	Not stated	April 26, 1796, off St. Mark's	Petit Guave	Groceries, &c.	do.	do.	Detained	Some evidence on file.
53	Brig William	James Gilmore	do	1798, near the West India islands	Aux Cayes	Not stated	do.	do.	Condemned	Two letters on file.
54	Brigantine Thomas	Not stated	Salisbury & Higginson, part owners of cargo.	1797 or 1798, not stated	A French port in the Bay of Biscay.	do.	6,908 00	6,908 00	do.	A letter on file.
55	Ship Alexander Hamilton	William Wise	John Hollins	July 6, 1798, off Little Egg Harbor	Not stated	do.	Not stated	150 00	Detained	Some evidence on file.
56	Brig Union	Abel Lunt	A. & Benjamin Frothingham	May 22, 1798, lat. 49° 1′, long. 18° 49′	Bordeaux	Sugar, coffee, and cotton.	do.	Not stated	Condemned	A letter on file.
57	Sloop Cicero	Thomas Taggart	Thomas Tennant	September 20, 1799, not stated	Cape Nichola Mole	Flour, coffee, &c.	25,491 50	29,491 50	do.	Evidence on file.
58	Sloop Cicero	William Edwards	Ezekiel Freeman	October 24, 1799, not stated.	do.	Not stated	Not stated	2,500 00	Detained	Do.
59	Schooner Polly	Knot Pedrick	Maxton & Aitchison, (owners of cargo.)	September, 1799, off Leogane, Hispaniola.	Petit Guave	Dry goods, &c	80,000 00	80,000 00	do.	Two letters on file.
60	Brig Nymph	Charles Hardy	L. Croucillat	Mar. 30, 1799, lat. 40° N., long. 30° 11′ W.	Bordeaux	Not stated	Not stated	Not stated	Not stated	A letter on file.
61	Schooner Minerva	—— Andall	do.	Mar. 31, 1799, lat. 40° N., long. 30° 11′ W.	do.	do.	do.	do.	do.	Do.
62	—— Elizabeth, of N. York.	Not stated	Not stated	1798 or 1799, not stated.	Not stated	do.	do.	do.	do.	Do.
63	Ship Mary, of Charleston.	do	do	do.	do.	do.	do.	do.	do.	Do.
64	—— Fame, of New York	—— Story	do	do.	do.	do.	do.	do.	do.	Do.
65	Ship Fox	Not stated	Thomas Hazard and others	do.	Guadaloupe	do.	do.	do.	Condemned	Do.

B.—LIST OF SPOLIATIONS—Continued.

No. of claim.	Description and name of vessel.	Captain's name.	Owner's name.	When and where captured.	What port carried into for adjudication.	Description of cargo.	Amount.	Probable aggregate amount of claim.	How disposed of.	Remarks.
66	Brig Mary	Henry Pettis	John Bowery	August 6, 1799, not stated	Not stated	Not stated	Not stated	Not stated	Part of the crew detained.	Evidence on file.
67	Ship Confederacy	Scott Jenks	Leffingwell & Pierpont	June 4, 1797, not stated	Nantz	Tea and sugar	$400,000 00	$400,000 00	Condemned	Do.
68	Finmarken Gluckstein	Not stated	Messrs. Ketland, Walker & Phillips, (owners of the cargo.)	1796, not stated	Not stated	Not stated	Not stated	Not stated	Cargo taken at Leghorn	Letters on file.
69	Columba Fortunata	do	do	do	do	do	do	do	do	Do.
70	Brig Mary	— Titcomb	Not stated	Apparently in 1794 or 1795, not stated	do	do	do	do	Not stated	Evidence presumed to be in the consulate at Paris.
71	Ship Mary Ann	— Simpson	do	do do	do	do	do	do	do	Do.
72	Schooner President	— Carhart	do	do do	do	do	do	do	do	Do.
73	Schooner Active	— Drummond	do	do do	do	do	do	do	do	Do.
74	Schooner Mary	— Pratt	do	do do	do	do	do	do	do	Do.
75	Ship Four Friends	— Glenn	do	do do	do	do	do	do	do	Do.
76	Schooner Endeavor	— Ellery	do	do do	do	do	do	do	do	Do.
77	Brig Peter	— Nowell	do	do do	do	do	do	do	do	Do.
78	Brig Brutus	Not stated	do	August 20, 1796, off the West India islands.	Petit Trou	Provisions, dry goods, and cash.	15,000 00	15,000 00	Put on trial	Some evidence on file.
79	Sloop Honor	Kemball	do	August 3, 1796, off the West India islands.	do	Provisions and live stock	3,000 00	3,000 00	do	Do.
80	Schooner Burnstoff	Bonavista	do	1796, apparently off the West India islands	do	do	Not stated	Not stated	Released	Do.
81	—— Charming Polly	Pritchett	do	September 4, 1796, apparently off the West India islands.	do	Coffee and cotton	25,000 00	28,500 00	Condemned	Do.
82	Sloop Nelly	Adams	do	Apparently 1796, apparently off the West India islands.	Lane a Veaux	Ballast	Not stated	Not stated	Put on trial	Do.
83	Schooner Somerset	Dellingham	do	do do	do	Salt and wine	do	do	Not stated	Do.
84	Schooner Catharine	Story	do	do do	do	Provisions, &c	do	do	Condemned	Do.
85	Schooner Rainbow	Howland	do	do do	do	Oil	do	do	Released	Do.
86	Brig Kerhappuck	Lillibridge	do	September 24, 1796, apparently off the West India islands.	Mary Guand	Provisions	12,600 00	21,600 00	Condemned	Do.
87	Brig Nancy	May	do	Apparently 1796, apparently off the West India islands.	do	Provisions and dry goods	20,000 00	25,000 00	do	Do.
88	Brig Franklin	Peck	do	do do	do	Sugar	5,400 00	9,400 00	Put on trial	Do.
89	Brig Freemason	Wyse	do	do do	do	Provisions	25,000 00	28,000 00	Not stated	Do.
90	Brig Mary	Boyle	do	do do	do	do	6,000 00	12,000 00	do	Do.
91	Brig Clio	Ball	do	do do	Petit Guave	Provisions	Not stated	Not stated	Put on trial	Do.
92	Schooner Amelia	Cochran	do	do do	do	Wine and goods	16,000 00	16,000 00	do	Do.
93	Schooner Hope	Jacobs	do	do do	do	Provisions	8,000 00	8,000 00	Not stated	Do.
94	Schooner Nymph	Sulivan	do	do do	Not stated	Not stated	10,000 00	10,000 00	do	Do.
95	Sloop Leader	Warner	do	do do	do	do	5,000 00	5,000 00	do	Do.
96	Brig Polly	Watson	do	do do	do	do	Not stated	Not stated	do	Do.
97	Brig Pearl	Webb	do	do do	do	do	6,000 00	6,000 00	do	Do.
98	Schooner Three Friends	Wilson	do	do do	Leogane, (Hispaniola)	do	24,000 00	24,000 00	Condemned	Do.

B.—LIST OF SPOLIATIONS—Continued.

No. of claim.	Description and name of vessel.	Captain's name.	Owner's name.	When and where captured.	What port carried into for adjudication.	Description of cargo.	Amount	Probable aggregate amount of claim.	How disposed of.	Remarks.
99	Brig Industry	Masa	Not stated	Apparently 1796, apparently off the West India islands.	Leogane, (Hispaniola)	Not stated	Not stated	Not stated	Not stated.	Some evidence on file.
100	Brig Pomona	Not stated.	do	do	do	do	do	do	do	Do.
101	Brig Experiment	Huston	do	do	do	do	do	do	do	Do.
102	Brig Tuton	Flinn	do	do	do	do	do	do	do	Do.
103	Schooner Hannah, of Philadelphia.	Not stated	do	do	do	do	do	do	do	Do.
104	Schooner Nancy, of Philadelphia.	do	do	do	do	do	do	do	do	Do.
105	Sloop Sincerity	do	do	do	do	do	do	do	do	Do.
106	Schooner Alethea, of Georgetown.	do	do	do	do	do	do	do	do	Do.
107	Sloop Delia, of New York.	do	do	do	do	do	do	do	do	Do.
108	Sloop Hibernian, of New York.	do	do	do	do	do	do	do	do	Do.
109	Brig Charlotte	do	do	do	do	do	do	do	do	Do.
110	Brig Glasgow, of New York	do	do	do	do	do	do	do	do	Do.
111	Sloop Irona, of R. Island	do	do	do	do	do	do	do	do	Do.
112	Schooner Three Friends, of Charleston.	Parker	do	do	do	do	do	do	do	Do.
113	Schooner Eliza	Not stated	do	do	do	do	do	do	do	Do.
114	Schooner Liberty, of Boston	Williams	do	do	do	do	do	do	do	Do.
115	Schooner Ann Maria	Wilson	do	do	St. Jago de Cuba	Sugar	$5,000 00	$9,000 00	Put on trial	Do.
116	Wilmington Packet	Francis	do	do	do	Sugar and coffee	Not stated	3,500 00	do	Do.
117	Brig Wallwick, of Philad.	Mackutchion	do	Apparently in 1796, apparently off the West Indies.	do	Sugar	do	4,100 00	Not stated	Do.
118	Ship Success	Gorden	do	do	do	Not stated	do	Not stated	do	Do.
119	Ship Laurens	Not stated	do	In 1794 or 1795, not stated	Not stated	do	do	do	do	Evidence presumed to be at Paris.
120	Barque John	do	Simond	do	do	do	do	do	do	Do.
121	Schooner Lark	Lovett	Not stated	do	do	do	do	do	do	Do.
122	Schooner Deborah	Not stated.	do	do	do	do	do	do	do	Do.
123	Schooner Polly	Willis	do	do	do	do	do	do	do	Do.
124	Sloop Mary Ann	Brentnall	do	do	do	do	do	do	do	Do.
125	Brig William	Not stated	do	Apparently in 1794, not stated	do	do	do	do	do	Do.
126	Sloop Barrett	do	do	do	do	do	do	do	do	Do.
127	Ship Ellice	do	do	do	do	do	do	do	do	Do.
128	Ship Molly	do	do	do	do	do	do	do	do	Do.
129	Brig Peggy	do	do	do	do	do	do	do	do	Do.
130	Brig Kitty	do	do	do	do	do	do	do	do	Do.
131	Ship Hamilton	do	do	do	do	do	do	do	do	Do.

B.—LIST OF SPOLIATIONS—Continued.

No. of claim.	Description and name of vessel.	Captain's name.	Owner's name.	When and where captured.	What port carried into for adjudication.	Description of cargo	Amount.	Probable aggregate amount of claim.	How disposed of.	Remarks.
132	Ship America	Not stated	Not stated	Apparently in 1794, not stated	Not stated	Not stated	Not stated	Not stated	Not stated	Evidence presumed to be at Paris.
133	Brig Minerva	do	do	do	do	do	do	do	do	Do.
134	Ship Harmony	do	do	do	do	do	do	do	do	Do.
135	Barque Prudence	do	do	do	do	do	do	do	do	Do.
136	Barque Hector	do	do	do	do	do	do	do	do	Do.
137	Ship Good Friend	do	do	do	do	do	do	do	do	Do.
138	Schooner John	do	do	do	do	do	do	do	do	Do.
139	Brig Sterling	do	do	do	do	do	do	do	do	Do.
140	Brig Elizabeth	do	do	do	do	do	do	do	do	Do.
141	Schooner York	do	do	do	do	do	do	do	do	Do.
142	Ship Little Cherub	do	do	do	do	do	do	do	do	Do.
143	Ship Somerset	do	do	do	do	do	do	do	do	Do.
144	Schooner Dairy Maid	do	do	do	do	do	do	do	do	Do.
145	Brig Triton	do	do	do	do	do	do	do	do	Do.
146	Sloop Venus	do	do	do	do	do	do	do	do	Do.
147	Brig George	do	do	do	do	do	do	do	do	Do.
148	Brig Active	do	do	do	do	do	do	do	do	Do.
149	Brig Samuel	do	do	do	do	do	do	do	do	Do.
150	Sloop Diligent	do	do	do	do	do	do	do	do	Do.
151	Schooner Retrieve	Jackson	do	do	do	do	do	do	do	Do.
152	Sloop Confidence	Bradbury	do	do	do	do	do	do	do	Do.
153	Sloop Jenny	Not stated	do	do	do	do	do	do	do	Do.
154	Brig Hector	do	do	do	do	do	do	do	do	Do.
155	Schooner John and James	do	do	do	do	do	do	do	do	Do.
156	Ship Commerce	Enoch Prebble	do	do	do	do	do	do	do	Do.
157	Schooner Polly	Price	do	do	do	do	do	do	do	Do.
158	Brig Nancy	Dunning	do	do	do	do	do	do	do	Do.
159	—— Cyrus	Increase Blake	Blake & Bacon	do 1798 do	Nantz	Oranges	do	do	Cargo condemned	Do.
160	—— Theresa	James Brown	Thomas Stewart	do	do	Ballast	do	do	Put on trial	Evidence on file.
161	Brig Triumph	McConnell	Not stated	do 1795 do	Not stated	Not stated	do	do	Not stated	Do.
162	Sloop Cynthia	Matby	do	do	do	do	do	do	do	A list.
163	Brig Caliope	Allin	do	do	do	do	do	do	do	A list.
164	Ship Harriott	Strong	do	do	do	do	do	do	do	A list.
165	Brig Abigail	Smith	do	do	do	do	do	do	do	A list.
166	Brig Fox	Moses Bunker	do	November 8, 1799, not stated	St. Domingo	do	do	$1,055 00	Put in requisition to convey troops.	Evidence on file.
167	Schooner Mentor	Samuel Gould	do	do do	do	do	do	365 00	Put in requisition to convey troops.	Do.
168	Ship Hope	Not stated	Thomas Lewis & Son	December, 1800, not stated	Guadaloupe	do	do	17,862 16	Condemned	A letter.
169	Ship Mary	Phillips	Jeremiah Yellott	1800, not stated	Not stated	do	do	Not stated	Not stated	Do.

B.—LIST OF SPOLIATIONS—Continued.

No. of claim.	Description and name of vessel.	Captain's name.	Owner's name.	When and where captured.	What port carried into for adjudication.	Description of cargo.	Amount.	Probable aggregate amount of claim.	How disposed of.	Remarks.
170	Ship Delaware	Thomas Truxton	Not stated	1794, not stated	Not stated	3,000 barrels flour	Not stated	Not stated	Not stated	A letter; evidence presumed to be at Paris.
171	Brig Russel	Not stated	J. G. & Thomas Blount	1796, not stated	Cape Francois	Not stated	do	do	Condemned	A letter and other papers.
172	Ship Russel	William Wood	Gibbs & Channing	1800, Fort Angue, island of Java	Not stated	do	do	do	Not stated	Do.
173	Schooner Atlantic	William West	Not stated	February, 1800, not stated	St. Domingo	Dry goods	do	do	do	Do.
174	Brigantine Ranger	John Flagg	Thomas & W. Sheaffe	May 15, 1800, not stated	Point Petre, Guadaloupe	Lumber and provisions.	$9,673 89	$15,673 89	Condemned	Evidence on file.
175	Brig Venus	Ammi Smith	Joseph Lord	October 27, 1800, not stated	St. Eustatia	Sugar, coffee, &c	Not stated	Not stated	Cargo taken	A letter.
176	Schooner Robert	Not stated	Robert Maxwell	Apparently in 1799, not stated	Gonaives	Not stated	641 81	801 88	Part of the cargo taken	Do.
177	Schooner Three Friends, of Baltimore.	do	John Ross	Apparently in 1796 or 1797, not stated	Leogane, (Hispaniola)	Sugar	Not stated	Not stated	Condemned	Do.
178	Brig Experience	James Houston	Clement & Taylor	1796, not stated	do do	Lumber and provisions.	12,111 78	19,111 78	do	Some evidence on file.
179	Brig Matilda	Gideon Leet	Warner & Co	In 1799, not stated	St. Bartholomew	Not stated	Not stated	Not stated	do	A letter.
180	Brig Lyon	Robert Ilsley	Not stated	1800, not stated	Cape Nichola Mole	Lumber and provisions.	do	do	Detained	Do.
181	Ship Thomas Wilson	Not stated	J. Mitchell, (owner of cargo)	1795, not stated	Havre	Provisions	do	do	Cargo taken	Do.
182	Schooner Success	do	J. Brock, (owner of cargo)	1796, off Halifax	Not stated	Not stated	do	do	Robbed	Do.
183	Ship Alert	John Christian	Not stated	1798, not stated	Marseilles	do	do	do	Not stated	Do.
184	Schooner Lion	Henry Donnell	do	1800, not stated	Not stated	do	do	do	Burnt	Some evidence on file.
185	Brig Betsy	William Clarke	John Hollinsworth & Co	May, 1793, lat. 36° N., long. 45° W	Philadelphia	Coffee, &c	do	do	Detained	Do.
186	Schooner Marcus	Not stated	Loring and others	May 17, 1799, not stated	Campeachy	Rum and sugar	do	do	Condemned by the Spanish Government.	A letter.
187	Ship Hibernia	McDonald	James Kavenaugh & Co	In 1800, not stated	Porto Rico	Not stated	do	do	Retaken by the British	Do.
188	Brigantine Betsy	John Clarke	Joseph Perkins & Co	January 12, 1797, not stated	Guadaloupe	Lumber and provisions.	do	do	Cargo taken	Do.
189	Brig Resolution	John H. Shaherley	Brothers Coster & Co	February 18, 1793, off the Texel	Ostend	Not stated	do	do	Detained	Do.
190	Ship Eliza	John Burrowdale	Not stated	April 24, 1797, lat. 49° 17′, long. 17° W	Not stated	do	do	do	Retaken by the British	Some evidence on file.
191	Brig Valeria	Henry Stover	John Wells	January 15, 1797, Cape Maize	St. Jago de Cuba	Lumber and provisions.	12,828 13	18,379 13	Vessel and cargo taken	Evidence on file.
192	Schooner Frederick	John G. Clarke	Wattles Dotes & Co.	May 12, 1798, lat. 46° 29′, long. 14° 25′	Corunna	Gum, pepper, camwood, &c.	Not stated	Not stated	Released	Letters.
193	Brig Hope	Asa Hooper	Marston Watson	1794, off Bilboa, in Spain	Rochefort	Cocoa, dry fish, &c	do	do	Condemned	A letter.
194	Sloop Hiram	Sylvester Baldwin	Fitch & Bachus	1797, not stated	Cape Francois	Not stated	do	do	do	Do.
195	Ship Nancy	Howard Allen	Clason & Livingston	December, 1800, not stated	St. Martin	do	do	175,000 00	do	Evidence on file.
196	Sloop Betsy	William Johnson	A. S. Glass, owner of part of the cargo.	June 27, 1794, off the United States coast	Not stated	do	do	Not stated	Robbed	A letter on file.
197	Schooner York	Andrew Burke	Burke & Co.	Feb. 3, 1793, not stated.	Port au Prince	Sundry merchandises and gunpowder.	do	14,073 00	Condemned	Evidence on file.
198	—— Lydia	George Dunham	Not stated	Previous to 1801, not stated	Belle Isle	Flour	do	Not stated	Cargo condemned	Do.
199	—— John and Martha	Benjamin F. Knapp	John Wells	May 18, 1798, not stated	Malaga	Barilla and reeds	do	22,290 00	do	Do.
200	Schooner Friendship	Samuel Fisher	Joseph Shute & Co	October 30, 1800, not stated	Ordered for Porto Rico	Not stated	do	Not stated	Cast away, or ran ashore	A letter on file.
201	Ship Fair American, of N.Y.	Henry Treadwell	Not stated	Aug. 2, 1797, lat. 48° 12′ N., long. 20° 15′ W.	Not stated	do	do	do	Not stated	Do.
202	Brigantine Betsy	Timothy Baker	do	Oct. 17, 1796, lat. 20° 23′ N., long. 65° W	St. Martin	Lumber and salt fish	do	do	do	Some evidence on file.
203	Schooner Sophia	—— Miner	Taggart & Smith	April 15, 1799, not stated	Cape Francois	Lard, &c	3,021 91	5,521 91	do	Do.
204	Schooner Trial	Daniel Rope, jr	John Norris	May 13, 1798, off Guadaloupe	Basseterre	Fish, flour, &c	Not stated	Not stated	do	Do.

B.—LIST OF SPOLIATIONS—Continued.

No. of claim.	Description and name of vessel.	Captain's name.	Owner's name.	When and where captured.	What port carried into for adjudication.	Description of cargo.	Amount.	Probable aggregate amount of claim.	How disposed of.	Remarks.
205	Ship Ann and Susan	Richard West	Stephen Kingston	1797, not stated	Curacoa	Not stated	Not stated	$16,000 00	Condemned	Some evidence on file.
206	Schooner Lively	John Burrowes	John Burrowes	Apparently in 1798, not stated	Not stated	do	do	Not stated	do	A letter on file.
207	Sloop Britannia	Not stated	Not stated	Apparently in 1796, not stated	do	do	do	do	Not stated	Do.
208	Ship Alexander Brown	do	do	Apparently in 1798, not stated	Monte Christi	do	do	do	do	Do.
209	Schooner Leander, of N. Y.	do	do	do do	do	do	do	do	do	Do.
210	—— Liberty	do	do	do do	do	do	do	do	Condemned	Do.
211	Schooner Chance	Jeremiah Diman	do	April 25, 1798, off Saba	St. Thomas	Negro slaves	do	do	Recaptured by the English	Do.
212	Ship Merchant	—— Rosseter	do	May 8, 1798, off Sandy Hook	Not stated	Not stated	do	do	Not stated	Do.
213	Ship Thomas	—— Holland	do	do do	do	do	do	do	do	Do.
214	Schooner Nautilus	Robert Dixon	Scott & Seamen	Apparently in 1799, not stated	Curacoa	do	$30,000 00	30,000 00	Captured, and part of the crew murdered.	Do.
215	Brig Vulture	John Berry	Richardson & Co	Dec. 18, 1798, lat. 23° 12′ N., long. 53° 30′ W.	Cape Francois	Fish, flour, beef, &c	7,000 00	9,500 00	Condemned	Evidence on file.
216	Ship William	William Mugford	William Gray	May 2, 1799, lat. 27° 59 N., long. 75° W.	Not stated	Fish, brandy, &c	Not stated	Not stated	Robbed and released	Some evidence on file.
217	Ship Eunice	Thomas Seal	John Quinby	July 7, 1797, not stated	Nantz	Salt, woolens, &c	do	do	Condemned	Do.
218	Schooner Polly	Joseph Atkins	Jonathan Merry	October 19, 1799, not stated	Port de Paix	Not stated	do	1,774 00	Put in requisition	Do.
219	Sloop Harriot	Willoughby Lynde	Not stated	do do	do	Coffee, sugar, &c	do	Not stated	do do	Do.
220	Brig Six Brothers	John Needham	Needham & Son	April 29, 1797, not stated	Guadaloupe	Ballast	do	do	Condemned	Do.
221	Sch'r Unity, of Baltimore	Jas. Wm. Latouche	Not stated	In 1795, not stated	Port de Paix	Not stated	do	do	do	Do.
222	Schooner Sally	Not stated	do	April 15, 1795, not stated	Burnt	Lumber	3,409 92	7,849 92	Burnt	Do.
223	Ship Mount Vernon	George Domonick	P. B. Oram, part owner of cargo	June 9, 1796, not stated	St. Domingo	Coffee, rum, sugar, &c	Not stated	4,122 91	Condemned	Do.
224	Schooner John	John Owen, jr.	B. M. Mumford	October, 1797, not stated	Port au Prince	Not stated	do	Not stated	Released and retaken	Do.
225	Sch'r Helena, Plumstead	Hendrick Vandym	Messrs. Loir and Chevalier	July 7, 1797, off the West Indies	Lane a Veaux	do	do	do	do do	Do.
226	Brig Electra	Pardon Almy	Not stated	September 2, 1797, off Porto Rico	Not stated	do	do	do	Robbed and released	Do.
227	Brig George	—— Tate	Messrs. Mumfords	Apparently in 1796, not stated	Cape Nichola Mole	do	do	do	Not stated	A letter on file.
228	Brig Rebecca	—— Dunberry	do	do do	do	do	do	do	do	Do.
229	Schooner Royal Captain	John Bryant	John Bryant	July 30, 1796, not stated	Bologne	Gin, lace, &c	do	do	Condemned	Evidence on file.
230	Ship Rosanna	John Polland	Dunlap & Grant	November 5, 1796, not stated	La Rochelle	Sugar, molasses, &c	do	do	do	Do.
231	Ship Julianna	Thomas Heywood	Chequier & Holmead	April 26, 1797, not stated	Havre	Coffee, hides, &c	do	do	do	Do.
232	Ship Antelope	Benjamin Miller	Ebenezer Parsons	January 25, 1797, not stated	L'Orient	Cotton, rice, tobacco, &c	do	do	do	Do.
233	Ship Diana	N. J. Ingraham	Edward Swarbreck	October 23, 1796, not stated	Brest	Salt and dry goods, &c	do	do	do	Do.
234	Brig John	James Scott, jr.	Adams, Loring & Co	February 27, 1797, not stated	Morlaix	Oil, cotton, &c	do	do	do	Do.
235	Ship Sally	James Crowdhill	William Hodgson	April 27, 1797, not stated	do	Gin and ballast	do	do	do	Do.
236	Brig Leonard	William Hackett	John Wells	March 14, 1797, not stated	Brest	Sugar, cotton, coffee, &c	do	15,458 00	do	Do.
237	Brig D——	Andrew Foster	William Dixon	March 19, 1797, not stated	Morlaix	English manuf'd goods	do	Not stated	do	Do.
238	Ship Hare	Nathaniel Haley	Isaac Clason	February 17, 1797, not stated	Dieppe	do do	do	do	do	Do.
239	Ship Rainbow	William Smith	John Geyer	March 27, 1797, not stated	Nantz	Rice, cotton, &c	do	do	do	Do.
240	Brig Sally	Eden Wadsworth	Adams & Loring	June 21, 1797, not stated	Isle of Rhe	Rice, tobacco, coffee	do	do	do	Do.
241	Schooner Sally	Timothy Davis	John Babson	March 30, 1797, not stated	Dieppe	Brandy and wine	do	do	do	Do.
242	Ship William	Richard Barker	Vernon & Gardner	1797, latitude 44° 33′ N., longitude 25° 42′ W.	L'Orient	Rice, coffee, sugar	do	do	do	Some evidence on file.
243	Ship Cincinnatus	William Martin	Aquilla Brown	May 30, 1797, not stated	do	English manuf'd goods	do	do	do	Do.
244	Ship Hebe	Charles Lindergreen	Edward Swarbreck	April 19, 1797, not stated	Nantz	Cotton, rice, &c	do	do	do	Do.

B.—LIST OF SPOLIATIONS—Continued.

No. of claim.	Description and name of vessel.	Captain's name.	Owner's name.	When and where captured.	What port carried into for adjudication.	Description of cargo.	Amount.	Probable aggregate amount of claim.	How disposed of.	Remarks.
245	Brig Catharine	Samuel Cazeneau	Messrs. Davenports	May 17, 1797, not stated	Nantz	Tobacco	Not stated	Not stated	Condemned	Some evidence on file.
246	Ship Briseis	James Breath	Messrs. Rutgers and Seamen.	May 28, 1797, not stated	do	Sugar and coffee	do	do	do	Do.
247	Ship Oneida	David Scharry	Messrs. Jackson, Buckley & Co.	May 25, 1797, not stated	do	Turpentine, tobacco, &c	do	do	do	Do.
248	—— John and James	James Johnson	Not stated	Apparently in 1797, not stated	Corunna	Not stated	do	do	Not stated	Do.
249	—— Mary	—— Curtis	do	Apparently in 1797, not stated	Nantz	Fish	do	do	Condemned	Do.
250	Brig American Hero	Alex. McDougal	Alexander McDougal	June 10, 1797, not stated	do	Flour, rice, and staves	do	do	do	Do.
251	Ship Ohio	—— McLackland.	Smith & Wykoff	Apparently 1797, not stated	L'Orient	Tar, pitch, and cotton	do	do	do	Do.
252	Ship Raven	Charles Riley	Savage & Murgetroyd	June 29, 1797, not stated	do	Sugar, nankeen, &c	do	do	do	Do.
253	Ship Ceres	Roswell Roath	Dunham, Willet & Roath	July 1, 1797, not stated	La Rochelle	Coffee, sugar, &c	do	do	do	Do.
254	Ship Bacchus	George Rich	Campbell & Brewer	July 3, 1797, not stated	Nantz	Molasses, rice, &c	do	do	do	Do.
255	Ship Light Horse	John Haff	Ingraham & Sands	June 24, 1797, not stated	do	Millstones, slates, &c	do	do	do	Do.
256	Schooner Sally	Benjamin Russel	Nathan Poor & Co.	June 24, 1797, not stated	do	Fish and pepper	do	do	do	Do.
257	—— Phœnix	George Repold	Albert le Camp	January 10, 1798, not stated	L'Orient	Not stated	do	do	Not stated	Do.
258	—— Freemason	—— Bunker	Not stated	July 24, 1797, not stated	Paimpol	Coffee and tobacco	do	do	do	Do.
259	Brig Charleston	Daniel Reed	Thomas Morris	July 21, 1797, not stated	L'Orient	Tobacco, rice, and sugar	do	do	Condemned	Do.
260	Brig Mary, of Boston	John Choates	John Choates	Apparently 1797, not stated	Nantz	Cotton, sugar, and coffee	do	do	do	Do.
261	Ship Columbia	Samuel Lathrop	Leffingwell & Kelly	Apparently 1797, not stated	do	Cotton, sugar, & tobacco	do	do	do	Do.
262	Ship Mercury, of Phila	Thomas Keown	Colbreath & Keown	June 22, 1797, not stated	do	Tobacco and staves	do	do	do	Do.
263	Brig Carolina	William Morton	Edward Jones	July, 1797, not stated	Bayonne	Rice	do	do	do	Do.
264	Brig Washington	Jacob Graham	Bird & Barrow	July 21, 1797, not stated	Bordeaux	Dry goods and coal	do	do	do	Do.
265	Ship Venus	Robert Birrell	Bryson & Birrell	August 5, 1797, not stated	do	Earthenware, &c	do	do	do	Do.
266	Brig Mary, of Boston	Jediah Southworth	David Tilden	August 22, 1797, not stated	Isle of Rhe	64 pipes of brandy	do	do	do	Do.
267	—— Mary, of New York	Robert Holmes	Seton Maitland & Co	Apparently 1797, not stated	Nantz	Sugar, coffee, &c	do	do	do	Do.
268	Ship John and Richard	Edmund Nowland	Edmund Nowland	December 1, 1797, not stated	La Rochelle	Sugar, china, &c	do	do	do	Do.
269	Ship Sally	Seth Webber	Webber & Page	January 2, 1797, not stated	Brest	Butter and feathers	do	do	do	Do.
270	Ship Friendship	Thomas Orange	Scrouppel & Orange	October 26, 1797, not stated	L'Orient	Coffee, sugar, &c	do	do	do	Do.
271	Ship South Carolina	Andrew Robinson	Tunno, Coffyn & Co.	December 28, 1797, not stated	do	Dry goods	do	do	do	Do.
272	Brig Amiable Matilda	William Brown	Yard, Ketland & Co	October, 1797, not stated	Bayonne	Cocoa	do	do	do	Do.
273	Ship Federalist	John Pratt	Junno & Cox	December, 1797, not stated	do	Sugar, coffee, &c	do	do	do	Evidence of the claim on file.
274	Brig Fanny and Betsy	Nicholas Sherlock	William Pennock	December 24, 1797, not stated	Paimpol	do	do	do	do	Do.
275	Ship Bristol	Edward Smith	Thomas Smith	January 10, 1798, not stated	Morlaix	Ballast	do	do	do	Do.
276	Sloop Joel Barlow	Hugh Williams	Not stated	Apparently in 1797, not stated	Roscoff	Cotton, fruit and nankeens.	do	do	do	Do.
277	Schooner Eagle	Russel Hubbard	John Howard & Co	November 14, 1797, not stated	L'Orient	Coals and potatoes	do	do	do	Do.
278	Brig Mary	Alexander Ross	Scoby	August, 1797, not stated	Bayonne	Fish, oil, &c	do	do	do	Do.
279	Brig Mercury	—— Dixey	Dixey	December, 1797, not stated	do	Sugar and oil	do	do	do	Do.
280	Ship Madison	—— Hancock	J. Skinner & Son	January 19, 1798, not stated	L'Orient	Salt	do	do	do	Do.
281	Brig Industry	—— Smith	Not stated	Apparently in 1797, not stated	Roscoff	Dry goods	do	do	do	Do.
282	Schooner Experiment	John Worth	William Young	do	Paimpol	Brandy	do	do	do	Do.
283	Ship Leeds's Packet	Richard Bunce	Not stated	do	do	Tobacco and rice	do	do	Not stated	Do.

B.—LIST OF SPOLIATIONS—Continued.

No. of claim.	Description and name of vessel.	Captain's name.	Owner's name.	When and where captured.	What port carried into for adjudication.	Description of cargo.	Amount.	Probable aggregate amount of claim.	How disposed of.	Remarks.
284	Brig Pilgrim	—— Chissel	Hilton	Apparently in 1797, not stated	St. Jean de Luc	Black pepper, &c	Not stated	Not stated	Not stated	Evidence of the claim on file.
285	Brig Maria	—— Taylor	Dl. Sargent	do do	Not stated	Oil and rum	do	do	do	Do.
286	Ship James and William.	—— Wonnycoot	Not stated	do do	Roscoff	Tar and turpentine	do	do	Condemned	Do.
287	Brig Lydia	Thomas Ansdell	do	February 24, 1798, not stated	Brest	Rice, sugar, &c	do	do	Not stated	Do.
288	Barque Pomona	John Craft	Head & Amory	May 8, 1797, not stated	Carthagena	Brandy	do	do	Condemned	Do.
289	Brig Telemachus	William Plumer	Ebenezer Parsons	do do	do	do	do	do	do	Do.
290	Schooner Abigail	James Atwood	do	do do	do	do	do	do	do	Do.
291	—— Kitty and Nelly	—— Church	James Clark	Apparently in 1797, not stated	Not stated	Tobacco, rice and sugar	do	do	Not stated	Do.
292	Ship Columbus	Joseph Skinner	Isaac Clason & Co	March 7, 1798, not stated	La Rochelle	Coffee, logwood, &c	do	do	do	Do.
293	Ship Three Sisters	Christopher Wood	Not stated	April, 1798, not stated	Bayonne	Salt, coal and dry goods	do	do	do	Do.
294	Ship Eagle	Samuel Brook	William Smith	Apparently in 1797, not stated	Isle de Rhe	Rice and cotton	do	do	do	Do.
295	—— Bost, of Boston	Josiah Barned	T. K. Jones & Bass	do do	Not stated	Rice, cotton and logwood	do	do	do	Do.
296	Sch'r Harmony, of Gloucester.	—— Brown	Not stated	October, 1797, not stated	Port de Paix	Not stated	do	do	Released	Do.
297	Sch'r John, of Norfolk	Thomas Law	do	1797, not stated	Jean Rabel	do	do	do	Condemned	Do.
298	Sch'r Nymph, of Baltimore	Thomas Makimion	do	October, 1797, not stated	Not stated	do	do	do	Put in commission	Do.
299	Sch'r Nancy, of Boston	Jabez Barney	do	Apparently in 1797, not stated	do	do	do	do	Released	Do.
300	Sch'r Patriot, of Philadel'a.	Abner Amuet	do	do do	do	do	do	do	do	Do.
301	Boat Mermaid	—— McCallan	do	do do	do	do	do	do	Condemned	Do.
302	Boat Hope, of Charleston.	Benjamin Buell	do	do do	do	do	do	do	Released	Do.
303	Sch'r Polly, of Baltimore.	—— Booth	do	do do	do	do	do	do	do	Do.
304	Brig Active, of Philadel'a.	William Williams	do	do do	do	do	do	do	do	Do.
305	Brig Two Brothers, of Wilmington.	Alexander Foster	do	do do	do	do	do	do	Condemned	Do.
306	Sch'r Apollo, of N. York	Rich'd W. Richards	do	do do	do	do	do	do	do	Do.
307	Sch'r Friends, of Baltimore	James Helm	do	do do	do	do	do	do	do	Do.
308	Boat Dolphin, of Philadel'a	Samuel Holt	do	do do	do	do	do	do	Released	Do.
309	Schooner Betsy, of Boston.	—— Vincent	do	do do	do	do	do	do	do	Do.
310	Do do	William Cazneau	do	do do	do	do	do	do	Condemned	Do.
311	—— Diana, of Alexandria.	Henry Nicholl	do	do do	do	do	do	do	Released	Do.
312	Boat of the Brig Harriet, of Philadelphia.		do	do do	do	do	do	do	Condemned	Do.
313	Schooner St. John	Anthony Gaspord	do	do do	do	do	do	do	do	Evidence on file.
314	Boat Laura, of Charleston.	Thomas Wilcox	do	do do	do	do	do	do	Released	Do.
315	Ship Nancy, of Norfolk	Henry Dickson	do	do do	do	do	do	do	Condemned	Do.
316	Schooner Paragon	John Montgomery	do	do do	do	do	do	do	do	Do.
317	Brig Grace	Robert Lawrence	do	do do	do	do	do	do	do	Do.
318	Brig Wm. Pennock	Robert Hatton	do	do do	do	do	do	do	do	Do.
319	Boat Mary, of Wilmington	Samuel Bodish	do	do do	do	do	do	do	Released	Do.
320	Brig Nancy, of Newbern	Alexander Duguid	do	do do	do	do	do	do	Condemned	Do.

B.—LIST OF SPOLIATIONS—Continued.

No. of claim.	Description and name of vessel.	Captain's name.	Owner's name.	When and where captured.	What port carried into for adjudication.	Description of cargo.	Amount.	Probable aggregate amount of claim.	How disposed of.	Remarks.
321	Schooner Happy Return..	Not stated.....	Not stated.....	Apparently in 1797, not stated	Not stated.....	Not stated.....	Not stated...	Not stated....	Condemned.....	Evidence on file.
322	Schooner Gravenhorst....	Washburn.....	....do	.....do.....do	....do	....do	....do	....do	Released	Do.
323	Schr. Kitty, of Philadel'a.	Rufus Green.....	....do	.....do.....do	.. .do	....do	....do	....do	....do	Do.
324	Schr. Mountain Leader...	Samuel Sergeant...	....do	.....do.....do	....do	....do	....do	....do	Condemned.....	Do.
325	Brig Juno, of Boston.....	Henry Alkins.....	....do	.....do.....do	....do	.. .do	....do	....do	....do	Do.
326	Boat Discovery..... ...	Noble Perry	....do	.....do.....do	....do	....do	....do	....do	....do	Do.
327	Brig Aurora.....	Nichol Vincent.....	....do	.....do.....do	....do	....do	....do	....do	....do	Do.
328	Schooner Friendship.....	Stephen Sellock...	....do	.....do.....do	....do	....do	. ..do	....do	Released	Do.
329	Schooner Lovely Lady...	Edward Johnson...	....do	.....do.....do	....do	....do	....do	....do	Condemned.....	Do.
330	Brig Betsy, of New London	Zeb. Barham.....	....do	.....do.....do	....do	....do	....do	....do	... do	Do.
331	Schr. L'Halantee, of Bos'n	William Cotte.....	....do	.....do.....do	....do	....do	....do	.... do	....do	Do.
332	Brig Saler Levent, of Norf'k	John Kerbee.....	....do	.....do.....do	....do	....do	....do	....do	....do	Do.
333	Brig Lehebeau, of Baltim'e	Baptist Mezech....	....do	.....do.....do	....do	....do	....do	....do	....do	Do.
334	Brig Eunice, of New York	Obed Ramsdell.....	....do	.....do.....do	....do	... do	....do	....do	Released.....	Do.
335	Brig Industry	Richard Bishop....	....do	.....do.....do	....do	... do	....do	....do	....do	Do.
336	Schooner Thetis.....	Thomas Love.....	....do	.....do.....do	....do	....do	....do	....do	....do	Do.
337	Brig Dolphin.....	James Gorham.....	....do	.....do.....do	....do	....do	....do	....do	Condemned..	Do.
338	Brig Alexander.....	William Booth.....	... do	.....do.....do	....do	....do	....do	....do	....do	Do.
339	Brig Sally and Betsy.....	Wilson Hubbell....	....do	.....do.....do	....do	....do	...do	....do	....do	Do.
340	Schr. Polly, of Boston....	Jones Jarvin.....	....do	.....do.....do	....do	....do	. ..do	....do	....do	Do.
341	Brig Hope, of New York..	James Fusel.....	....do	.....do. .....do	....do	....do	....do	....do	....do	Do.
342	Brig Sisters	Gilbert Thiser	....do	.....do.....do	....do	....do	....do	....do	....do	Do.
343	Schooner Regulator.....	Mildmay Smith.....	...do	.....do.....do	...do	...do	....do	....do	....do	Do.
344	Schooner Mary Eliza.....	Michael Parsons...	....do	.....do.....do	....do	....do	....do	....do	Released	Do.
345	Boat N. Y. & Phila. Packet	Ressel.....	....do	.....do.....do	....do	....do	....do	....do	....do	Do.
346	Schr. Lark, of Baltimore.	James Boyd	....do	.....do.....do	....do	....do	....do	....do	....do	Do.
347	Boat Citizen, of Boston...	George McClellan..	....do	.....do.....do	....do	....do	....do	....do	....do	Do.
348	Snow Pallas, of N. York.	Noah Wyatt.....	... do	.....do.....do	....do	....do	....do	....do	....do	Do.
349	Schr. Table, of New York.	John D. Turnbull ..	....do	.....do.....do	....do	....do	....do	....do	Condemned.....	Do.
350	Schr. Regulator, of Wash'n	Williams.....	....do	.....do.....do	....do	....do	....do	....do	Released.....	Do.
351	Boat Fair American.....	I. Hood	....do	.....do.....do	...do	....do	....do	....do	Condemned.....	Do.
352	Boat President.....	Malbie	....do	.....do.....do	....do	....do	....do	....do	....do	Do.
353	Schooner Maria, of Phila.	Richard Flinn	....do	. ....do..... .....do	....do	.... do	....do	....do	Released.....	Do.
354	Schooner Evelina	Peter Giffe	....do	.....do.....do	....do	....do	....do	....do	....do	Do.
355	—— Abigail, of Portland .	Samuel Robinson...	....do	.....do.....do	....do	....do	....do	....do	Condemned.....	Do.
356	Brig Julius Cæsar	B. Ward	....do	.....do.....do	....do	....do	....do	....do	Released	Do.
357	Brig Adventure	Zebn. Hunt.....	....do	.....do.....do	....do	....do	....do	....do	....do	Do.
358	Boat Justina.....	—— Briggs	....do	.....do.....do	....do	....do	....do	....do	....do	Do.
359	Schooner Louis.....	Amasa Sawyer	....do	.....do.....do	....do	....do	....do	....do	....do	Do.
360	Schooner Yeatman	Roger Crane.....	....do	.....do.....do	....do	....do	....do	... do	....do	Do.
361	Schooner Fairplay	Holder Hocum.....	....do	.....do.....do	....do	....do	....do	...do	...do	Do.

B.—LIST OF SPOLIATIONS—Continued.

No. of claim.	Description and name of vessel.	Captain's name.	Owner's name.	When and where captured.	What port carried into for adjudication.	Description of cargo.	Amount.	Probable aggregate amount of claim.	How disposed of.	Remarks.
362	Schooner Maria	Alexd. Hare	Not stated	Apparently 1797, not stated	Not stated	Not stated	Not stated	Not stated	Released	Evidence on file.
363	Brig Ann, of New York	John Burnham	do	do	do	do	do	do	do	Do.
364	Brig Eliza, of Philadelphia	Christop'r O'Conner	do	do	do	do	do	do	Condemned	Do.
365	Boat Perfect, of Phila	Thomas Van Meek	do	do	do	do	do	do	do	Do.
366	Ship Charlotte	James Lindsey	I. H. Large & Co	April 10, 1797, not stated	Nantz	Rice, cotton, &c	$62,212 94	$64,212 94	do	Do.
367	John, of Richmond	Edward Watson	John Banks	Apparently 1799, not stated	Nantz	Tobacco and staves	Not stated	Not stated	do	Do.
368	Thomas, of Portsmouth	Thomas McFernald	Thomas Manning	Apparently 1798, not stated	Sables	Dry goods	do	do	do	Do.
369	Fanny, of Salem	Jesse Smith	John Derby	do	Nantz	Not stated	do	do	Not stated	Do.
370	Delight, of New York	James Henshaw	H. A. & I. G. Castor	do	Paimpol	West India produce	do	do	Released	Do.
371	Statiza, of Portsmouth	John Seawood	Thomas Manning	do	Nantz	Mahogany and logwood	do	do	Cargo condemned	Do.
372	Rudolph Frederick, of Boston.	R. H. Croker	—— Geyer	Apparently 1800, not stated	Paimpol	West India produce	do	do	do	Do.
373	Winyaw, of New York	R. M. Steele	T. H. Thompson	do	Brest	East India produce	do	do	do	Do.
374	Tom, of Boston	John Bailey	Thomas English	do	Not stated	Rum, cochineal, &c	do	do	Not stated	Do.
375	Fox	David Norie	Latting & Deal	Apparently 1797 or 1798, not stated	Apparently in Nantz	Tobacco, turpentine, &c	11,025 25	24,485 75	Cleared	Do.
376	Brigantine Betsy	William Furlong	Clabot & Glennie	March 20, 1794, not stated	Not stated	Sugar and coffee	17,394 58	23,610 58	Condemned	Do.
377	Ester, of Beverley	Zachariah Morgan	Not stated	Apparently in 1800, not stated	Corogne	Not stated	Not stated	Not stated	do	Do.
378	Success	E. Lowe	do	Previous to 1801, not stated	Not stated	do	do	do	Sold to the Government and not paid.	Do.
379	Industry	I. Snow	do	do	do	do	do	2,608 50	Part of the cargo sold and not paid.	Do.
380	Theodosia	Jo. Justice	do	do	do	do	Not stated	Not stated	Condemned	Do.
381	Genet	E. Wales	do	do	do	Hemp	8,128 34	8,128 34	Cargo condemned	Do.
382	Oneida	Sheffield	do	do	do	Belle Isle	Flour	41,306 61	41,306 61	do
383	Swanick	I. Yonger	do	do	do	Not stated	Not stated	9,974 75	9,974 75	Condemned
384	Olive Branch	Buffington	do	do	do	do	do	13,642 08	13,642 08	do
385	Iris	Parker	do	do	do	do	do	Not stated	Not stated	Not stated
386	Henry	Hodge	do	do	do	Morlaix	do	do	2,220 00	Condemned
387	Betsy	Murphy	do	do	do	Guadaloupe	do	do	Not stated	Cargo condemned
388	Pigon	H. Green	do	do	do	Not stated	do	do	134,104 05	Released
389	Jane	Cowell	do	do	do	Havre	do	do	Not stated	Detained
390	Fame	Coleman	do	In 1793, not stated	L'Orient	do	do	do	Not stated	Do.
391	Mary	Halley	do	do	Brest	do	do	do	Cargo condemned	Do.
392	Hero	Blount	do	do	Cherbourg	do	do	do	do	Do.
393	Abigail	George Dunham	do	Previous to 1801, not stated	L'Orient	do	do	do	Released	Do.
394	Cleopatra	Donavan	do	do	Not stated	do	do	19,725 00	Condemned	Do.
395	Von Knoren	Gravell	do	1793, not stated	Morlaix	do	do	Not stated	do	Do.
396	Sally	Jo. Hall	do	Previous to 1801, not stated	Guadaloupe	do	do	29,908 10	Cargo condemned	Do.
397	Apollo	McGruder	do	do	Not stated	do	do	1,825 00	Detained	Do.
398	Union	Beard	do	1793, not stated	Cherbourg	do	do	16,425 00	Released	Do.
399	Governor Mifflin	Not stated	do	Previous to 1801, not stated	Not stated	do	do	Not stated	Not stated	Do.

B.—LIST OF SPOLIATIONS—Continued.

No. of claim.	Description and name of vesssel.	Captain's name.	Owner's name.	When and where captured.	What port carried into for adjudication.	Description of cargo.	Amount.	Probable aggregate amount of claim.	How disposed of.	Remarks.
400	Ruth	Peters	Not stated	1793, not stated	Rochefort	Not stated	Not stated	Not stated	Released	Evidence on file.
401	Friendship	Holney	do	Previous to 1801, not stated	Not stated	do	do	do	Detained	Do.
402	Mercury	Todd	do	1793, not stated	Morlaix	do	do	do	Released	Do.
403	Ann and Susanne	Lane	do	Previous to 1801, not stated	Not stated	do	do	do	Cargo taken	Do.
404	Suffolk	P. West	do	do do	do	do	do	do	do	Do.
405	Sally	Stone	do	do do	do	do	do	do	Detained	Do.
406	Geruka	Giles	do	do do	do	do	do	do	do	Do.
407	Minerva	Wood	do	do do	St. Louis, St. Domingo	do	do	do	Condemned	Do.
408	Pratt	Hawkins	do	do do	Point Petre, Guadaloupe	do	do	do	do	Do.
409	Ann	Coleman	do	do do	Bordeaux	Wine	do	do	Cargo taken	Do.
410	Yorick & Teresa	Not stated	do	do do	Petit Goave, St. Domingo	Not stated	do	do	Condemned	Do.
411	Hamilton	Rodman	do	do do	Not stated	do	do	do	Detained	Do.
412	Lucy	Bailey	do	do do	St. Domingo	do	do	do	Cargo taken	Do.
413	Matsy	King	do	do do	Polverol, St. Domingo	do	do	do	Cargo taken and vessel detained.	Do.
414	Atalanta	Houston	do	1794, not stated	Guadaloupe,	do	do	do	Condemned	Do.
415	Ship Favorite	Brown	do	Previous to 1801, not stated	Port au Prince	do	do	do	do	Do.
416	Sophia	Willing	do	1794, not stated	Havre	do	do	do	Released	Do.
417	Rambler	Einathan	do	Previous to 1801, not stated	Not stated	do	do	do	Recaptured	Do.
418	Harmony	Demphy	do	1795, not stated	Petit Goave	do	do	do	Condemned	Do.
419	Sally & Robin	Not stated	do	1793, not stated	Cape Francois	do	do	do	Cargo burnt	Do.
420	Juno	Maxwell	do	Previous to 1801, not stated	St. Domingo	do	do	do	Cargo taken	Do.
421	James	Delastrande	do	do do	Not stated	do	do	do	Vessel lost by detention	Do.
422	Unis	Carlton	do	1795, not stated	Brest	do	do	do	Detained	Do.
423	William	Henderson	do	Previous to 1801, not stated	Not stated	do	do	do	Robbed	Do.
424	Margaret	Dalton	do	1794, not stated	Dominica	do	do	do	Condemned	Do.
425	Juno	Brice	do	1793, not stated	Rocheforte	do	do	do	Detained	Do.
426	Allice	Gould	do	do	St. Lucia	do	do	do	Condemned	Do.
427	Maria	K. Welch	do	Previous to 1801, not stated	St. Michael's	do	do	do	Detained	Do.
428	Thomas	Salter	do	do do	Not stated	do	do	do	Put in requisition	Do.
429	Republican	J. Simpson	do	1800, not stated	Corunna	do	do	do	Condemned	Do.
430	Peggy	G. Davidson	do	do	Gijon	do	do	do	Released	Do.
431	Portland	Polland	do	do	Not stated	do	do	do	Condemned	Do.
432	Polly	Tufts	do	do	do	do	do	do	Released	Do.
433	Ruby	Luke Keefe	do	do	do	do	do	do	Condemned	Do.
434	Pearl	William Lattimer	do	do	do	do	do	do	Released	Do.
435	Kitty	Charles Carter	do	do	do	do	do	do	do	Do.
436	Woodrop Sims	Hodgson	do	do	do	do	do	do	Condemned	Do.
437	Parkham	Markmillan	do	do	do	do	do	do	do	Do.
438	Ruby	Girard	do	do	do	do	do	do	Detained	Do.
439	Columbia	Felix Coran	do	do	do	do	do	do	Condemned	Do.

B.—LIST OF SPOLIATIONS—Continued.

No. of claim.	Description and name of vessel.	Captain's name.	Owner's name.	When and where captured.	What port carried into for adjudication.	Description of cargo.	Amount.	Probable aggregate amount of claim.	How disposed of.	Remarks.
440	Ann	Lord	Not stated	1800, not stated	Not stated	Not stated	Not stated	Not stated	Condemned	Evidence on file.
441	Retrieve	Johns.	do	do	do	do	do	do	Compromised	Do.
442	Brig Daniel and Mary	Not stated.	do	January 1, 1800, not stated	Port au Prince	do	do	do	Released with loss	Do.
443	Schooner Juno	do	do	April 4, 1800, not stated	Not stated	do	do	do	Recaptured	A letter on file.
444	Ship Minerva	do	Obed & Mitchell	October, 1800, lat. 24° N., lon. 57° 30′ W	do	Whale oil	do	do	Retaken by the British	Do.

Bartholomew Sarazin, property destroyed by the French at Cape Francois, St. Domingo, June 20, 1793, and other losses	$13,284 00
T. R. Livingston, contracts for leather previous to 1801, "part paid, part liquidated, and part pending"	Not stated.
H. Sadler, contracts for leather previous to 1801 remaining due	186,811 70
Louis Bernard, advances for building a hospital previous to 1801	Not stated.
James Grubb, for "supplies furnished at St. Domingo" in 1793	17,476 58
Falconer, Forman & Co., for "supplies furnished in 1796"	Not stated.
Vose & Graves, two bills of exchange drawn on Citizen Genet, dated June 26, 1793, not paid	Not stated.
Sadler & Pitcairn, contracts for hemp and iron, &c., in 1797	97,274 59
McCormick & Co., cargoes taken by the Administration at Cape Francois previous to 1800	91,500 00
John Teasdale, sr., two bills of exchange on the French Marine at Paris in 1793	8,427 67
Dupoy & Co., 8,000 pounds of coffee taken at Jaen-Rabel in 1799	1,600 00
Emerson & Manwaring, claim for a part of the freight of a cargo of the ship General Wayne delivered at Brest in 1795 or 1796	Not stated.

B.—LIST OF SPOLIATIONS—Continued.

RECAPITULATION.

Names of vessels.	Probable Am't.	Names of vessels.	Probable Am't.
3. Schooner Two Sisters	$18,593 08	98. Schooner Three Friends	$24,000 00
5. Brig Gayoso	2,386 90	115. Schooner Ann Maria	9,000 00
7. Ship Hope	23,000 00	116. Wilmington Packet	3,500 00
8. Snow Jenny	5,550 00	117. Brig Wallwick	4,100 00
14. Schooner Union	2,000 00	166. Brig Fox	1,055 00
17. Brig Mary	18,000 00	167. Schooner Mentor	365 00
18. Barque Providence	5,000 00	168. Ship Hope	17,862 16
19. Sloop James	17,600 00	174. Brigantine Ranger	15,673 89
20. Brig Penelope	12,000 00	176. Schooner Robert	801 88
21. Brig Molly	2,500 00	178. Brig Experience	19,111 78
25. Ship Paragon	15,208 00	191. Brig Valeria	18,379 13
26. Schooner Active	1,691 00	195. Ship Nancy	175,000 00
33. Ship James	16,674 00	197. Schooner York	14,073 06
34. Brig Abeona	5,380 75	199. John and Martha	22,290 00
38. Ship Fame	15,468 64	203. Schooner Sophia	5,521 91
39. Brig Harmony	5,864 96	205. Ship Ann and Susan	16,000 00
40. Sloop Polly	1,085 00	214. Schooner Nautilus	30,000 00
42. Schooner Paragon	14,000 00	215. Brig Vulture	9,500 00
43. Schooner Juno		218. Schooner Polly	1,774 00
44. Schooner Hopewell		222. Schooner Sally	7,849 92
45. Brig Hope	86,000 00	223. Ship Mount Vernon	4,122 91
46. Brig Joseph		236. Brig Leonard	15,458 00
47. Schooner Hannah		366. Ship Charlotte	64,212 94
48. Schooner Lucy		375. —— Fox	24,485 75
49. Brig Virginia		376. Brigantine Betsy	23,610 58
50. Schooner Rebecca	36,160 88	379. —— Industry	2,608 50
54. Brigantine Thomas	6,908 00	381. —— Genet	8,128 34
55. Ship Alexander Hamilton	150 00	382. —— Oneida	41,306 61
57. Sloop Cicero	29,491 50	383. —— Swanick	9,974 75
58. Sloop Cicero	2,500 00	384. —— Olive Branch	13,642 08
59. Schooner Polly	80,000 00	386. —— Henry	2,220 00
67. Ship Confederacy	400,006 00	388. —— Pigon	134,104 05
78. Brig Brutus	15,000 00	394. —— Cleopatra	19,725 00
79. Sloop Honor	3,000 00	396. —— Sally	29,908 10
81. —— Charming Polly	28,500 00	397. —— Apollo	1,825 00
86. Brig Kerhappuck	21,600 00	398. —— Union	16,425 00
87. Brig Nancy	25,000 00	Bartholomew Sarazin's claim	13,284 00
88. Brig Franklin	9,400 00	H. Sadler's claim	186,811 70
89. Brig Freemason	28,000 00	James Grubb's claim	17,476 58
90. Brig Mary	12,000 00	Sadler & Pitcairn's claim	97,274 59
92. Schooner Amelia	16,000 00	McCormick & Co.'s claim	92,500 00
93. Schooner Hope	8,000 00	Claim of John Teasdale, senior	8,427 67
94. Schooner Nymph	10,000 00	Dupoy & Co.'s claim	1,600 00
95. Sloop Leader	5,000 00		
97. Brig Pearl	6,000 00	Total	2,235,702 59

NOTE.—The above recapitulated cases, it will be perceived, do not embrace more than one-fifth of the whole number inserted on this list.

STATE DEPARTMNET, *City of Washington, January* 22, 1827.

19TH CONGRESS.] No. 454. [2D SESSION.

TREATY OF AMITY, COMMERCE, AND NAVIGATION WITH MEXICO.

COMMUNICATED TO THE SENATE, IN EXECUTIVE SESSION, FEBRUARY 12, 1827.

To the Senate of the United States:

I transmit to the Senate, for their advice with regard to its ratification, a treaty between the United States and the Mexican Confederation, signed by the plenipotentiaries of the respective Governments on the 10th of July last. It will be seen by its terms that, if ratified by both parties, the ratifications are to be exchanged at this city on or before the tenth day of next month. The ratification on the part of the Government of Mexico has not yet been received, though it has probably before this been effected. To avoid all unnecessary delay the treaty is now communicated to the Senate, that it may receive all the deliberation which, in their wisdom, it may require, without pressing upon their time at a near approach to the close of their session. Should they advise and consent to its ratification, that measure will still be withheld until the ratification by the Mexican Government shall have been ascertained. A copy of the treaty is likewise transmitted, together with the documents appertaining to the negotiation.

JOHN QUINCY ADAMS.

WASHINGTON, *February* 8, 1827.

Extract from letter No. 1 *of Mr. Clay to Mr. Poinsett, appointed Envoy Extraordinary and Minister Plenipotentiary of the United States to Mexico, dated Department of State, March* 25, 1825.

"The mission on which the President wishes you, with all practicable despatch, to depart would at any time be highly important, but possesses at this moment a peculiar interest. Everywhere on this continent, but on the side of the United Mexican States, the United States are touched by the colonial territories of some sovereign authority fixed in Europe. You are the first minister actually leaving the United States to reside near a sovereign Power established and exerted on this continent whose territories are coterminous with our own. You will probably be the first minister received by that Power from any foreign State, except from those which have recently sprung out of Spanish America. The United Mexican States, whether we regard their present posture, or recall to our recollection their ancient history and fortunes, are entitled to high consideration. In point of population, position, and resources, they must be allowed to rank among the first Powers of America. In contemplating the progress in them towards civilization which the aborigines had made at the epoch of the Spanish invasion, and the incidents connected with the Spanish conquest which ensued, an irresistible interest is excited, which is not surpassed, if it be equalled, by that which is awakened in perusing the early history of any other part of America. But what gives, with the President, to your mission peculiar importance at this time is, that it has, for its principal object, to lay, for the first time, the foundations of an intercourse of amity, commerce, navigation, and neighborhood, which may exert a powerful influence for a long period upon the prosperity of both States.

"In more particularly inviting your attention to the objects which should engage it on your mission, I will, in the first place, refer you to the general instructions which were given by my predecessor, on the 27th of May, 1823, to Mr. Anderson, the minister of the United States at Colombia, of which a copy is annexed, and which are to be considered as incorporated in these. So far as they are applicable alike to the condition of Colombia and of Mexico, and shall not be varied in this or subsequent letters, you will view them as forming a guide for your conduct. In that letter, of the 27th of May, the principles which have regulated the course of this Government in respect to the contest between Spanish America and Spain, from its origin, are clearly stated, explained, and vindicated, and the bases of those upon which it is desirable to place the future intercourse between the United States and the several Governments which have been established in Spanish America are laid down; so that, although that letter was intended to furnish instructions for the American minister deputed to one of those Governments only, it should be contemplated as unfolding a system of relations which it is expedient to establish with all of them.

"From that letter, as well as from notorious public facts, it clearly appears that the people and the Government of the United States have alike, throughout all the stages of the struggle between Spain and her former colonies, cherished the warmest feelings and the strongest sympathies towards the latter; that the establishment of their independence and freedom has been anxiously desired; that the recognition of that independence was made as early as it was possible, consistently with those just considerations of policy and duty which this Government felt itself bound to entertain towards both parties; and that, in point of fact, with the exception of the act of the Portuguese-Brazilian Government, to which it was prompted by self-interest, and which preceded that of the United States only a few months, this Government has been the first to assume the responsibility and encounter the hazard of recognizing the Governments which have been formed out of Spanish America. If there ever were any ground for imputing tardiness to the United States in making that recognition as it respects other parts of what was formerly Spanish America, there is not the slightest pretext for such a suggestion in relation to Mexico; for within a little more than a year after its independence was proclaimed the United States hastened to acknowledge it. They have never claimed, and do not now claim, any peculiar favor or concession to their commerce or navigation as the consideration of the liberal policy which they have observed towards those Governments. But the President does confidently expect that the priority of movement on our part, which has disconcerted plans which the European allies were contemplating against the independent Governments, and has, no doubt, tended to accelerate similar acts of recognition by the European Powers, and especially that of Great Britain, will form a powerful motive with our southern neighbors, and particularly with Mexico, for denying to the commerce and navigation of those European States any favors or privileges which shall not be equally

extended to us. In pursuance of the instructions given to Mr. Anderson, a general convention of peace, amity, navigation, and commerce was concluded and signed at Bogota on the 3d of October, 1824. Its ratification has been consented to and advised by the Senate of the United States, but the ratifications have not yet been exchanged, in consequence of the unavoidable delay which has arisen in the transmission of its anticipated ratification on the part of Colombia to her minister here. A copy of that convention will accompany these instructions, and it will serve to assist you in the formation of the treaty which it is expected you will be able to conclude at Mexico.

"The basis of the regulations of the commerce and navigation of the United States and Colombia which that convention assumes is that of extending to them, respectively, the rule of the most favored nation. To that rule there are some objections, and the President would therefore prefer, and you are accordingly instructed to endeavor to get substituted for it, that of placing the commerce and navigation of the two countries on the more liberal footing of reciprocity between the resident citizen and the foreigner, which is provided for by the act of January 7, 1824, passed since the instructions to Mr. Anderson were prepared. The rule of the most favored nation may not be, and scarcely ever is, equal in its operation between two contracting parties. It could only be equal if the measure of voluntary concession by each of them to the most favored third Power were precisely the same; but as that rarely happens, by referring the citizens of the two contracting Powers to such a rule the fair competition between them, which ought always to be a primary object, is not secured, but, on the contrary, those who belong to the nation which has shown least liberality to other nations are enabled to engross almost the entire commerce and navigation carried on between the two contracting Powers. The rule of the most favored nation is not so simple as the proposed substitute. In order to ascertain the *quantum* of favor which, being granted to the commerce and navigation of one nation, is claimed by another, in virtue of a treaty stipulation embracing that principle, it is necessary that the claimant should be accurately informed of the actual state of the commercial relations between the nation on which the claim of equal favor is preferred and all the rest of the commercial world. A knowledge of those relations must be sometimes sought after in numerous treaties, statutes, orders, decrees, and other regulations, and is often of very difficult attainment. When acquired, it is not always very easy to distinguish between what was a voluntary grant and that which was a concession by one party for an equivalent yielded by the other. Sometimes the equivalent for the alleged favor proceeding from the one party may be diffused throughout all the stipulations in the treaty by the other, and is to be extracted only after a careful view and comparison of the whole of them. Not unfrequently the equivalent may not even be clearly deducible from the instrument itself conveying the supposed favor. Peculiar considerations may lead to the grant of what, on a first impression, might be conceived to be a voluntary favor, but which has really been founded upon a received equivalent; and these considerations may sometimes apply to the entire commerce and navigation of a country, and at others to particular ports only. Examples of the latter description are to be found in the Louisiana treaty, (see Laws U. S., vol. 1, page 134,) by the 7th article of which, in respect to New Orleans and other ports of that province, privileges were secured, for the space of twelve years, to the ships of France and Spain, and their cargoes, exclusive of all other nations; and by the 15th article of the treaty with Spain, which was signed on the 22d day of February, 1819, (see 6th vol. of U. S. Laws, page 614,) like exclusive privileges were secured to Spanish vessels and their cargoes, for the term of twelve years, in the ports of Pensacola and St. Augustine. From some or all of these causes it so happens that, in the practical application of the rule of the most favored nation, perplexing and embarrassing discussions sometimes arise; and there are not wanting instances of such discussions in our own intercourse and correspondence with foreign Powers. It is better to avoid sowing the seeds of all collisions and misunderstandings, and that desirable object the President thinks will be best accomplished by adopting a plain and familiar rule for the two parties themselves, instead of referring each of them to that complicated rule which may happen to exist between either and third parties. By placing the admission into the ports of Mexico of a vessel of the United States and her cargo, being of their produce or manufacture, upon the same footing with the admission into those ports of a like cargo imported in a vessel owned by a resident citizen of Mexico, and *vice versa*, the simplicity which it is desirable the rule should possess will be secured, and all causes of misunderstanding be prevented. The President does not anticipate that you will experience any difficulty in impressing upon the United Mexican Government the very great liberality which characterizes the act of January 7, 1824, and, in making it, perceive the utility of engrafting on the treaty which you are expected to conclude the principle of that act. It has been already embraced by several of the European Powers, and been mutually extended to the commerce and navigation between them and the United States. He wishes it applied as extensively as practicable to all the commercial world, and he would see with regret that any of the Governments of America should be behind any European Power in acting on such a scale of enlightened liberality. Nevertheless, if all your efforts should be unavailing to carry to the Mexican Government a conviction of the expediency of the proposed principle and the propriety of treating on it, you are then at liberty to conclude a convention comprehending the rule for the regulation of the commerce and navigation of the two countries which was incorporated in the late Colombian treaty. It is hardly necessary to remark that both principles leave the respective parties entirely free to impose such duties of impost and tonnage as they may think proper. A full power for negotiating concerning matters of commerce and navigation accompanies these instructions.

"You will bring to the notice of the Mexican Government the message of the late President of the United States to their Congress on the 2d of December, 1823, asserting certain important principles of intercontinental law in the relations of Europe and America. The first principle asserted in that message is, that the American continents are not henceforth to be considered as subjects for future colonization by any European Powers. In the maintenance of that principle all the independent Governments of America have an interest, but that of the United States has probably the least. Whatever foundation may have existed three centuries ago, or even at a later period, when all this continent was under European subjection, for the establishment of a rule, founded on priority of discovery and occupation, for apportioning among the Powers of Europe parts of this continent, none can now be admitted as applicable to its present condition. There is no disposition to disturb the colonial possessions, as they may now exist, of any of the European Powers, but it is against the establishment of new European colonies upon this continent that the principle is directed. The countries in which any such new establishments might be attempted are now open to the enterprise and commerce of all Americans; and the justice or propriety cannot be recognized of arbitrarily limiting and circumscribing that enterprise and commere by the act of voluntarily planting a new colony, without the consent of America, under the auspices of foreign Powers belonging to

another and a distant continent. Europe would be indignant at any American attempt to plant a colony on any part of her shores; and her justice must perceive, in the rule contended for, only perfect reciprocity.

"The other principle asserted in the message is, that, whilst we do not desire to interfere in Europe with the political system of the allied Powers, we should regard as dangerous to our peace and safety any attempt on their part to extend their system to any portion of this hemisphere. The political systems of the two continents are essentially different. Each has an exclusive right to judge for itself what is best suited to its own condition and most likely to promote its happiness, but neither has a right to enforce upon the other the establishment of its own peculiar system. This principle was declared in the face of the world at a moment when there was reason to apprehend that the allied Powers were entertaining designs inimical to the freedom, if not the independence, of the new Governments. There is ground for believing that the declaration of it had considerable effect in preventing the maturity, if not in producing the abandonment, of all such designs. Both principles were laid down after much anxious deliberation on the part of the late administration. The President, who then formed a part of it, continues entirely to coincide in both; and you will urge upon the Government of Mexico the utility and expediency of asserting the same principles on all proper occasions.

"The final establishment of the limits between the territories of the United States and those of the United Mexican States is an interesting object, to which you will direct your attention. By the third article of the treaty 'of amity, settlement, and limits between the United States of America and his Catholic Majesty,' concluded and signed at Washington on the 22d day of February, 1819, it is provided that 'the boundary line between the two countries, west of the Mississippi, shall begin on the Gulf of Mexico, at the mouth of the river Sabine, in the sea, continuing north, along the western bank of that river, to the thirty-second degree of latitude; thence, by a line due north, to the degree of latitude where it strikes the Rio Roxo of Natchitoches, or Red river; then, following the course of the Rio Roxo westward, to the degree of longitude one hundred west from London, and twenty-three from Washington; then, crossing the said Red river, and running thence, by a line due north, to the river Arkansas; thence, following the course of the southern bank of the Arkansas to its source, in latitude forty-two north; and thence, by that parallel of latitude, to the South sea; the whole being as laid down in Melish's map of the United States, published at Philadelphia, improved to the 1st of January, 1818. But if the source of the Arkansas river shall be found to fall north or south of latitude forty-two, then the line shall run from the said source due south or north, as the case may be, till it meets the said parallel of latitude forty-two; and thence, along the said parallel, to the South sea. All the islands in the Sabine and the said Red and Arkansas rivers, throughout the course thus described, to belong to the United States; but the use of the waters and the navigation of the Sabine to the sea, and of the said rivers Roxo and Arkansas, throughout the extent of the said boundary, on their respective banks, shall be common to the respective inhabitants of both nations.' By the fourth article provision is made for the appointment, by each of the contracting parties, of a Commissioner and Surveyor, to fix with more precision the line described in the third, and to place the landmarks which shall designate exactly the limits of both nations, but it has not yet been carried into execution. That treaty, having been concluded when Mexico composed a part of the dominions of Spain, is obligatory upon both the United States and Mexico. On the 15th of February, 1824, Mr. Torrens, the Chargé d'Affaires from Mexico near this Government, addressed a note to this Department, (of which a copy is annexed,) in which he declares the willingness of the Supreme Executive Power of Mexico to accede to the limits agreed upon in the third article above mentioned, and its readiness to co-operate with the United States in carrying into complete effect those two articles.

"Some difficulties may possibly hereafter arise between the two countries from the line thus agreed upon, against which it would be desirable now to guard, if practicable; and as the Government of Mexico may be supposed not to have any disinclination to the fixation of a new line, which would prevent those difficulties, the President wishes you to sound it on that subject, and to avail yourself of a favorable disposition, if you should find it, to effect that object. The line of the Sabine approaches our great western mart nearer than could be wished. Perhaps the Mexican Government may not be unwilling to establish that of the Rio Brassos de Dios, or the Rio Colorado, or the Snow Mountains, or the Rio del Norte in lieu of it. By the agreed line portions of both the Red river and branches of the Arkansas are thrown on the Mexican side, and the navigation of both those rivers, as well as that of the Sabine, is made common to the respective inhabitants of the two countries. When the country adjacent to those waters shall come to be thickly inhabited collisions and misunderstandings may arise, from the community thus established in the use of their navigation, which it would be well now to prevent. If the line were so altered as to throw altogether on our side Red river and Arkansas and their respective tributary streams, and the line on the Sabine were removed further west, all causes of future collision would be prevented. The Government of Mexico may have a motive for such an alteration of the line as is here proposed, in the fact that it would have the effect of placing the city of Mexico nearer the centre of its territories. If the line were so changed, the greater part, if not the whole, of the powerful warlike and turbulent Indian nation of the Camanches would be thrown on the side of the United States, and, as an equivalent for the proposed cession of territory, they would stipulate to restrain, as far as practicable, the Camanches from committing hostilities and depredations upon the territories and people, whether Indians or otherwise, of Mexico.

"But if you shall find that the Mexican Government is unwilling to alter the agreed line in the manner proposed, and that it insists upon the execution of the third and fourth articles of the treaty before mentioned, you are authorized to agree to the recognition and establishment of the line as described in the third article, and to the demarkation of it forthwith as is stipulated in the fourth. But in that case you will urge, not, however, as a *sine qua non*, the insertion of an article in the treaty by which each party shall undertake to restrain the Indians residing within his territories from committing hostilities upon the people, Indians, or territories of the other. The example of such an article, which will at the same time furnish a model for that which is proposed, is to be found in the fifth article of the treaty of friendship, limits, and navigation between the United States of America and the King of Spain, which was signed at San Lorenzo el Real the 27th day of October, 1795. The hostilities which the President is desirous to restrain are afflicting to humanity when confined to the Indians themselves, but they often affect, collaterally, peaceable citizens, who are no parties to them, and their property. Instances are believed to have occurred, and others may be expected more frequently, of escape by slaves from their owners in Louisiana, Missouri, and Arkansas, and their taking refuge in the adjacent territories of Mexico. The pursuit after and recaption of these slaves, which it would be difficult for this Government to restrain, may lead to irritations, if not acts of violence. And as their acquisition cannot

be desired by Mexico, especially as the fugitives may be supposed to be the most worthless part of that unfortunate portion of our population, you are instructed to endeavor to get an article inserted in the proposed treaty providing for the regular apprehension and surrender to their respective proprietors, or their lawful agents, of any fugitive slaves."

Extract from a letter, No. 5, from Mr. Clay to Mr. Poinsett, dated Department of State, September 24, 1825.

"The convention with Colombia, referred to in your general instructions of the 25th March last, has, since their date, been ratified by the Government of Colombia, and the ratifications of the two Governments have been exchanged at this place. Subsequent to the date of that convention a treaty was concluded between Great Britain and Colombia, according to which the commerce between those two Powers has been placed upon the footing of that of the most favored nation, and their navigation upon the principle of equality, which is stipulated in the second article of our convention with Great Britain, under date the 3d of July, 1815, (see 6th volume of the Laws of the United States, page 603,) and which is proposed in the act of Congress of the 7th January, 1824. That second article is almost literally copied into the treaty between Colombia and Great Britain, where it will be found in its fourth, fifth, and sixth articles. As by our convention with Colombia no such provision was made for the regulation of the navigation of the two countries, and as by the laws of that Republic foreign vessels and their cargoes are subject to alien duties, advantages have been conceded to Great Britain which were not granted to the United States. These advantages would have formed a subject of just complaint on our part if the Government of Colombia, sensible of what is due to us, had not promptly informed Mr. Watts, charged with the affairs of the United States at Bogota, in the absence of Mr. Anderson, that it was ready to extend them to us. Accordingly, instructions have been given to Mr. Anderson, who is just about returning to his post, to concur with that Government in the adoption of the necessary regulations for securing to our commerce and navigation, in all respects, the same advantages which have been yielded to Great Britain. The result undoubtedly will be to place our commerce and navigation with Colombia, first, on the footing of the most favored nation; and, secondly, that the vessels of each party, laden with its own produce and manufactures, shall pay in the ports of the other the same duties and charges as its own vessels importing similar produce and manufactures.

"If you shall not have concluded the treaty of commerce when this letter arrives, you will be able to urge upon the Government of Mexico the example of Colombia and great Britain, and what has been done, and is proposed to be completed between the United States and Colombia, as motives for acceding to the principles which the President is desirous of introducing into the treaty which you are authorized to negotiate.

"I observe that by the sixth article of the treaty which has been concluded between Great Britain and Mexico, (a copy of which is transmitted in your despatch, No. 2,) 'the products or manufactures of each of the contracting parties, when imported in their own vessels into the ports of each, respectively, shall not pay any higher duty than is now or shall hereafter be paid by the vessels of the most favored nation; and the same on exportation of the products and manufactures of each in the vessels of the other. When the Mexican mercantile marine shall have increased so as to be sufficient for its commerce, then there may be established, by common consent, a perfect equality of duties, &c., on the importation and exportation of the products and manufactures of the respective dominions and States, indifferently in vessels of both nations.' This provision may possibly be urged by the Mexican Government as an objection against adopting in the treaty with the United States that principle of perfect equality between the vessels of the two countries which is desired. If the intrinsic merit of the principle itself, the example of Colombia, and the irritating tendency of countervailing legislation, the inevitable effect of an attempt by one nation to secure advantages to its own navigation denied to that of foreign Powers, shall not enable you to prevail on the Mexican Government to agree to the perfect equality which is proposed, you will consider yourself authorized to accede to an article embracing the same principles as are contained in the sixth article of the British treaty.

"The President approves of your consenting to treat on the two subjects of commerce and limits separately. Indeed, it was never contemplated that one of them should be dependent on the other. As the ratification on the part of Great Britain of the treaty with Mexico has been suspended with a view to effect some alterations in it, the present is an auspicious period for pressing your negotiation for the commercial treaty. Should the negotiation be still pending, you will bear in mind the expediency of inserting a provision in the treaty similar to that which is found in the first part of the second article of the convention of London of 1815, exempting the produce and manufactures of the United States from paying, in the ports of Mexico, higher duties than similar produce and manufactures of other countries. The provision may be made reciprocal. Its necessity is suggested by the representation made to this Department, heretofore communicated to you, that our cotton fabrics were subjected to higher duties than like British fabrics. If that representation were unfounded, such is the British jealousy of a competition with our rising manufactures that an attempt may be made to depress them by rendering them liable to more burdensome duties than are paid by the rival fabrics of Great Britain.

"The President sees with regret the reluctance, on the part of the Mexican Government, to agree to the opening of the road from Missouri towards Santa Fé. The road was intended for purely commercial purposes, and doubtless the people of both countries would be benefitted by the exchanges which it would facilitate. No misconception could be greater than that of its having originated in views of territorial acquisition. If either party could lose by it, it would probably be the United States, many of whose enterprising citizens might be tempted by the intercourse to which it would lead, in consequence of the greater cheapness or other advantages of the lands of the internal provinces, to migrate thither. The connexion between the fixation of limits and the proposed road is not perceived. Wherever the limits may now or hereafter shall be established, the road will be useful. It proposes no disturbance in existing or contemplated limits. In fact, an imperfect trace or road, such as it is, is now used, and the sole question is, whether it shall be rendered more convenient to the persons whose interest or inclination shall induce them to travel it. To defer making the road more visible and comfortable for an indefinite period; to

deny to the parties mutually a certain benefit, in prospect of a future and contingent arrangement to which it has no necessary relation, does not seem advisable.

"Nor does the President perceive the utility of a joint appointment by the two Governments of Commissioners, 'who, by examining together the country, within a given latitude, from one sea to the other, might present exact information upon which the limits might be established as is desired.' After agreeing upon the principles on which a line of demarkation between the territories of two nations should be run, it has been usual to appoint, conjointly, Commissioners to proceed to mark and abut the line. Their duty is then prescribed, and if any variance arises between them, observations and experiments, with proper instruments, generally enable them to reconcile it. But it has not been customary to send forth Commissioners either to agree upon a suitable boundary, or to collect data upon which the parties are subsequently to establish one. Such a course would be to reverse the order of proceeding which is recommended by the practice and experience of nations. It would probably leave the state of information which should guide the two Powers pretty much as it now is. There is but little likelihood that the Commissioners would agree, and each set would be influenced by the separate views of policy which it might happen to take of the particular country which it represented. If it were needful for both parties to acquire the knowledge which the Mexican Government supposes to be wanted, it would be better for each to send out its own exploring Commissioners, under its separate instructions. For ourselves, although much undoubtedly remains to be known of the countries through which the line may be fixed, we believe that the stock of our information is sufficient to enable us to agree upon a boundary that would be satisfactory to us. In declining, however, to accede to the measure of creating a joint commission, the President would not be understood as objecting to a resort by the Mexican Government, for its own satisfaction, to the appointment of Commissioners for the purpose of collecting any information which it may desire. Should it persist in attaching importance to such a measure, the hope is indulged that no unnecessary time will be lost in sending out the commission, so that the negotiation in regard to the limits may be resumed with as little delay as possible."

Mr. Clay to Mr. Poinsett.

No. 7.] DEPARTMENT OF STATE, *Washington, November* 9, 1825.

SIR: Since the date of my letter of the 26th September last, your despatches to No. 21 have been received. That of the 13th of September, 1825, was received yesterday. They have all been laid before the President, and I shall now make the remarks which appear to be called for by the last, being the only one which seems to require particular notice. In that you state that, in the course of your conferences with the plenipotentiaries of the United Mexican States, on the subject of the proposed commercial convention, a point of difficulty has arisen which has been agreed to be reserved. The point is, an exception in favor of the American nations which were formerly Spanish possessions, to which, on account of the fraternal relations that unite them to the United Mexican States, the latter may grant special privileges which shall not be extended to the dominions and citizens of the United States. The President approves of your refusal to accede to that exception.

The United States have neither desired nor sought to obtain for themselves, in their commercial relations with the new States, any privileges which were not common to other nations. They have proposed, and only wished to establish as the bases of all their commercial treaties, those of equality and reciprocity. They can consent to no other. Ready themselves to extend to the United Mexican States any favors which they have granted to other nations, the United States feel themselves authorized to demand, in this respect, a perfect reciprocity. They could not agree to treat on the principle of a concession to any European Power of commercial privileges which were denied to them. They would feel even more repugnance to the adoption of such a principle in respect to any American nations; because by placing the United States, in some degree, out of the pale of that American system of which they form no unessential part, it would naturally wound the sensibility of the people of the United States.

As you had not time, at the date of your despatch, to communicate the reasons which were urged in support of this extraordinary exception, they can only be collected from the tenor of the clause inserted in the British treaty which you have cited. That clause asserts as the motives for the exception, 1st, that the new States, in whose favor it is to be applied, were formerly Spanish possessions; and 2d, that certain fraternal relations unite them to the Mexican States. The validity of neither of these reasons can be perceived. What is there in the nature of the fact that those nations were once bound by a common allegiance to Spain to justify the exception? Can any rule be fairly deduced from a colonial condition which should govern independent nations no longer bound by any common tie? Is there not something derogatory from the character of free States and free men in seeking to find a rule for their commercial intercourse, in their emancipated condition, from a retrospect of their colonial state which was one of dependence and vassalage? What is to be the limit of this principle? If the accident of a colonial connexion under a common sovereign is to justify a peculiar rule for the emancipated colonies, may not that common sovereign also insist, on the ground of ancient relations, upon special privileges? And then it would be incumbent upon the United States to consider if they had not been premature in their recognition of the independence of the United Mexican States. But if the fact of the Spanish dominion having once stretched over the new States is to create an exception of commercial privileges in their behalf, the United States, upon a similar ground, have a right to demand the benefit of it. For the same Spanish dominion once, and at no very distant day, extended over the larger part of their territories, and all that part which is conterminous with those of the United Mexican States. With respect to the second reason deducible from the clause in the British treaty, there is no statement of the nature of those fraternal relations which are supposed to warrant the exception. Certainly, as between the United Mexican States and the other new nations carved out of the former Spanish colonies, none are known to the world which can sanction the exception. The United Mexican States have, it is true, been waging war with Spain cotemporaneously with the other States; but hitherto there has been no co-operation of arms between them. The United Mexican States have alone sustained their contest. If the idea of those fraternal relations is to be sought for in the sympathy between the American belligerents, this sympathy has been equally felt and constantly expressed, throughout the whole struggle, by the United States. They have not, indeed, taken up arms in support of the independence of the new States; but the neutrality

which they have maintained has enabled them more efficaciously to serve the cause of independence than they could have done by taking part in the war. Had they become a belligerent, they would probably have drawn into the war, on the other side, parties whose force would have neutralized, if it had not overbalanced, their exertions. By maintaining neutral ground, they have entitled themselves to speak out with effect, and they have constantly so spoken to the Powers of Europe. They disconcerted the designs of the European alliance upon the new States by the uncalculating declarations which they made in the face of the world. They were the first to hasten to acknowledge the independence of the United Mexican States, and, by their example, drew after them Great Britain. It has, no doubt, not escaped your observation that, in the case of the treaty which has been concluded between the United States and the Republic of Colombia, (and of which a printed authentic copy, as it has been ratified by the two Governments, is herewith transmitted,) no such exception was set set up by that Republic. On the contrary, it is expressly stipulated in the second article that the parties "engage mutually not to grant any particular favor to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same freely, if the concession was freely made, or allowing the same compensation, if the concession was conditional."

There is a striking inconsistency in the line of policy which the United Mexican States would seem disposed to pursue towards the United States. They would regard these States as an American nation or not, accordingly as it shall suit their own purposes. In respect to commerce, they would look upon us as an European nation, to be excluded from the enjoyment of privileges conceded to other American nations. But when an attack is imagined to be menaced by Europe upon the independence of the United Mexican States, then an appeal is made to those fraternal sympathies which are justly supposed to belong to our condition as a member of the American family. No longer than about three months ago, when an invasion by France of the island of Cuba was believed at Mexico, the United Mexican Government promptly called upon the Government of the United States, through you, to fulfil the memorable pledge of the President of the United States in his message to Congress of December, 1823. What they would have done had the contingency happened, may be inferred from a despatch to the American minister at Paris, a copy of which is herewith sent, which you are authorized to read to the plenipotentiaries of the United Mexican States. Again: the United Mexican Government has invited that of the United States to be represented at the Congress of Panama, and the President has determined to accept the invitation. Such an invitation has been given to no European Power, and it ought not to have been given to this, if it is not to be considered as one of the American nations.

The President indulges the confident expectation that, upon reconsideration, the Mexican Government will withdraw the exception. But if it should continue to insist upon it, you will, upon that ground, abstain from concluding any treaty, and put an end to the negotiation. It is deemed better to have no treaty and abide by the respective commercial laws of the two countries, than to subscribe to a principle wholly inadmissible, and which, being assented to in the case of Mexico, might form a precedent to be extended to others of the new States.

I am your obedient servant,

H. CLAY.

JOEL R. POINSETT, *Envoy Extraordinary and Minister Plenipotentiary, United States, Mexico.*

PROTOCOLS OF THE CONFERENCES, AND COPIES OF THE NOTES BETWEEN THE PLENIPOTENTIARIES OF THE UNITED STATES OF AMERICA AND OF THE UNITED MEXICAN STATES, DURING THE NEGOTIATIONS FOR A TREATY OF AMITY, COMMERCE AND NAVIGATION BETWEEN THOSE STATES, CONCLUDED JULY 10, 1826.

Protocol of the first conference held by Joel R. Poinsett, plenipotentiary on the part of the United States of America, and his excellency Lucas Alamán, Secretary of State and of Exterior and Interior Relations, and his excellency José Ignacio Esteva, Secretary of State and of the Treasury, plenipotentiaries on the part of the United Mexican States, on the 22d of August, 1825.

Present, the plenipotentiaries.

The plenipotentiaries interchanged their respective powers. It was agreed that a project of a treaty of amity, navigation and commerce should be drawn up by Joel R. Poinsett, to be presented to the plenipotentiaries at their next conference.

J. R. POINSETT.
LUCAS ALAMÁN.
JOSÉ IGNACIO ESTEVA.

Protocol of the second conference held by the plenipotentiaries of the United States of America and of the United Mexican States on the 13th September, 1825.

Present, the plenipotentiaries.

A translation into the Spanish language of the project of a treaty of amity and commerce between the two Republics was read and compared with the original presented by Joel R. Poinsett, as far as the conclusion of the thirteenth article, and was found to be so far correct.

On reading the first article, it was remarked by the plenipotentiaries of the Mexican Government that they desired in all their treaties to adopt one style of language, and would therefore prefer that this article should be in the words of the first article of the treaty they had lately concluded with Great Britain; for which the treaty between the United States and Spain had been the model. As it corresponds in substance with the one proposed by the plenipotentiary of the United States, he did not object to its substitution.

On reading the third article, it was suggested by the plenipotentiaries of the Mexican Government that it would be necessary to make an exception in relation to the coasting trade, which was acquiesced in by the plenipotentiary of the United States. The plenipotentiaries of the Mexican Government declared

the fourth article of the project to be inadmissible in the present state of their commercial marine. They objected that the principle of reciprocity would, from the very superior tonnage of the United States of America, be wholly in their favor, and enable them, for a very considerable period, to engross the carrying trade between the two countries, and proposed, instead, the principle of the most favored nation.

In reply, the plenipotentiary of the United States observed that his Government was desirous of adopting the principle he had introduced into the project in all their treaties with foreign Powers as much more fair and liberal than the one proposed to be substituted for it. That they had already concluded treaties on that basis with Great Britain, Russia, the Netherlands, Prussia, Hamburg, Bremen, Lubeck, Oldenburg, Norway and Sardinia; that between some of those States and the United States of America, as great a disparity of tonnage existed as between that of Mexico and of the United States; that it was surely better to adopt a plain and explicit rule which should govern the two parties themselves than refer each of them to that which may exist between either and a third party, and which was to be sought for in treaties where it was difficult to distinguish between a voluntary grant and one yielded for an equivalent; that the principle of the most favored nation was liable to be very unfair in its application, as being most favorable to the nation which shall adopt the most liberal regulations in its foreign commerce.

The plenipotentiaries of the Mexican Government observed that the same principle as that under discussion had been urged by the plenipotentiaries of His Britannic Majesty, and that they had refused to accede to it for the reasons just assigned, and therefore could not, with propriety or consistency, agree to introduce it into a treaty with the United States.

The plenipotentiary of the United States explained why the principle for which he contended had not been engrafted on the treaty lately concluded between the United States and the Republic of Colombia, by stating that the law which recognized that principle being about to expire, the President of those States thought it better not to introduce it into any treaty which might be made in the interval until the sense of Congress should be ascertained on the subject, presuming that there would be no difficulty in making a future arrangement with Colombia founded on a principle acknowledged so fair and liberal; that the law expired on the 1st of January, 1824, but so satisfied were that Congress of the excellence of this principle that it was again renewed on the 7th of the same month.

After agreeing to reason this point, and that the plenipotentiary of the United States should present a note explanatory of his views on the subject, the fourth article of the treaty between the Mexican United States and Great Britain was read. This article contains the principle of the most favored nation, and the plenipotentiaries of the Mexican Government expressed their wishes that it might be substituted for the fourth article contained in the project. This point having by agreement been resumed, the plenipotentiary of the United States confined his observations to an exception contained in the last clause of that article in favor of the American nations which had been Spanish possessions, and to which Mexico might grant privileges that should not be extended to Great Britain. To this exception he objected, that no distinction ought to be made between any of the members of the great American family; that Great Britain, having consented to such a provision, could not influence the decision of the United States; the Republics of America were united by one and the same interest to support each other against the European system; that it was the interest of the European Powers that such distinctions should be made between the American Republics; but it was most manifestly the interest of the latter that they should all be united as intimately as possible—an union which could only exist on the basis of the most perfect reciprocity.

The plenipotentiaries of the Mexican Government observed that Mexico was united by fraternal ties and strong sympathies to the nations which had, like themselves, shaken off the Spanish yoke, and that they stood in a very different relation towards them from having formed an offensive and defensive alliance with them, and were, therefore, more intimately united with them than with the United States.

The plenipotentiary of the United States rejoined, that the policy his Government had pursued towards the nations which had been formerly Spanish possessions gave them a right to expect that no such distinction should be made in their case, and entitled them to be considered at least on an equal footing with any of the American Republics; and that the treaty with Colombia, and those, in all probability by this time, concluded with Buenos Ayres and Chilé, contained no such provision, and therefore to insert it in this treaty would be useless. The plenipotentiaries of the Mexican Government here observed that a war might dissolve any one of those treaties, and they thought Mexico ought, in that event, to possess the power of evincing her sympathies in favor of either of the nations, formerly Spanish possessions, which might be so circumstanced, without violating her neutrality. The plenipotentiary of the United States replied, that he considered this argument as conclusive why his Government should not accede to the insertion in the treaty of such a provision. A war between the United States and any of the American Republics he regarded as a remote and improbable event; but could never consent to place by treaty the former in a less favorable situation than their enemies, if by any unforeseen accident the present friendly relations which subsisted should be changed.

After some further discussion, this point was reserved.

The plenipotentiaries of the Mexican Government here remarked, that, in order to avoid any doubt or misunderstanding as to what vessels should be considered as belonging to the United States of America or to the United Mexican States, they wished to insert in the treaty an article to the same effect as the seventh article of their treaty with Great Britain, which defined what should be considered requisite to constitute a Mexican and a British vessel.

The plenipotentiary of the United States observed, that the British plenipotentiaries, in granting this condition and in extending its provisions for the term of ten years, had yielded a great deal to the Mexican Government; but as he knew that his Government was disposed to foster the rising commerce of the Republics of America, he would not refuse to act, upon this occasion, with equal liberality, and consented to the insertion of an article in the same terms as the seventh article of the treaty between Mexico and Great Britain.

An additional article in the treaty between Mexico and Great Britain was read. It provides that as Spain was the only nation that might obtain privileges which could not be extended to Great Britain from the peculiar relations which had existed between Mexico and Spain, the privileges, if any should be granted for an equivalent to Spain, are in nowise to be exclusive or prohibitory, and are to be limited to a certain term of years.

The fifth article being read, the plenipotentiaries of the Mexican Government suggested that an article to the like effect had been inserted in their treaty with Great Britain, and as it appeared, in substance,

to be the same, the plenipotentiary of the United States agreed to substitute it for the fifth article of the project.

The sixth and seventh articles, containing provisions similar to those contained in an article of the treaty between Mexico and Great Britain, some conversation took place on the subject of amalgamating them into one article.

A conversation took place, on reading the eighth article, as to the degree of protection to be afforded to a vessel belonging to either of the contracting parties when pursued into the harbors of the other party, being a neutral. The Mexican plenipotentiaries inquired whether this article might not give rise to reclamations, and instanced the claim made by the United States on the Government of Portugal on account of one of their vessels having been captured by a British squadron within the jurisdiction of the Portuguese Government. The plenipotentiary of the United States explained, that the claim made by his Government on that occasion was made in virtue of an acknowledged rule of the law of nations, and not in consequence of any treaty existing between the two countries. The attack made on the American vessel in the port of Fayal by the British was a palpable violation of the neutral rights of Portugal, to which she submitted only because she had not the power to cause those rights to be respected. Every neutral is bound to compel a belligerent to respect her neutral rights if she possesses the power to do so.

A discussion arose on the ninth article as to what ought to be considered the competent tribunals in such cases. The plenipotentiaries of the Mexican Government suggested that the consuls appointed by the contracting parties and residing in the ports of the United States and Mexico, respectively, might be invested with full powers to this effect. The plenipotentiary of the United States observed, in reply, that there was, in his opinion, no objection to this proposal, except that in order to confer upon those officers the necessary powers, there must be a consular convention between the two Governments.

On the tenth article, some conversation took place on the difficulty of preventing smuggling in such cases; but it was remarked that each nation would be at liberty to adopt such regulations on the subject as it might deem expedient.

An objection was made respecting the eleventh article by the plenipotentiaries of the Mexican Government, that Spaniards might take advantage of it by becoming citizens of the United States and then claiming their forfeited estates. The plenipotentiary of the United States, after observing that Spaniards could acquire no rights in this country by becoming citizens of the United States other than they possessed before, engaged to send the laws relating to aliens and citizens, as passed by the Congress of those States, to the plenipotentiaries, that they might see the provisions of those acts.

It was agreed to strike out the word "*special*" in the twelfth article preceding the word "*protection*" as not conveying precisely the same meaning in both languages.

The plenipotentiaries of the Mexican Government, not being quite certain as to the practice of their courts of law, preferred that the concluding clause of this article should be altered so as to extend to the citizens of each country, respectively, the same rights and privileges as the inhabitants of the country where the suit was held would be entitled to in similar cases. This alteration was agreed to by the plenipotentiary of the United States.

The thirteenth article was considered by both parties of so much importance that its discussion was reserved to a future day.

JOEL R. POINSETT.
LUCAS ALAMÁN.
JOSÉ IGNACIO ESTEVA.

[Note.]

LEGATION OF THE UNITED STATES OF AMERICA, *Mexico, September* 18, 1825.

MOST EXCELLENT SIRS: In consequence of the arrangement made at our second conference, by which it was agreed that the disputed point contained in the fourth article of the project of a treaty of amity, navigation, and commerce between the United States of America and the United Mexican States should be reserved, and that I should state, in a note, my views on that important subject, I have the honor to submit to you the following observations in favor of assuming, as the basis of commercial intercourse between the two Republics, the abolition of all discriminating duties whatsoever, so as to place the citizens of each country, respectively, in regard to all objects of commerce and navigation, upon the footing of equal favor rather than that of extending to them, respectively, the privileges and exemptions of the most favored nation.

The first is not only in itself fair and liberal and comprehensible, being never liable to any misinterpretations, because it applies to the two parties themselves and not to a rule which may exist between one of them and a third party, but it is much more fair and liberal than the principle proposed to be substituted for it, because it establishes the most perfect reciprocity between the two parties and secures to each of them equal privileges and exemptions; whereas, the principle of the most favored nation may not be, and very rarely is, equal in its operation between the two contracting parties. It can only be so when the voluntary concessions made by each of the contracting parties to other nations are exactly alike, which, it must be acknowledged, is of very rare occurrence. The least difference in the commercial privileges granted by one of them to a third most favored Power and withheld by the other might essentially change the relations between the two contracting parties. So that, where this principle prevails, the party which, in its commercial intercourse with other nations, shall adopt the most illiberal regulations will possess advantages over the other party which may be governed in its commercial intercourse with other nations by a more liberal policy. It cannot be considered just that the former, by adopting the least liberal system, should be enabled to enjoy the greatest share of the commerce and navigation carried on between the two contracting parties.

The rule contained in the project is much more simple and comprehensible than the proposed substitute, because it is a fixed and determined rule; whereas, in order to ascertain the precise nature of the favor to which one of the parties may be entitled in virtue of a treaty stipulation embracing the latter principle, recourse must be had to the existing commercial relations between the other party and all the rest of the commercial world. A knowledge of these relations can be acquired only by consulting

the treaties, statutes, orders, decrees, and other regulations of the parties, and it not unfrequently happens that disputes arise between them from the difficulty of distinguishing between a concession made to a third party for an equivalent and a favor granted voluntarily. Peculiar considerations may lead one party to make a concession to a third power, which, on a partial examination, might be regarded as a voluntary favor, when, in reality, it was granted for an equivalent, but which is either not clearly deducible from the treaty, or may be so diffused throughout all the stipulations of it as to be extracted only after a careful view and comparison of the whole of them. From these causes perplexing and embarrassing discussions have arisen in the practical application of the rules of the most favored nations; and the President of the United States is anxiously desirous of extending the more liberal and simple principle of perfect reciprocity with respect to commerce and navigation between both countries, respectively, in all the treaties in which the United States of America are a party; and considerable advances have been made by the latter towards the general establishment of this most liberal of all principles of commercial intercourse. Most of the commercial nations of Europe have been convinced of the advantages of this principle over that proposed by your excellencies. In 1815 the United States of America made a treaty with Great Britain upon the basis contained in the fourth article of the project under discussion. By a treaty concluded between the United States and Sweden the same principle of equal duties and charges of tonnage, import, export, prohibition, and bounty upon vessels and their cargoes, being of the produce or manufacture of the respective countries, whether in vessels of the foreign or native, was established. This principle of commercial intercourse has been extended, at different epochs, by the United States of America to the Netherlands, to Prussia, to the Free and Hanseatic cities of Bremen, Hamburg, and Lubeck, to the kingdom of Norway, and to the empire of Russia.

I have already explained to your excellencies why this principle, which the President is desirous to adopt generally, and especially in all treaties with the Powers of America, was not introduced into that lately concluded with Colombia. The law of Congress by which that principle was established was about to expire when the minister of the United States to that Republic received his instructions to conclude that treaty. That law did expire on the 1st of January, 1824. But so convinced was the Government of the United States of the liberal and enlightened policy which had dictated it, and the salutary effects it had produced, that it was renewed on the 7th of the same month, as soon as the ordinary forms of legislation would permit. From this circumstance alone the establishment of this liberal principle in the commercial intercourse between the United States and Colombia was left to be the subject of future concert. The President of the United States of America did not anticipate that I should experience the slightest difficulty in impressing upon this Government the superior advantages which would result to both parties from the adoption of the rule proposed in the project, which is simple and familiar, being made to govern the two parties themselves over the one proposed to be substituted, which is complicated and refers the parties to compacts which may happen to exist between either of them and third parties.

I pray your excellencies to accept the assurances of the highest respect with which I have the honor to be your excellencie's most obedient servant,

J. R. POINSETT.

Their Excellencies Don LUCAS ALAMÁN and Don JOSÉ IGNACIO ESTEVA,
Plenipotentiaries of the United Mexican States.

Protocol of the third conference held by the plenipotentiaries of the United States of America and the United Mexican States on the 19th of September, 1825.

Present, the plenipotentiaries.

On the fourteenth article of the project being read, the plenipotentiaries of the Mexican Government remarked, that although they did not object to the principle laid down in that article that "free ships should make free goods," still there were circumstances arising out of the peculiar geographical position of the seacoast of Mexico which would render the application of that principle difficult upon their coast. They considered it of the utmost importance to prevent the introduction of Spanish productions into Mexico; but if neutrals could, without the risk of loss, bring the property of the enemies of Mexico into the Gulf of Mexico, it would be impossible for them to prevent that property from being smuggled into the country; their coasts were so situated that a vessel found in the Gulf, within a certain latitude, must be bound to one of their ports or be there with an intention of landing her cargo clandestinely. The plenipotentiary of the United States replied, that the great object was to establish the principle as applicable to vessels on the high seas, and that each nation would be at liberty to make such regulations within its own maritime jurisdiction as it might judge expedient in order to prevent its own revenue laws from being violated.

The plenipotentiaries of the Mexican Government objected, that the ordinary extent of maritime jurisdiction would not in this case be sufficient to protect the coast of the Gulf of Mexico from smuggling, and proposed some general term which would embrace the whole Gulf, excluding only New Orleans.

To this proposal the plenipotentiary of the United States declared that he could not consent, because the United States of America possessed several ports within the Gulf besides New Orleans, such as Mobile, Pensacola, Tampa, and others. After some further discussion, this point was reserved, and it was agreed that the plenipotentiaries of the Mexican Government should prepare a note explanatory of their views.

The fifteenth, sixteenth, seventeenth and eighteenth articles being co-relative to the fourteenth, were likewise reserved.

On the nineteenth article being read, the plenipotentiaries of the Mexican Government inquired in what manner it was to be ascertained whether the fact of a place being invested or blockaded was known by the vessel attempting to enter a blockaded port.

The plenipotentiary of the United States replied that when due notice was given in the country and port from which such vessel sailed, it was always to be presumed that the owners and commander were acquainted with the existence of the blockade, provided such public notice had been given before the vessel sailed. For it was a maxim that no man had a right to evade a law by pleading ignorance of its existence after that law had been publicly promulgated. The plenipotentiaries of the Mexican Government put the case of a vessel escaping the blockading squadron by reason of its being driven off by a

gale of wind and entering the blockaded port, would she, under these circumstances, be permitted to sail with a cargo and carry off the persons and property of the besieged?

The plenipotentiary of the United States replied that if a vessel entered a blockaded port under such circumstances and ignorant of the existence of the blockade, still she had no right to depart with a cargo other than that which she brought with her; and that the provision of the last clause was intended to embrace only such vessels as had entered the port previous to the existence of the blockade.

The twentieth, twenty-first, and twenty-second articles were read and agreed to.

On the twenty-third article, a conversation took place as to what were to be considered the established courts for prize-causes. The plenipotentiaries of the Mexican Government stated that it was intended to create circuit courts which should have admiralty jurisdiction; but that in the interval prize causes were tried before the *Juez de letras.*

The plenipotentiary of the United States observed that it was not intended to specify what courts should be established for the purpose of trying all prize causes; but that none other than the court so established should have jurisdiction in such causes, with regard to the delivery of an authenticated copy of the proceedings in cases of condemnation, and that the sentence should set forth the reasons on which it shall have been founded.

The plenipotentiaries of the Mexican Government remarked that it was not the practice of their courts for the judges to give the motives of the sentence; that it was, in their opinion, the duty of the *Fiscal.*

The plenipotentiary of the United States replied that, provided the motives on which the sentence or act was founded were given by the officer whose duty it was to do so, and legally authenticated according to the practice of the courts of the respective countries, such documents would be deemed satisfactory.

The articles twenty-fourth and twenty-fifth were read and agreed to. The twenty-sixth article was agreed to, but it was suggested by the plenipotentiaries of the Mexican Government and assented to by the plenipotentiary of the United States, that each party should reserve the right of excluding consuls from such ports and places as they should deem proper. On reading the twenty-seventh article, some objections were started by the plenipotentiaries of the Mexican Government as to the nature of the proposed exemptions from taxes and contributions which it was intended such officers should enjoy. By the seventh article of the project, citizens of both countries, respectively, were exempted from all taxes and contributions other than such as citizens of the country where they reside are subject to. They thought, too, that cases might occur where it would be important that consuls might be called upon to substantiate facts by written documents in their possession. They proposed that, as it was provided there should be formed, as early as convenient, a consular convention between the two countries, this article should be omitted, to which the plenipotentiary of the United States did not object. It was agreed that the plenipotentiary of the United States should write to his Government for powers to conclude such convention

The twenty-eighth and twenty-ninth articles of the project were read and agreed to.

On reading the thirtieth article, a conversation took place as to the meaning of the word "unreasonably," and what ought in such case to be construed into an unreasonable delay. As there is no word that conveys exactly the same meaning in the Spanish language, it was agreed to substitute the words "or delayed longer than is reasonable or necessary."

On the fourth point of the thirtieth article, the plenipotentiaries of the Mexican Government observed that it was of course to be understood that the treaties here mentioned were of a similar nature to the one now under discussion.

The plenipotentiaries of the Mexican Government read the sixteenth article of the treaty between the Mexican United States and Great Britain, by which it had been agreed that as many new and important points might arise in the progress of the intimate relations established between the two countries which would require a special convention to settle, all such subjects should be taken into consideration at the end of six years from the date of the exchange of ratifications of that treaty, and all the articles then concluded should be considered as forming a part of the treaty and have the same force as there contained in it, and offered to introduce the same condition in the present treaty with the United States of America. To which the plenipotentiary of the United States assented, after observing that the words "articles then concluded upon" implied the necessary consent of the Congress and Senate according to the institutions of their respective Governments.

It was likewise agreed to insert at the conclusion of the thirtieth article the term of six months for the ratification of the treaty, to be counted from the date of the signature thereof, or sooner, if possible.

The plenipotentiaries of the Mexican Government observed that it would be advisable to introduce an article respecting the Indians inhabiting the territories of the respective countries.

The plenipotentiary of the United States replied, that he would have proposed such an article, as well as one relating to fugitive slaves, in this project, but had deferred these subjects as more properly belonging to the treaty of limits.

The plenipotentiaries of the Mexican Government observed, in reply, that it would in their opinion be better to confine the treaty of limits entirely to marking out and defining the boundaries, and that it was important to settle the principle of the government of the Indian tribes within the territories of the respective countries as soon as possible.

The plenipotentiary of the United States expressed himself disposed to comply with the wishes of the Mexican Government in this particular, and proposed to adopt the fifth article of the treaty of friendship, limits, and navigation, concluded between the United States of America and the King of Spain, in 1705, as far as it applied to the present circumstances of the two countries, which was assented to.

It was likewise agreed that the plenipotentiary of the United States should draw up an additional article on the subject of fugitive slaves passing over the frontiers of the two countries.

The article relating to fugitive slaves is as follows, viz: "It is likewise agreed that, in the event of any slaves escaping from their owners, residing in the States or territories of one of the contracting parties, and passing over into the States or territories of the other, it shall be lawful for the owner or owners of such slaves, or their lawful agents, to require the assistance of the authorities of the country where they may be found for their arrest, sentence, and custody; and, for that purpose, the proprietors or their agents shall address themselves to the nearest magistrate or competent officer. On such demand being made it shall be the duty of the magistrate or competent officer to cause the said slaves to be arrested and detained, and if it shall appear that such slaves be actually the property of the claimant the magistrate or competent officer shall surrender them to the proprietors or their agents, to be conveyed

back to the country from whence they had escaped; the claimants paying the expenses incurred by the arrest, detention, and custody of such slaves, and none other."

J. R. POINSETT.
LUCAS ALAMÁN.
JOSÉ IGNACIO ESTEVA.

Protocol of the fourth conference held by the plenipotentiaries of the United States of America and of the United Mexican States on the 27th of September, 1825.

Present, the plenipotentiary of the United States of America, his excellency Don José Ignacio Esteva, and his excellency Don Gomez Pedraza.

His excellency Don José Ignacio Esteva informed the plenipotentiary of the United States that, Don Lucas Alamán having resigned all the offices he held under the Government, the President had thought proper to appoint his excellency Don Gomez Pedraza to be one of the plenipotentiaries to negociate the treaty of amity and commerce between the United States of America and the United Mexican States. Whereupon his excellency Don Gomez Pedraza presented his full powers to the plenipotentiary of the United States.

The project of the treaty and the protocols of the former conferences were then read. His excellency, the newly appointed plenipotentiary, did not object to what had been agreed upon by his colleague.

In order to obviate the necessity of further discussion on the article intended to establish the principle that free ships shall make free goods, the plenipotentiary of the United States offered the following proviso, viz: "The stipulations contained in this article shall not be so construed as to render it lawful for the vessels of either of the contracting parties, being neutral, to introduce into the ports of the other, being belligerent, the goods or persons of the enemies of the latter," with which the plenipotentiaries of Mexico were satisfied; but, in order to make it more explicit, proposed to add the words, viz: "Y el contraventor quedará sugeto á las leyes establecidas en el pais," "and by so doing they will subject themselves to the existing laws of the country." They desired it should be expressly understood that, in such cases, the vessels of the neutral should not be permitted to approach their shores with the goods of an enemy on board, and declared that a vessel found within the sack formed by the Gulf of Mexico could not be considered as bound to any other than the ports of Mexico.

The article relating to the arrest, detention, and delivery of fugitive slaves was read and agreed to.

An article relating to the obligations of the contracting parties towards the Indians residing within their respective territories, the same in substance as the 15th article of the treaty betweeen the United States of America and Spain, signed at San Lorenzo el Real in 1795, was read and agreed to. It is as follows, viz: "And it is further agreed that the two contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations adjacent to the lines and rivers which shall form the boundaries between the two Republics. And the better to obtain this effect both parties oblige themselves expressly to restrain, by force, all hostilities on the part of the Indian nations living within their boundary; so that the United States of America will not suffer their Indians to attack the citizens of the United Mexican States, nor the Indians inhabiting their territory, nor will the United Mexican States permit these last mentioned Indians to commence hostilities against the citizens of the United States of America, nor against the Indians inhabiting their territory, in any manner whatever. And whereas several treaties of friendship exist between the two contracting parties and the said nations of Indians, it is hereby agreed that, in future, no treaty of alliance or other whatever (except treaties of peace) shall be made by either party with the Indians living within the boundary of the other; but, both parties will endeavor to make the advantages of the Indian trade common and mutually beneficial to their respective citizens, observing in all things the most complete reciprocity."

Some conversation then took place relative to the article on the freedom of worship. The plenipotentiaries of the Mexican Government observed that, however they might be inclined to consent to the article as presented in the project by the plenipotentiary of the United States, the spirit and letter of the Constitution placed it out of their power to do so. The third article of the Constitution of the United Mexican States is in these words, viz: "The religion of the Mexican nation is, and always shall be, Catholic, Apostolic, Roman. The nation protects it by wise and just laws, and prohibits the exercise of every other."

The plenipotentiary of the United States, after expressing his deep regret that the Mexican nation should have adopted so intolerant a principle, observed that he would prepare an article to protect the funerals and sepulchres of the citizens of the United States.

The discussion on the subject of the exception Mexico desired to make in favor of the American nations, formerly Spanish possessions, was renewed, and the newly appointed plenipotentiary was informed of the arguments and objections which had been urged by both parties in relation to it.

J. R. POINSETT.
JOSÉ IGNACIO ESTEVA.
MANUEL GOMEZ PEDRAZA.

Protocol of the fifth conference held by the plenipotentiaries of the United States of America and of Mexico on the 28th of September, 1825.

Present, the plenipotentiaries.

The fifteenth article of the treaty between the United States of America and the King of Spain, signed at San Lorenzo el Real in 1795, was read, and, after being modified so as to suit the present circumstances of the two countries, was adopted as an article of the present treaty.

A conversation then took place on the subject of the exceptions Mexico desired to reserve to herself the power of making, in favor of those American nations which formerly were Spanish possessions. The plenipotentiaries of Mexico began by saying that, as the plenipotentiary of the United States had rejected

the proposal made to him informally, to confine the exception to those States only which would treat with Mexico on the same basis; they had now one to submit, which might be less objectionable, especially as he had expressed an opinion that their treaty with Great Britain would be rejected in London, and this provision in it would not be agreed to by her Britannic Majesty's ministers. They then proposed to insert the following words: "With respect to the exception contained in the fourth article, which speaks of the Republics which formerly were Spanish possessions, it shall be understood in the same terms that finally shall be agreed upon in relation to this subject between Mexico and Great Britain."

The plenipotentiary of the United States objected that the political interests of Great Britain and of the United States, with regard to America, were so distinct that he would prefer agreeing to the article as it stood, rather than consent to be governed by the decision of that Government; and besides, that it did not comport with the dignity of his Government to insert such a condition; in his opinion, the interests of the Powers of Europe and of those of America were so widely different, that in treaties intended to strengthen the relations of the latter no allusion ought to be made to the former. Great Britain had concluded a treaty with Mexico, in order to secure the advantages of a profitable commerce, but her political interests were European, whereas those of the United States were, strictly speaking, American. With respect to the opinion he had advanced, that their treaty with Great Britain would not be ratified in London, he had been induced to adopt it, because he had been assured that the plenipotentiaries of her Britannic Majesty would never have agreed to this exception had not the treaty made with Colombia and ratified here, and which contained this provision, been exhibited to them. They were compelled, therefore, to agree to the exception or make no treaty; as they had declared this to be the only motive for consenting to the insertion of this article, and as the treaty between Mexico and Colombia had not been ratified by the latter, it was to be presumed that Great Britain would insist upon its being expunged from the treaty between her and Mexico; but if Great Britain did consent to this exception continuing to form a part of the treaty, she could be governed by political considerations alone, and, as forming one of the European Powers, might not object to the establishment of distinctions which would separate the interests of the American Republics, because these exceptions were manifestly contrary to the commercial interests of that nation.

The plenipotentiaries of Mexico asked what would be their situation if the treaty between Mexico and Great Britain should be ratified in London, and the ratification arrive here after they had signed one with the United States on a different basis?

The plenipotentiary of the United States replied that as the plenipotentiaries of Great Britain had been induced to consent to this exception, in favor of the States formerly Spanish possessions, on account of a pre-existing treaty between Mexico and Colombia, which contained that principle, and as from the non-ratification of that treaty by Colombia that reason no longer existed, it would, in his opinion, be decorous and honorable on the part of the Mexican Government to expunge that exceptionable provision from their treaty with Great Britain.

The plenipotentiaries of Mexico declared, the motive now assigned by the British plenipotentiaries had not been the only one, and, therefore, they could not consent to what was proposed by the plenipotentiary of the United States.

The latter replied that he had been so assured by one of those gentlemen who had been left as her Britannic Majesty's Chargé d'Affaires, and that he knew that a note had been sent in by him to that effect.

The plenipotentiaries said that it was true such a note had been sent in by Mr. Ward, but that the President had no intention of complying with that gentleman's demand. They stated that they were bound by fraternal ties to the Spanish American States, and that it was natural Mexico should seek to unite herself more intimately with States which, like herself, were in their infancy, and whose interests were identical with hers from the peculiar circumstances in which they mutually stood towards Spain, than with a nation already in adolescence, and which, from its relations with the other Powers of Europe, had to pursue a different policy towards that nation.

The plenipotentiary of the United States observed that the States which formerly were Spanish possessions had given very sufficient proofs that they required no assistance to enable them to repel the attacks of Spain; and that the United States had pledged themselves not to permit any other Powers of Europe to interfere either with their form of government or with their independence; and as, in the event of such an attempt being made by them, the United States would be compelled to take the most active and efficient part in the contest, it was not just that they should be placed by treaty on a less favorable footing than the other Republics of America, whose existence they were disposed to support at such hazards.

The plenipotentiaries of Mexico here remarked that the United States had no right to insist upon being placed upon the same footing with the Spanish American States, unless they were willing to take part in the contest with Spain; that it was true the United States had declared that they would not permit the interference of any third Power, and it was equally so that they believed Mexico to be able to repel any attack of Spain, still the fortune of war was always doubtful, and in the event of Spanish troops overrunning this country, they could count upon the aid of those nations they felt disposed to favor and not upon that of the United States, and, therefore, it was just to make the difference between the two which they proposed.

The plenipotentiary of the United States replied that it would be highly impolitic and injurious to all parties for the United States to take part in the present contest between Spain and her former colonies; that although the power of those States was sufficient not only to put an end to the war, but, if the Powers of Europe did not interfere, to destroy Spain, still such a step on their part would inevitably produce a combination of the principal Powers of Europe against the liberties of America, which it was the interest of all the Republics of American to avoid by every means in their power.

The plenipotentiaries of Mexico expressed their regret that it had been impracticable to reconcile the views of the two nations in this important particular, and proposed to address an explanatory note on the subject to the plenipotentiary of the United States.

J. R. POINSETT.
JOSÉ IGNACIO ESTEVA.
MANUEL GOMEZ PEDRAZA.

[Note.]

LEGATION OF THE UNITED STATES OF AMERICA, *Mexico, April* 18, 1826.

MOST EXCELLENT SIRS: Having reflected on the tenor of the 6th article of the project, which defines what shall constitute the nationality of the vessels belonging to each of the contracting parties, I beg leave to state to your excellencies my objections to it, and to offer a substitute more analogous to the existing laws of the United States of America, and, in my opinion, more advantageous to both parties.

To stipulate that all ships built, owned, navigated, and registered, according to the laws of the United States, shall be considered as ships of that nation, but that Mexican ships shall not only be nationalized according to the laws of Mexico, owned and commanded by a citizen of these States, but have three-fourths of the mariners admitted on board with the knowledge and consent of the Government, is a useless surrender of the rights of the Republic to enact such laws on this subject as the Government may deem politic and expedient.

Neither the particular laws of the United States of America, nor the conventional maritime laws of nations, require that three-fourths of the crew of a vessel shall be of the nation whose flag she bears. It is sufficient that such vessel truly and wholly belongs to the citizens or subjects of that country, and is commanded by citizens or subjects of the same.

If, for example, the United States of America and Great Britain were belligerents, and Mexico and Holland neutrals, a Mexican vessel, with proofs of belonging wholly to Mexican citizens, that had lost her crew by sickness or desertion in a port of Holland, might take in a new crew of Hollanders without forfeiting her neutral character, which she could not do if the article is allowed to subsist in its present form.

The United States have passed laws on the subject of registering and navigating their ships, intended to promote ship-building in that country, and to encourage and to augment their own seamen. These laws define what shall constitute a national ship, and entitle her to all the rights and privileges of such. She must be built in the United States, or be a lawfully condemned prize. She must be commanded by a citizen, and three-fourths of her crew, at least, must be citizens of the United States. But these laws only concern her own mercantile marine, and are not made extensive to that of any other nation, nor would they affect the national character of the vessel on the high seas, or in any foreign port, if, by accident, she were compelled to change her crew.

The first section of the act of navigation, passed March, 1817, provides that no goods, wares, nor merchandise shall be imported into the United States from any foreign port or place, except in vessels of the United States, or in such foreign vessels as truly and wholly belong to the citizens or subjects of that country, of which the goods are the growth, production, or manufacture; or from which such goods, wares, or merchandise can only be or most usually are first shipped for transportation: provided, nevertheless, that this regulation shall not extend to the vessels of any foreign nation which has not adopted and which shall not adopt a similar regulation.

I cannot but suppose that the former plenipotentiaries of the Mexican Republic had in view the act of navigation of Great Britain, when they proposed to insert this article in the treaty with the United States.

This act provides that all goods, &c., shall be imported either in British ships or in such foreign ships as are the build of the country or place of which the goods are the growth, or of such port where the goods can only be or most usually are first shipped for transportation, and whereof the master and three-fourths of the mariners, at least, are of the said country or place.

This latter phrase has given rise to frequent discussion as to what constituted mariners of the said country or place; and it was held by the English courts to mean a native born, a denizen or one naturalized. Great latitude was given to the interpretation of this part of the act; for it was said, that it would make commerce very hazardous, if a merchant was compelled to search out the nativity of every mariner he employed, and in case of a mistake was to forfeit ship and cargo. These acts and decisions, however, concerned only vessels coming into the English ports with goods, but were never intended to affect the nationality of a vessel on the high seas. The neutral character of a vessel ought to be made to depend entirely upon the conventional laws of nations, and it is not wise so to define the nationality of the vessels of Mexico as would expose them to capture by a belligerent and deprive them of their neutral character, when they would, under similar circumstances, be protected by the maritime laws of nations.

The English prize courts have established this principle. Sir William Scott maintained in the case of the ship Vreede Sholtys, that the passport and flag were sufficient evidence of the nationality of the vessel, and would admit no opposite proof. But there exist decisions of the prize courts of France and Denmark, declaring a foreign vessel good prize upon which a supercargo, commissary, or any other officer belonging to an enemy's country was found, or whose crew consisted of more than one-third of enemy's subjects.

The prize laws of England forbid the purchase of enemy's ships *in transitu*, or of ships that may be involved in an expected war, and are sold in contemplation of such an event; but their courts have decided that property might be so purchased, when it appeared that it had been done without any view of relieving the vender from the presence or prospect of war.

The French code of commerce admits the purchase of vessels in transitu, and in their courts, according to the customary maritime practice, the production of the bill or bills of sale alone have been required to prove the national character of the vessel, particularly if they are creditably dated before the commencement of an existing war.

In the Petersburg convention of June 17, 1801, article VII, it is prescribed that no ship shall be considered as protected by the neutral flag it bears if the master and, at least, one-half of the crew are not subjects of the nation whose flag the vessel bears.

But this was a special provision in a treaty. Conventional maritime law requires only that the vessel should truly and wholly belong to the subjects of the nation whose flag the vessel bears, and should not be navigated by the subjects of the enemy.

The prize laws of many of the maritime Powers of Europe require that the vessel be so owned, and commanded either by a native citizen, or by one who has acquired his right of citizenship before the commencement of an existing war. The Danes, in their prize regulations of 1810, require a certificate of origin, (Biel. brief,) and bill or bills of sale to be on board every neutral, which they justify on the ground of having adopted the principle of free ships making free goods, which demands of them greater caution.

All these regulations go to prove the right of every nation to give a national character to a vessel belonging truly and wholly to one or more of its citizens or subjects.

In the United States, Great Britain, and France, a certificate of registry, or what is called the register, supplies the place of all documents not rendered necessary by treaty.

The registry contains the name, occupation, and residence of the owner, or of each part owner, the name of the vessel, the port to which she belongs, the name of the master, the time and place of her building or capture, and, in the latter case, the date of condemnation, the measurement and tonnage, together with a particular description of the vessel.

From the protocol register, a proper certificate is given by the Collector of the Customs.

It may be useful here to state the papers with which a vessel of the United States is furnished on a foreign voyage.

1. The certificate of registry above mentioned. This document is created by our laws, and belongs exclusively to vessels American built and owned, or such particular vessels as are expressly adopted as national vessels by the registering act. It is an instrument which the vessel must carry, in order to entitle her to the privilege of a vessel of the United States in our own ports.

2. The sea-letter or passport. This document is an instrument of the maritime law of nations, and treaties sometimes require it to be carried by the merchant vessels belonging to the contracting parties. It simply sets forth the ownership, and recommends the vessel to the comity of nations. It is only necessary for neutral vessels in time of war.

3. Mediterranean pass, to protect them against the Barbary Powers.

4. Certificates of property, which concern only the usage of our own custom-houses.

5. The crew list, (*role d'equipage.*) This instrument is required by acts of the Congress of the United States and sometimes by treaties. It is necessary for the protection of the crews of every vessel in the course of the voyage during war abroad, and to prove that there are not an undue proportion of enemy's subjects on board the vessel.

The first acts of navigation passed by the English Parliament encouraged only the purchasing of ships, and it was not until the art of ship building was well understood in England that the act of navigation defined a British ship to mean a ship built in England, or a lawfully condemned prize, and navigated by a master and three-fourths of the mariners English. Long after these rules were established, the necessities of war compelled the English Parliament to relax them both with regard to ownership and to manning and navigating English ships. By statute of Anne it was enacted that during the continuance of the then war merchant or trading ships might be navigated by foreign seamen or mariners, not exceeding three-fourths of the mariners at one time employed, and the other fourth were to be natives or naturalized subjects of Great Britain. By that act a foreigner for serving two years was to all intents and purposes to be deemed a natural born subject.

The liberty to employ foreign seamen was renewed in the year 1740 by statute, when a general power was lodged in the crown to permit merchant ships and trading vessels to be manned with foreign seamen during the continuance of any war. In 1755 a temporary permission was given to employ foreign seamen, and again in 1779. In both which acts of Parliament there was a saving of the King's power to grant such permissions under the statute above alluded to. It never was supposed that such vessels lost their national character by these acts, or were not to all intents and purposes British ships and protected by the flag they bore.

By the treaties existing between the United States and most of the maritime Powers of Europe it is stipulated that the ships and vessels of the contracting parties shall be provided with a passport in the following terms:

To all those who shall see these presents, greeting:

It is hereby made known that leave and permission have been given to ———, master and commander of the ship called the ———, of the town or port of ———, burden ——— tons or thereabouts, lying in the port or haven of ———, and bound for ———, and laden with ———, to depart and proceed with his said ship or vessel on his said voyage; such ship or vessel having been visited, and the said commander or master having made oath before the proper officer that said ship or vessel belongs to one or more of the citizens or subjects of ———, and to him or them only.

Now, therefore, as it has been clearly proved that every nation has an incontestible right to enact such laws as it may deem expedient in order to give a national character to its ships or vessels, provided they wholly and truly belong to its subjects or citizens, I propose to substitute for the sixth article of the project the following:

ARTICLE —. To the end that all manner of dissensions and quarrels may be avoided and prevented on one side and the other, it is agreed that in case either of the contracting parties should be engaged in a war the ships or vessels belonging to the citizens of the other party must be furnished with sea-letters or passports, expressing the name, property, and bulk of the ship or vessel, and also the name and place of habitation of the master and commander of the said ship, that it may appear thereby that such ship or vessel truly and wholly belongs to the citizens of one of the parties. Which passport shall be made out and granted according to the form annexed to this treaty. They shall likewise be recalled and renewed every year, that is, if the ship happens to return home within the space of a year.

I do not think any further provision necessary, for in time of peace a certificate of registry setting forth that the ship or vessel belongs wholly to a citizen or citizens of the country, and is commanded by a citizen, ought to be and always is considered a sufficient proof of the nationality of the vessel.

I have the honor to be, with great respect, your obedient servant,

J. R. POINSETT.

Their Excellencies the PLENIPOTENTIARIES *of the United Mexican States.*

Protocol of the sixth conference held by the plenipotentiaries of the United States of America and of the United Mexican States on the 6th day of May, 1826.

His excellency Don Sebastian Camacho exhibited his powers to act as one of the plenipotentiaries of the Mexican Republic.

The plenipotentiary of the United States of America opened the conference by observing that the last conference held by the plenipotentiaries of the respective countries had become a subject of discussion in the Congress of the United States, and it had been there supposed that the argument used by him, to wit: "That the United States had pledged themselves not to permit any other Power than Spain to interfere either with their independence or form of government; and that as in the event of such an attempt being made by the Powers of Europe we would be compelled to take the most active and efficient part, and to bear the brunt of the contest, it was not just that we should be placed on a less favorable footing than the other Republics of America whose existence we were ready to support at such hazards," was calculated to deceive the plenipotentiaries of Mexico, and to lead them to believe that the United States had given to Mexico and to the other new States of America such a pledge; that it was well known to the Mexican plenipotentiaries no other pledge had ever been given than what was contained in the message of President Monroe, and which, he believed, the people of the United States would have redeemed; but from the similarity of our institutions no Mexican could be ignorant that such a declaration on the part of the President of the United States was not binding on the nation without the sanction of Congress. His excellency José Ignacio Esteva, one of the former plenipotentiaries, replied, that he had so understood the plenipotentiary of the United States; and that even if the pledge had been more solemn and binding he should not have thought the United States entitled to any special privileges on that account, as they could not act otherwise in such a conjunction without betraying their best interests.

On the first article of the project being read, the plenipotentiary of the United States observed that this article had been altered at the suggestion of the Mexican plenipotentiaries in order to render it exactly conformable to the first article of the treaty between Mexico and Great Britain; but as that treaty had not been ratified, he proposed to reinstate the first article as it stood in the project, as more comprehensive. This was agreed to by the Mexican plenipotentiaries, and the first article of the project approved.

On reading the second article, the plenipotentiaries of Mexico observed that a similar article in their treaty with Great Britain had been attended with some difficulty; that they yielded the exceptions in favor of the States which formerly had been Spanish possessions; but that circumstances might arise which would render it important to them to grant privileges to another nation which should not be extensive to the United States, as, for instance, on the introduction of quicksilver from Idria, and other articles of a like nature; that the British plenipotentiaries had declared that the object of this article was meant to embrace general principles and not such particular cases, with which declaration they had been satisfied, and would be so with a similar explanation on the part of the American plenipotentiary.

The plenipotentiary of the United States replied that he considered the object of all commercial treaties to be the establishment of general principles, and could not, therefore, object to make a similar declaration respecting this article. It was approved.

The third article was read and approved.

On reading the fourth article the Mexican plenipotentiaries remarked that the principles herein attempted to be established of perfect reciprocity did not and could not confer reciprocal advantages, as the whole benefit of such an agreement must accrue to the United States; for that Mexico had not a single vessel capable of making a foreign voyage, while the United States covered the ocean with their merchant marine. The plenipotentiary of the United States replied that neither would the principle of the most favored nation be attended with equal advantages to the contracting parties, as in that case the whole advantage would accrue to the Mexican United States. The United States had adopted the principle here contended for in their treaties with Great Britain, Sweden and Norway, the Netherlands, Prussia, the Free and Hanseatic cities of Bremen, of Hamburg, and of Lubeck, and with Oldenburg. By these treaties the vessels of Great Britain and of the above named Powers were admitted into the ports of the United States on the same footing as their own; if, therefore, the vessels of Mexico were to be admitted into the ports of the United States on the footing of the most favored nation, they would pay only the same charges and duties as those of the United States, whereas the vessels of the latter might be subject to exorbitant discriminating duties, according to the regulations which Mexico might think proper to adopt in that particular. The plenipotentiaries of Mexico rejoined that they would be very ready to adopt the principle of reciprocity whenever Mexico possessed a competent commercial marine; but for the present the President had resolved to leave the Congress unshackled by treaties and free to adopt such regulations as might be deemed expedient in order to encourage the growth of a Mexican marine. The plenipotentiary of the United States recapitulated the arguments he had formerly advanced in a note addressed to the Mexican plenipotentiaries, and observed that they were strengthened by the course of policy pursued by Colombia in this particular. That Colombia, after the treaty with the United States had been ratified, had agreed to the principle of equal and reciprocal charges and duties in her treaty with Great Britain, convinced, after mature deliberation, that it was both more just and subject to fewer inconveniences than that of the most favored nation, and had subsequently consented to substitute the former in the treaty with the United States, agreeably to the second article of their treaty with that Government.

The plenipotentiaries of Mexico observed that the situation of Colombia was different from that of Mexico; Colombia had some commercial marine, while Mexico had literally not a merchantman, and that on this subject the resolution of their Government was unalterable.

J. R. POINSETT.
S. CAMACHO.
JOSÉ IGNACIO ESTEVA.

Protocol of the seventh conference held by the plenipotentiaries of the United States of America and of the United Mexican States on the 17th of May, 1826.

Present, the plenipotentiaries.

The conference was opened by reading the fourth article of the project, and, after some further discussion, the plenipotentiary of the United States yielded the point and accepted the alternative of the most favored nation, which is established in three articles, the fourth, fifth, and sixth, and which were approved.

The seventh article being read the Mexican plenipotentiaries objected to the wording of it, and, especially, to the last clause, viz: "being in all cases treated like citizens of the country where they reside," and proposed to substitute the article to a like effect, which had been agreed upon in their treaty with Great Britain. On examining the article proposed to be thus substituted it appeared to embrace precisely the same principle, and the plenipotentiary of the United States consented to its insertion.

J. R. POINSETT.
S. CAMACHO.
JOSÉ IGNACIO ESTEVA.

Protocol of the eighth conference held by the plenipotentiaries of the United States of America and of the United Mexican States on the 2d of June, 1826.

Present, the plenipotentiaries.

The eighth article was read, and, with the alteration of one word, not affecting the sense, was approved.

The ninth article was read, and, on the suggestion of the Mexican plenipotentiaries, the words "exclusively on them" were inserted between the words "imposed" and "any forced loan," and, with this alteration, this article was approved.

On reading the tenth article the Mexican plenipotentiaries observed that, by their regulations, a vessel was compelled to exhibit her manifest to the custom-house forty-eight hours after her arrival, and they thought this necessary in order to prevent fraud.

The plenipotentiaries of the United States replied that the exhibition of her manifest could not be construed into an obstacle or impediment.

The plenipotentiaries of Mexico proposed that an expression should be introduced obliging vessels so circumstanced to conform in all things to the rules and regulations of the ports wherein they may take refuge.

The plenipotentiary of the United States objected to this proposition, that some regulations might, in certain cases, amount to a serious obstacle or impediment; as, for instance, if such regulations compelled the unlading of the vessel and deposit of the cargo until the vessel sailed. This would subject the owners to great expense and present such an impediment as would render this article of little importance; that the common rights of humanity demanded the existence of such an agreement as that contained in this article; and that each of the contracting parties was at liberty to adopt whatever measures were deemed expedient to prevent smuggling or fraud.

The Mexican plenipotentiaries observed that they saw no other objection to the article, which appeared consistent both with the rights of nations and of humanity; they only wished to prevent fraud, and, requesting time to consider the subject, this point was reserved.

The eleventh article was agreed to, with the addition of the words "reckoning from the capture of the vessel or merchandise," so as to fix more positively the rights of claimants. This addition was made at the suggestion of the Mexican plenipotentiaries.

On reading the twelfth article the same difficulty presented itself to the Mexican plenipotentiaries as in the tenth—the fraudulent introduction of goods. It was, after some discussion, agreed to insert the words "with the precautions that may be thought expedient, on the part of the respective Governments, in order to prevent fraud."

The plenipotentiary of the United States observed that such a right was implied in every case, and therefore it was unnecessary to insert the words proposed by the Mexican plenipotentiaries; that he considered it as much the interest of the United States to prevent their vessels from smuggling on the Mexican coast as that of the Mexican Government itself, for this illegal trade was destructive of the interests of the fair dealer; and he would not therefore object to the insertion of any phrase that was judged necessary to effect this desirable object.

The Mexican plenipotentiaries continued to consider the insertion of these words as essential to a proper understanding of the article, and the plenipotentiary of the United States assented.

The article thus altered was approved.

J. R. POINSETT.
S. CAMACHO.
JOSÉ IGNACIO ESTEVA.

Protocol of the ninth conference held by the plenipotentiaries of the United States of America and of the United Mexican States on the 12th of June, 1826.

Present, the plenipotentiaries.

The tenth article of the treaty having been suspended at the request of the Mexican plenipotentiaries, they proposed to add the words "with the precautions which may be deemed expedient by the respective Governments to avoid fraud."

The plenipotentiary of the United States again objected that this article, as it stood, did not prevent either Government from adopting such measures as might be judged expedient to prevent fraud—an

inherent right which every Government possessed, and which the insertion of these words would seem to render doubtful.

The Mexican plenipotentiaries thought it better to have the right expressed, and, thus modified, the article was approved.

On reading the thirteenth article the Mexican plenipotentiaries expressed a desire that the subject referred to in the last clause should not be touched upon, viz: real estate, there being a law now before Congress relating to the right of aliens to hold real property, and they wished to avoid the discussion of that important subject incidentally in this treaty. They proposed, instead of "personal effects," to insert the words "effects of whatever class or condition they may be," being the words adopted in a similar article in their treaty with Great Britain.

The plenipotentiary of the United States objected that such a provision was adverse to the laws of some of the United States of America, but that, as he was desirous of meeting the views of the Mexican plenipotentiaries, he would examine the article alluded to in their treaty with Great Britain, and if he found it not essentially different from this he would agree to adopt it. It remained, therefore, suspended.

To the fourteenth article it had been formerly objected by the Mexican plenipotentiaries that they could not interfere with or alter the manner of conducting business in their courts of justice, and they proposed to strike out the last clause and insert the following: "And such citizens or their agents shall enjoy in every respect the same rights in the prosecution and defence of their persons or property as the citizens of the country where the cause may be tried."

The plenipotentiary of the United States had likewise consented to this alteration, and the article, thus modified, was approved.

The fifteenth article had been fully discussed in former conferences; and on the ground that the constitution of the United Mexican States effectually prevented the introduction of the principle of religious toleration into any treaty Mexico might make with a foreign Power, the plenipotentiary of the United States agreed to substitute for this article that introduced into the first treaty between Mexico and Great Britain.

On reading the sixteenth article, which establishes the principle that free ships shall make free goods, a desultory conversation took place on the subject, which ended in the Mexican plenipotentiaries requesting time for consideration.

J. R. POINSETT.
S. CAMACHO.
JOSÉ IGNACIO ESTEVA.

Protocol of the tenth conference held by the plenipotentiaries of the United States of America and of the United Mexican States on June 13, 1826.

Present, the plenipotentiaries.

The plenipotentiary of the United States signified his willingness to yield to the wishes of the Mexican plenipotentiaries, and to adopt the article they had proposed in lieu of the thirteenth article of the project, striking out therefrom the word "personal," so as to embrace real as well as personal estate, and the words "likewise in the administration of justice," that being provided for in the fourteenth article of the project. So the article relating to this subject in the first treaty between Mexico and Great Britain, with these modifications, was approved.

The sixteenth article was again read, when the Mexican plenipotentiaries renewed their objection, viz: the difficulty of avoiding smuggling on their Atlantic coast, if they consented to this article without any qualification.

The plenipotentiary of the United States replied that, in his opinion, the addition proposed by the Mexican plenipotentiaries in their former conferences respecting this article provided amply against the evil they apprehended.

They proposed to place this principle on the same footing as that respecting reciprocity of trade, omitting it altogether, and barely stating that Mexico allowed its justice and policy, and would adopt it whenever she possessed a commercial marine.

To this proposal the plenipotentiary of the United States objected, that the two principles were widely different; that he had yielded the first, because Mexico had no commercial marine at all; but the second was intended to apply to a state of war, and Mexico had cruisers and might extend her means of offensive maritime warfare. He considered it of the deepest interest to all the American Governments that this principle should be engrafted in their policy and form a part of their treaties, and therefore never would consent to abandon it.

The Mexican plenipotentiaries declared that they never would consent to the exception contained in the last clause; and after some further conversation it was again agreed to suspend the further discussion of this and the succeeding article.

The twentieth article was read and approved.

The twenty-first article, containing the same principle as the sixteenth, was reserved.

The twenty-second article was likewise read and approved.

The twenty-third article was read, when some conversation took place respecting the meaning of the last clause, as to what cases it might apply, and what ought to be considered testimony entirely equivalent to the defect of the papers; and after some conversation thereon it was proposed by the Mexican plenipotentiaries, and agreed to by the plenipotentiary of the United States, to introduce the words "to the satisfaction of the competent tribunal" at the close of the article. Thus amended, this article was approved.

J. R. POINSETT.
S. CAMACHO.
JOSÉ IGNACIO ESTEVA.

Protocol of the eleventh conference held by the plenipotentiaries of the United States of America and of the United Mexican States on June 15, 1826.

Present, the plenipotentiaries.

On reading the twenty-fourth article the plenipotentiaries of Mexico observed that they feared this might give rise to much inconvenience; that the United States had a great many small cruisers out for the protection of their commerce, and that the captains of those cruisers being called upon, as they frequently are, to give convoy to their merchantmen, could not know what cargoes they carried, and in that manner prohibited goods might be introduced into their ports, or, in the event of any point of the Mexican coast being again occupied by an enemy, might enter such port with goods belonging to that enemy, and succor their forces, although besieged and blockaded by the small means Mexico might possess to render such a blockade effectual, as, for instance, one or two gun-boats.

The plenipotentiary of the United States replied that the article respecting vessels attempting to enter blockaded ports obviated the latter objection, as no officer in the service of his Government would dare to force a legal blockade, and that every reliance might be placed on the honor of the American officers of the Navy, and, finally, that this article was necessary to prevent collision between the cruisers of the respective parties, for that it was not to be expected that the commanders of ships-of-war would suffer the vessels under their convoy to be searched by the cruisers of the opposite party.

After some further conversation this article was approved.

The twenty-fifth article, with the insertion of the additional words "in conformity with the usages and laws of the country," was approved.

On reading the twenty-sixth article the Mexican plenipotentiaries asked if the protection therein promised to the citizens of the respective parties, who exercised any trade or calling other than that of a merchant, would prevent either Government from taking such precautions as they might judge necessary by removing such persons from the coasts and limits of the respective Governments.

The plenipotentiary of the United States replied that he certainly did not consider this clause in the article as at all affecting the right of each party to take such precautions as, in their opinion, the necessity of the case required, or to remove such persons as are herein designated from the coasts or limits of the respective Governments.

The Mexican plenipotentiaries expressed themselves satisfied with this explanation, and the article was approved.

The twenty-seventh article was read and approved.

On reading the twenty-eighth article the Mexican plenipotentiaries expressed a wish that the word "public" might be expunged therefrom, as it might give rise to some mistake. It being well known to the members of Congress that consuls were not entitled to the privileges of any class of ministers, this expression might be objected to by them.

The plenipotentiary of the United States observed, in reply, that consuls were, to all intents and purposes, public agents of the nation whose commercial interests are committed to their charge; but as he did not think the insertion of the word "public" necessary to a correct understanding of what was the character of a consul, he should not object to its being expunged.

With this alteration the article was approved.

On reading the twenty-ninth article the Mexican plenipotentiaries asked whether the last clause of this article might not be attended with some inconvenience; that consuls were generally merchants, and might, with other merchants, be called upon to exhibit their books.

The plenipotentiary of the United States stated distinctly, in reply, that this clause was intended only to protect the archives and papers of the consulate, not the books and papers of the consul, who, if a merchant, was subject to all the laws and regulations of the respective Governments touching his mercantile transactions.

This article was approved.

The thirtieth article being read, some conversation took place on the manner of proving whether the mariner who was arrested had or not accomplished the term of time for which he was engaged; on which the plenipotentiary of the United States explained the usage practiced in the United States for the engagement of sailors.

The article was approved.

The thirty-first article was read and approved.

J. R. POINSETT.
S. CAMACHO.
JOSÉ IGNACIO ESTEVA.

Protocol of the twelfth conference held by the plenipotentiaries of the United States of America and of the United Mexican States on June 16, 1826.

Present, the plenipotentiaries.

On reading the thirty-second article a conversation took place on the subject of the trade carried on by the citizens of the United States with the tribes of Indians inhabiting the territory of Mexico, by which these people were supplied with arms and other means of annoying the white settlers.

The Mexican plenipotentiaries proposed that all trade between the citizens of the respective parties and the Indian tribes inhabiting the territories of the other should be prohibited altogether.

To this the plenipotentiary of the United States replied that he had no doubt regulations might be adopted with regard to that trade which would produce useful and salutary effects, but did not think this the time to consider this subject. It required much reflection, and all parties were equally anxious to conclude the present treaty. When the treaty of limits is under discussion this important subject can be settled, and, in the meantime, each party might prepare a project in relation to it; but that he could, by no means, consent to the suspension of the trade in the meantime, nor could he conceive it necessary to do so, as each party was at liberty to make its own internal regulations respecting the trade with the Indians.

The plenipotentiaries of Mexico observed that they perceived no objection to the first part of the

inherent right which every Government possessed, and which the insertion of these words would seem to render doubtful.

The Mexican plenipotentiaries thought it better to have the right expressed, and, thus modified, the article was approved.

On reading the thirteenth article the Mexican plenipotentiaries expressed a desire that the subject referred to in the last clause should not be touched upon, viz: real estate, there being a law now before Congress relating to the right of aliens to hold real property, and they wished to avoid the discussion of that important subject incidentally in this treaty. They proposed, instead of "personal effects," to insert the words "effects of whatever class or condition they may be," being the words adopted in a similar article in their treaty with Great Britain.

The plenipotentiary of the United States objected that such a provision was adverse to the laws of some of the United States of America, but that, as he was desirous of meeting the views of the Mexican plenipotentiaries, he would examine the article alluded to in their treaty with Great Britain, and if he found it not essentially different from this he would agree to adopt it. It remained, therefore, suspended.

To the fourteenth article it had been formerly objected by the Mexican plenipotentiaries that they could not interfere with or alter the manner of conducting business in their courts of justice, and they proposed to strike out the last clause and insert the following: "And such citizens or their agents shall enjoy in every respect the same rights in the prosecution and defence of their persons or property as the citizens of the country where the cause may be tried."

The plenipotentiary of the United States had likewise consented to this alteration, and the article, thus modified, was approved.

The fifteenth article had been fully discussed in former conferences; and on the ground that the constitution of the United Mexican States effectually prevented the introduction of the principle of religious toleration into any treaty Mexico might make with a foreign Power, the plenipotentiary of the United States agreed to substitute for this article that introduced into the first treaty between Mexico and Great Britain.

On reading the sixteenth article, which establishes the principle that free ships shall make free goods, a desultory conversation took place on the subject, which ended in the Mexican plenipotentiaries requesting time for consideration.

J. R. POINSETT.
S. CAMACHO.
JOSÉ IGNACIO ESTEVA.

Protocol of the tenth conference held by the plenipotentiaries of the United States of America and of the United Mexican States on June 13, 1826.

Present, the plenipotentiaries.

The plenipotentiary of the United States signified his willingness to yield to the wishes of the Mexican plenipotentiaries, and to adopt the article they had proposed in lieu of the thirteenth article of the project, striking out therefrom the word "personal," so as to embrace real as well as personal estate, and the words "likewise in the administration of justice," that being provided for in the fourteenth article of the project. So the article relating to this subject in the first treaty between Mexico and Great Britain, with these modifications, was approved.

The sixteenth article was again read, when the Mexican plenipotentiaries renewed their objection, viz: the difficulty of avoiding smuggling on their Atlantic coast, if they consented to this article without any qualification.

The plenipotentiary of the United States replied that, in his opinion, the addition proposed by the Mexican plenipotentiaries in their former conferences respecting this article provided amply against the evil they apprehended.

They proposed to place this principle on the same footing as that respecting reciprocity of trade, omitting it altogether, and barely stating that Mexico allowed its justice and policy, and would adopt it whenever she possessed a commercial marine.

To this proposal the plenipotentiary of the United States objected, that the two principles were widely different; that he had yielded the first, because Mexico had no commercial marine at all; but the second was intended to apply to a state of war, and Mexico had cruisers and might extend her means of offensive maritime warfare. He considered it of the deepest interest to all the American Governments that this principle should be engrafted in their policy and form a part of their treaties, and therefore never would consent to abandon it.

The Mexican plenipotentiaries declared that they never would consent to the exception contained in the last clause; and after some further conversation it was again agreed to suspend the further discussion of this and the succeeding article.

The twentieth article was read and approved.

The twenty-first article, containing the same principle as the sixteenth, was reserved.

The twenty-second article was likewise read and approved.

The twenty-third article was read, when some conversation took place respecting the meaning of the last clause, as to what cases it might apply, and what ought to be considered testimony entirely equivalent to the defect of the papers; and after some conversation thereon it was proposed by the Mexican plenipotentiaries, and agreed to by the plenipotentiary of the United States, to introduce the words "to the satisfaction of the competent tribunal" at the close of the article. Thus amended, this article was approved.

J. R. POINSETT.
S. CAMACHO.
JOSÉ IGNACIO ESTEVA.

Protocol of the eleventh conference held by the plenipotentiaries of the United States of America and of the United Mexican States on June 15, 1826.

Present, the plenipotentiaries.

On reading the twenty-fourth article the plenipotentiaries of Mexico observed that they feared this might give rise to much inconvenience; that the United States had a great many small cruisers out for the protection of their commerce, and that the captains of those cruisers being called upon, as they frequently are, to give convoy to their merchantmen, could not know what cargoes they carried, and in that manner prohibited goods might be introduced into their ports, or, in the event of any point of the Mexican coast being again occupied by an enemy, might enter such port with goods belonging to that enemy, and succor their forces, although besieged and blockaded by the small means Mexico might possess to render such a blockade effectual, as, for instance, one or two gun-boats.

The plenipotentiary of the United States replied that the article respecting vessels attempting to enter blockaded ports obviated the latter objection, as no officer in the service of his Government would dare to force a legal blockade, and that every reliance might be placed on the honor of the American officers of the Navy, and, finally, that this article was necessary to prevent collision between the cruisers of the respective parties, for that it was not to be expected that the commanders of ships-of-war would suffer the vessels under their convoy to be searched by the cruisers of the opposite party.

After some further conversation this article was approved.

The twenty-fifth article, with the insertion of the additional words "in conformity with the usages and laws of the country," was approved.

On reading the twenty-sixth article the Mexican plenipotentiaries asked if the protection therein promised to the citizens of the respective parties, who exercised any trade or calling other than that of a merchant, would prevent either Government from taking such precautions as they might judge necessary by removing such persons from the coasts and limits of the respective Governments.

The plenipotentiary of the United States replied that he certainly did not consider this clause in the article as at all affecting the right of each party to take such precautions as, in their opinion, the necessity of the case required, or to remove such persons as are herein designated from the coasts or limits of the respective Governments.

The Mexican plenipotentiaries expressed themselves satisfied with this explanation, and the article was approved.

The twenty-seventh article was read and approved.

On reading the twenty-eighth article the Mexican plenipotentiaries expressed a wish that the word "public" might be expunged therefrom, as it might give rise to some mistake. It being well known to the members of Congress that consuls were not entitled to the privileges of any class of ministers, this expression might be objected to by them.

The plenipotentiary of the United States observed, in reply, that consuls were, to all intents and purposes, public agents of the nation whose commercial interests are committed to their charge; but as he did not think the insertion of the word "public" necessary to a correct understanding of what was the character of a consul, he should not object to its being expunged.

With this alteration the article was approved.

On reading the twenty-ninth article the Mexican plenipotentiaries asked whether the last clause of this article might not be attended with some inconvenience; that consuls were generally merchants, and might, with other merchants, be called upon to exhibit their books.

The plenipotentiary of the United States stated distinctly, in reply, that this clause was intended only to protect the archives and papers of the consulate, not the books and papers of the consul, who, if a merchant, was subject to all the laws and regulations of the respective Governments touching his mercantile transactions.

This article was approved.

The thirtieth article being read, some conversation took place on the manner of proving whether the mariner who was arrested had or not accomplished the term of time for which he was engaged; on which the plenipotentiary of the United States explained the usage practiced in the United States for the engagement of sailors.

The article was approved.

The thirty-first article was read and approved.

J. R. POINSETT.
S. CAMACHO.
JOSÉ IGNACIO ESTEVA.

Protocol of the twelfth conference held by the plenipotentiaries of the United States of America and of the United Mexican States on June 16, 1826.

Present, the plenipotentiaries.

On reading the thirty-second article a conversation took place on the subject of the trade carried on by the citizens of the United States with the tribes of Indians inhabiting the territory of Mexico, by which these people were supplied with arms and other means of annoying the white settlers.

The Mexican plenipotentiaries proposed that all trade between the citizens of the respective parties and the Indian tribes inhabiting the territories of the other should be prohibited altogether.

To this the plenipotentiary of the United States replied that he had no doubt regulations might be adopted with regard to that trade which would produce useful and salutary effects, but did not think this the time to consider this subject. It required much reflection, and all parties were equally anxious to conclude the present treaty. When the treaty of limits is under discussion this important subject can be settled, and, in the meantime, each party might prepare a project in relation to it; but that he could, by no means, consent to the suspension of the trade in the meantime, nor could he conceive it necessary to do so, as each party was at liberty to make its own internal regulations respecting the trade with the Indians.

The plenipotentiaries of Mexico observed that they perceived no objection to the first part of the

article, and only wished to introduce the words "confined only to this object" after the words "treaties of peace;" and they proposed that each party should bind itself to prevent all traffic in arms and munitions of war.

The plenipotentiary of the United States said that he had no objection to the insertion of the words "confined only to this object," but could not consent to the addition to the article which was proposed by the Mexican plenipotentiaries; he would prefer striking out the words which related to the mutual commerce of the parties with the Indian tribes.

This proposal was accepted by the Mexican plenipotentiaries, and the latter clause was struck out.

An additional clause was added to the article, in the following words, viz: "And in the event of any person or persons being captured by the Indians inhabiting the territories of either of the contracting parties, being hereafter, or having been, brought into the territories of the other, both Governments engage, and bind themselves in the most solemn manner, to send back all such persons as soon as they receive notice of their entrance into their respective territories, or to deliver them up to the agent or person authorized by the Government which claims them, reciprocally giving notice to each of the parties, respectively, and the claimant paying the expenses incurred in the transmission and maintenance of such person or persons, who, in the meantime, shall be treated with the utmost hospitality by the authorities of the place where they may be. Nor shall it be lawful, on any pretext whatsoever, for the citizens of either of the contracting parties to purchase, or to hold captive, prisoners made by the Indians inhabiting the territory of the other."

The reasons assigned for introducing this clause were, that it had become the practice of late for the Indians inhabiting the territory of Mexico to capture the white settlers and convey them over the border, where they were ransomed by the citizens of the United States, who detained them until that ransom was repaid, with costs. This state of things encouraged the Indians to make war upon the whites, and it was the interest of all parties to put a stop to this odious traffic.

This article, thus modified, was agreed to.

The thirty-third article, relating to the delivery of fugitive slaves and of murderers and forgers taking refuge in the territories of either of the contracting parties, was read and agreed to.

The thirty-fourth article was likewise read and agreed to.

The discussion respecting the sixteenth article was renewed. The Mexican plenipotentiaries observed that they feared the expression "from one port belonging to an enemy to another port belonging to an enemy" might be so interpreted as to authorize the direct trade between Mexico and Spain in vessels belonging to the United States.

The plenipotentiary of the United States replied that such was not the interpretation he gave to these words; that, in his opinion, they only meant to authorize the trade by a neutral from one of the ports of an enemy to another port belonging to the same enemy, as, for instance, from a port of Spain, situated on the Mediterranean, to another port in Spain, situated on the Atlantic, viz: from Barcelona to Cadiz. And he interpreted the words "whether they be under the jurisdiction of one Power or of many" to allude to a state of war between one of the parties with two or more Powers, rendering it lawful for the neutral to trade to the ports belonging to such belligerent Power.

The Mexican plenipotentiaries recurred to their former objection respecting vessels of the United States being found within the sack of the Gulf with Spanish goods on board: that if such vessels were permitted to pass free it would be impossible for the marine of the Republic to prevent smuggling on that coast.

The plenipotentiary of the United States repeated that it was the earnest wish of his Government to prevent all illegal trade, and was of opinion that vessels of the United States, found within that part of the Gulf embraced by the limits of Mexico, with prohibited goods on board, might fairly be inferred to be bound to some port of the Republic, unless they could clearly show that they had been driven there by stress of weather.

The Mexican plenipotentiaries then proposed that these explanations should make a part of the treaty.

The plenipotentiary of the United States observed, in reply, that he had no other objection to insert the first explanation in the treaty, but that he considered the text so very intelligible that it would appear strange to insert so obvious an interpretation; and that, with respect to the latter, he could not consent to embody in the treaty, as a rule which was to govern the two parties, a particular case, which applied only to one party, and grew out of a state of war in which that party was accidentally involved; and that, in his opinion, the explanations he had given, which would be entered upon the protocol, ought to be sufficient, especially as any claims that might be hereafter made for vessels thus captured must come from the Government of the United States.

The Mexican plenipotentiaries asked if the plenipotentiary of the United States would object to insert at the close of the article that the explanations on this article, entered upon the protocol, should be considered a part of the article?

The plenipotentiary of the United States said, in reply, that he could not consent to such a declaration being inserted in the body of the treaty, because it was contrary to usage, but offered to prepare a note explanatory of his views on this point.

The Mexican plenipotentiaries observed that they thought the words of that article of the treaty between the United States and Spain, which establishes this principle, more clear than that proposed in the project.

The plenipotentiary of the United States replied that he had no objection to its being substituted for the one he had proposed, provided the same exception was added which his project contained, and which was adopted subsequently by the United States and Spain in the treaty of limits, which had been concluded at Washington by Mr. Adams, the actual President of the United States, and Don Luis Onis.

The Mexican plenipotentiaries said that they trusted the plenipotentiary of the United States would not insist upon the insertion of this exception, as they had the positive instructions of his excellency the President not to assent to it.

The plenipotentiary of the United States then submitted a note, which he had prepared on that subject, to the consideration of the Mexican plenipotentiaries.

J. R. POINSETT.
S. CAMACHO.
JOSÉ IGNACIO ESTEVA.

[Note.]

LEGATION OF THE UNITED STATES OF AMERICA, *Mexico, June* 16, 1826.

MOST EXCELLENT SIRS: As the objections made by your excellencies to the sixteenth article of the project are not directed against the principle therein established, that free ships shall make free goods, but are limited to the exception contained in the last clause, viz: that the flag of the neutral shall cover the property of enemies, whose Government acknowledges this principle, and not of others, I shall confine my remarks to that clause.

If it were necessary to examine the question whether free ships ought of right to make free goods, it would not be difficult to prove, to every unprejudiced mind, that this rule is sanctioned by the laws of nations, and is already a part of the public law.

When this principle has not governed the acts of belligerents, it is only because they possess the power, not the right, to annoy the peaceable and defenceless commerce of a neutral. Is it, then, just that those Governments which will not acknowledge this rule because they possess the power to violate a principle of international law should be placed in a situation to profit by a declaration of what shall be the rule between us?

If, for example, a war should break out between the United States of America and Great Britain, a contingency which I regard as more remote than a war between those States and any other of the Powers of Europe, the cruisers of his Britannic Majesty might capture the goods and merchandise belonging to citizens of the United States if found on board a Mexican vessel, whereas the goods and merchandise belonging to the subjects of his Britannic Majesty, if found on board Mexican ships, would be protected against capture from the cruisers of the United States. So that the Government which acts without regard to public law, and violates neutral rights, would profit by the existence of this salutary rule between ourselves, and the Government that holds this principle sacred would suffer by it.

Mexico would submit to have her ships searched on the high seas, and goods belonging to a neutral taken out; indeed, most frequently, to have her vessels sent into a foreign port, and liable to great detention, in order that they may carry the goods of Great Britain free from capture by the cruisers of the United States, an advantage which will be merely nominal, from the vast superiority of the commercial marine of that country, and its great maritime means to protect their commerce in time of war. A very short experience of the evils resulting from a violation of this principle, of the vexation and annoyance to which Mexican ships would be exposed from acknowledging the right of search for goods belonging to a belligerent party, would convince this Government that every effort ought to be made to induce other nations to accede to the salutary rule we are about to adopt, and that the advantages of carrying the goods of one belligerent ought not to weigh against the policy of generalizing a principle so important to the weaker maritime Powers. The United States can no longer be classed in that rank; they are, beyond all contradiction, one of the great maritime Powers, but they are just in all their dealings towards other nations, and the principle they contended for in their weakness they still advocate in the full consciousness of their strength.

Let us suppose the United States to be involved in a war with France, can there be a doubt that, with the maritime force of the United States, the commerce of France, in single ships, would be swept from the ocean? her merchantmen could only navigate under the protection of powerful convoys, and even then exposed to great risks. As the rule is now laid down between the United States and France, Mexico might become the free carriers of the rich products and manufactures of France from Europe to the ports of Mexico, and to the French colonies and islands, and of the products and manufactures of the United States to Mexico and to Europe; but if one of the contracting parties, for example, the United States, did not acknowledge this principle, would it be just towards France that the vessels of Mexico should carry the goods of the citizens of the United States free from search and from capture, while the cruisers of that Power might search for and capture the goods belonging to the subjects of his most Christian Majesty?

Knowing the time of your excellencies to be very precious at this particular moment, I will not press this argument any further, and trust that sufficient has been advanced to convince your excellencies of the justice of the exception here contended for.

I have the honor to be, with much respect, your excellencies' most obedient servant,

J. R. POINSETT.

Their Excellencies the PLENIPOTENTIARIES *of the United Mexican States.*

[Note.]

LEGATION OF THE UNITED STATES OF AMERICA, *Mexico, June* 17, 1826.

MOST EXCELLENT SIRS: Your excellencies having expressed a doubt as to the real interpretation which may hereafter be given to an expression contained in the 16th article of the project under discussion, which is in these words, "not only directly from the places of the enemy aforementioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same Power or of many," and entertain some fears that the trade between Mexico and Spain, in vessels belonging to the United States, might be authorized thereby, I beg leave to assure your excellencies that I do not interpret these words in this sense. I regard the meaning of the words, "but also from one place belonging to an enemy to another place belonging to an enemy," to be that it shall be lawful for the vessels of either of the contracting parties, being neutral, to carry the goods of the belligerent from one point in his dominions to another point in his dominions; as, for example, for the vessels of the United States to transport the goods and merchandise of Spain from Barcelona to Cadiz, or from either of those ports to the Philippine islands, if they be still under the dominion of Spain. And the words, "whether they be under the jurisdiction of the same Power or under several," I understand to apply to a state of war between either of the contracting parties with allied Powers; for example, if the United States were to be involved in a war with France and Spain at once, and Mexico neutral, it would be lawful, under the stipulation, for the vessels of Mexico to carry on a free commerce, not only between two ports of France, but likewise between the ports of that nation and those of Spain. And this is the

interpretation which, on the part of the United States, will be given in all future times to this clause of the article under discussion. With respect to the fears your excellencies have expressed, that, availing themselves of this article of the treaty, the citizens of the United States might introduce the products and manufactures of Spain into the ports of Mexico, I can assure your excellencies that it is not the meaning or intention of this article to sanction the introduction into the ports of either of the contracting parties of the goods or merchandise belonging to its enemies. And the Government of the United States will not object to any regulations this nation may think proper to adopt to prevent the introduction into its ports of Spanish or other prohibited goods. And from the peculiar formation of a part of the Mexican Atlantic coast, viz: the Gulf of Mexico, it may fairly be inferred that vessels found within that part of the Gulf which is embraced by the limits of the Mexican United States intend to enter some one of their ports, unless it shall be clearly made to appear that they were forced by stress of weather out of the direct course of their voyage.

I have the honor to be, with much respect, your excellencies' most obedient servant,

J. R. POINSETT.

Their Excellencies THE PLENIPOTENTIARIES *of the United Mexican States.*

Protocol of the thirteenth conference held by the plenipotentiaries of the United States of America and of the United Mexican States on the 17th of June, 1826.

Present, the plenipotentiaries.

The Mexican plenipotentiaries observed that they had maturely considered the note submitted to them by the plenipotentiary of the United States, in relation to the exception contained in the last clause of the sixteenth article, "that the flag of the neutral shall cover the property of enemies whose Governments acknowledge this principle, and not of others;" that, in their opinion, this exception could apply only to Great Britain, and, as they had negotiations pending with that Power, it would be impolitic on their part to consent to the insertion of an exception which was calculated to wound and irritate the feelings of that Power.

The plenipotentiary of the United States replied that the exception was not confined to Great Britain, but was intended to embrace all nations that would not acknowledge this useful and salutary principle, and that Great Britain had not shown herself to have been offended with Colombia for having adopted this principle, together with the exception, in her treaty with the United States.

The Mexican plenipotentiaries said that they did not consider the United Mexican States to be placed, in any respect, in a similar situation with Colombia, and, in this particular, the difference was very great; that Colombia had made her treaty with the United States before she had entered into negotiations with Great Britain, but that Mexico had not only had negotiations pending with that Government, but had difficult questions to adjust, and, in the last treaty, this very principle had formed one of those difficulties; that they could not conceive the United States had any right to insist upon introducing this rule into their treaty with Mexico as a *sine qua non*, much less the exception, inasmuch as they had made a treaty with Great Britain on a different basis.

The plenipotentiary of the United States replied that the United States did not insist upon the insertion of this principle in their treaties as a *sine qua non;* but, as it was so obviously just and of such vast importance to all nations that desired to establish their wealth and greatness on the basis of peace and justice, that they urged its adoption, in all their treaties with foreign Powers, with an honest zeal for the promotion of just principles, and were especially anxious to establish this rule, and make it general among the nations of America.

The Mexican plenipotentiaries observed that, in their opinion, the United States ought to be content with settling the principle, without insisting upon the insertion of the exception; the first they were willing to admit, but they regarded the second of so little real importance to the United States in the present state of the Mexican mercantile marine, and so prejudicial to their own interests in the actual stage of their negotiations with Great Britain, that they could not consent to admit it.

The plenipotentiary of the United States replied that, although he was aware of the importance attached by his Government to the exception in question, and was himself perfectly convinced of it, still, as he was willing on this occasion to give to the Mexican plenipotentiaries a proof of his earnest desire to conclude this long pending negotiation, and an assurance that his Government was disposed rather to promote the negotiations of Mexico with Great Britain than to obstruct them, he would yield this point.

The fifteenth article of the treaty of friendship, limits, and navigation, between the United States of America and Spain, signed at San Lorenzo el Real in the year 1795, and which establishes the principle that free ships make free goods, was substituted for the sixteenth article of the project, and approved.

The seventeenth article, the consideration of which had been suspended because it related to the same subject, was examined and approved.

On reading the nineteenth article, which had been suspended on the same account, the Mexican plenipotentiaries asked whether this article was to be interpreted in the same manner and with the same explanations as the sixteenth article.

The plenipotentiary of the United States replied that he regarded this as a correlative of the sixteenth article, and wished it to be understood that all the explanations he had given on those points, which the Mexican plenipotentiaries had regarded as obscure in the sixteenth article, were meant to apply equally to this. The nineteenth article was then approved.

The last article was read, and some conversation took place on what was the precise meaning of the words "unreasonably delayed;" and it was agreed that they should be understood an excessive and unreasonable term of time, for which no excuse could be alleged.

The plenipotentiaries of Mexico then observed that they had an additional article to propose, which, considering the peculiar situation of their country, they trusted would readily be assented to by the plenipotentiary of the United States. It was in these words: "All Spaniards naturalized in the United States of America, from the year 1820 and subsequently thereunto, are excepted from the stipulations of the third article of this treaty during the continuance of the present war between the United Mexican States and Spain."

The plenipotentiary of the United States replied that, from the nature of the institutions of his country,

all citizens were placed upon an equal footing, native or naturalized, without distinction as to what country they may have belonged, they being compelled to take an oath, on becoming citizens, to renounce all allegiance to any other Government, and more especially to the one to which they last belonged, and that he thought the Mexican Government might adopt such precautionary measures and internal regulations as would prevent the danger they appeared to apprehend from that class of citizens of the United States of America.

The Mexican plenipotentiaries rejoined that the struggle between the United States and the mother country was too recent for that Government not to be aware of the difficulties Mexico had to contend with in the present contest; that this was not a common war, which, if it terminated unfortunately for them, would be attended only with a loss of money or of territory, but on its success depended the national existence of Mexico, and common rules did not, therefore, apply to such a state of things; that the excessive obstinacy of Spain was well known, and, therefore, the war might be protracted so as to enable that Government to pour into the Mexican States innumerable Spaniards, under the guise of citizens of the United States of America, who might, by virtue of the stipulations of the third article of this treaty, frequent the bays, harbors, and rivers of Mexico, and reside in her territories for the purpose of promoting the rebellious dispositions of the Spaniards that now resided there; that such stipulations in favor of Spanish subjects, however disguised, they regarded as incompatible with the safety of the Mexican Republic, and never could consent to their being inserted into a treaty with the United States of America during the continuance of the present war with Spain.

The plenipotentiary of the United States of America withdrew his objections, and the article was approved.

[Translation]

To his Excellency J. R. Poinsett, Envoy Extraordinary and Minister Plenipotentiary of the United States of America.

PALACE, *June* 19, 1826.

MOST EXCELLENT SIR: The undersigned plenipotentiaries of the United Mexican States have the honor to submit to the consideration of your excellency the article which they proposed in their last conference, and which is as follows:

"Whereas, it being equally important to the two contracting parties that their boundaries should be definitively settled by means of a solemn treaty, they bind themselves, mutually, to take into consideration this point as early as possible, affording, in their respective territories, the succors that may be required by the Commissioners, or persons sent out by the other party to make scientific observations, reconnaissances, discoveries, and all operations relative to the conclusion of the aforementioned convention, on the basis of justice, and in conformity to the friendly relations which now exist between the two parties, the persons requiring such succors paying for them what is just. Nor shall any acts of possession that may be made in the meantime by the citizens, people, or Indians of the territory of the one party, within the territory of the other, create a right to claims or pretensions to indemnities at the period of concluding the definitive treaty."

The undersigned abstain from making any further observations on the justice and reciprocal expediency of this article, after having fully exposed them to your excellency in the course of the last conference, it being the principal object that so delicate a subject should not remain open to the different opinions of the respective Governments of the two countries, but specified in such terms that neither Government can avoid attending to its settlement in the most just and friendly manner.

The undersigned have the honor to offer to your excellency the assurances of their perfect consideration.

CAMACHO.
ESTEVA.

[Note.]

LEGATION OF THE UNITED STATES OF AMERICA, *Mexico, June* 26, 1826.

MOST EXCELLENT SIRS: The undersigned has the honor to acknowledge the receipt of your excellencies' note of the 19th instant, proposing an article respecting the definitive treaty of limits between our respective countries, and which your excellencies propose should form an additional article to the treaty of amity, navigation, and commerce.

The undersigned assents to the article, with the addition of the words "unauthorized by the Government" before the words "acts of possession," for were either Government to authorize such acts, pending the negotiations to establish the boundaries between the two nations, such acts might give rise to well founded claims. It ought, likewise, to be distinctly understood that grants, during that period of time, made to individuals, by either Government, of lands so situated as to render it probable that they may be included within the limits of the other, will not be considered valid.

In accepting this article, as proposed by your excellencies, the undersigned deems it a duty he owes his own Government to state distinctly, that such a provision is totally unnecessary to bind them to take this important subject into immediate consideration, and at once to act upon it, and to conclude with Mexico a definitive treaty of limits.

The treaty of limits between the United States of America and his Catholic Majesty, concluded at Washington on the 22d of February, 1819, having been ratified by both parties when Mexico composed a part of the Spanish dominions, is considered by the United States as obligatory upon both the United States and Mexico. And as a proof of the light in which that treaty was viewed by this Government, I herewith enclose the copy of a note addressed by Mr. Torrens, Chargé d'Affaires from Mexico to the Government of the United States, and dated February 15, 1824, in which he declares the willingness of the supreme executive power of Mexico to accede to the limits agreed upon in the third article of the aforementioned treaty, and its readiness to co-operate with the United States in carrying it into complete effect. The undersigned was instructed, however, by his Government, to accede to the wishes of that of Mexico, if it desired to fix a new line, that might obviate some difficulties which are supposed to attend the existence of the present limits as agreed upon by the treaty aforesaid. But he was especially instructed

not to insist upon changing this line contrary to the wishes of the Mexican Government, but to agree to carry all the provisions of the treaty of Washington, concluded between the United States of America and Spain, into full effect, so far forth as relates to the boundaries between the two countries, if required to do so by the Mexican Government. The most excellent President of these States signified to the undersigned, through your excellencies' predecessor, his desire that a new line should be agreed upon, and for that purpose proposed that the two Governments should appoint their Commissioners, who, examining together the frontiers in a given parallel of latitude, and from one sea to the other, might present exact data upon which the limits might be fixed as is desired.

This proposition was transmitted to the Government of the United States, and the Secretary of State of that Government, in his reply, states: "The President of the United States does not perceive the utility of a joint appointment, by the two Governments, of Commissioners for the purpose indicated. After agreeing upon the principles on which a line of demarkation between the territories of two nations should be run, it has been usual to appoint conjointly Commissioners to proceed to mark and abut the line. Their duty is then prescribed, and if any variance arises between them, observations and experiments with proper instruments generally enable them to reconcile it. But it has not been customary to send forth Commissioners, either to agree upon a suitable boundary, or to collect data upon which the parties are subsequently to establish one. Such a course would be to reverse the order of proceeding which is recommended by the practice and experience of nations. It would probably leave the state of information which should guide the two Powers pretty much where it now is. There is but little likelihood that the Commissioners would agree, and each set would be influenced by the separate views of policy which it might happen to take of the particular country which it represented. If it were needful for both parties to acquire the knowledge which the Mexican Government supposes to be wanted, it would be better for each party to send out its own exploring Commissioners, under its separate instruction. For ourselves, although much, undoubtedly, remains to be known of the countries through which the line may be fixed, we believe that the stock of our information is sufficient to enable us to agree upon a boundary that would be satisfactory to us. In declining, however, to accede to the measure of creating a joint commission, the President would not be understood as objecting to a resort by the Mexican Government, for its own satisfaction, to the appointment of Commissioners for the purpose of collecting any information which it may desire. Should it persist in attaching importance to such a measure, the hope is indulged that no unnecessary time will be lost in sending out the commission, so that the negotiation, with regard to the limits, may be resumed with as little delay as possible."

The undersigned trusts that your excellencies will perceive, in these communications, the earnest desire on the part of the Government of the United States to settle this important question as early as may be consistent with the convenience of the Mexican Government.

The undersigned profits by this opportunity to reiterate to your excellencies the assurances of his most perfect consideration.

J. R. POINSETT.

Their Excellencies THE PLENIPOTENTIARIES *of the United Mexican States.*

Protocol of the fourteenth conference held by the plenipotentiaries of the United States of America and of the United Mexican States on July 10,1826.

Present, the plenipotentiaries.

The plenipotentiary of the United States observed that the more he reflected on the tenor of the first additional article to the treaty, as proposed by the Mexican plenipotentiaries, the more objectionable it appeared to him. By the Constitution of the United States, every citizen, native or naturalized, enjoyed equal privileges and immunities, and he feared that to except any class of citizens from the protection due to them by the laws of the United States, after such individuals had complied with the laws and become citizens of those States, would be regarded as a violation of the Constitution; there was also another objection, which had not occurred to him on the day that this subject was first discussed, and which was insuperable: the article embraced all the Spanish inhabitants of East and West Florida, and would be in violation of an existing treaty between the United States of America and Spain, which secured to the inhabitants of the ceded territories all the privileges, rights, and immunities of the citizens of the United States.

The plenipotentiaries of the Mexican Government declared that they did not contemplate excluding the inhabitants of the Floridas from any of the benefits of this treaty; they had fixed the period at 1820, because the solemn declaration of the inhabitants of Mexico, to live free or to perish, had been made in that year, an event which was supposed to have exasperated Spain still more against them, and which might induce the Spaniards to avail themselves of every means to overturn the fabric of their liberty; they had supposed the treaty of Washington, by which Spain ceded the Floridas to the United States, to have been ratified in 1819.

The plenipotentiary of the United States replied that the treaty of Washington was signed in February, 1819, but was not ratified by the King of Spain until October, 1820; the article, therefore, as at present worded, included all the Spanish inhabitants of the Floridas who had been naturalized in virtue of that treaty.

The Mexican plenipotentiaries repeated that such was not their intention, but that it was essential to the welfare, if not to the existence, of their country that the Government should possess the right of taking precautionary measures against persons born in Spain, although they might be naturalized in other countries; such persons may have renounced their allegiance to the mother country, but might retain all their prejudices against America, and might be employed by Spain to the injury of Mexico; they desired, therefore, if the safety of the Republic should, in the opinion of the Government, call for precautionary measures against such individuals, to have the right to adopt them without giving rise to any claim on the part of the United States; they stated that there were vessels now in the Pacific, commanded by Spaniards, and navigated by Spaniards calling themselves citizens of the United States, which had been permitted to enter their ports out of respect for that Government, but that circumstances might arise which would render it extremely dangerous to the Republic to permit vessels containing forty or fifty Spaniards to enter a port of Mexico, and for such persons to reside there, or travel through the country. It was the right to provide against this danger that they desired to preserve.

The plenipotentiary of the United States observed, in reply, that it was the inherent right of every Government to provide for the safety of the State, especially in time of war, by such general laws as might be deemed expedient and necessary, nor would the United States desire to protect any of their citizens whose conduct might render them obnoxious to the penalties of such laws.

The plenipotentiaries of Mexico rejoined, that the measures of precaution which the circumstances of the country might require the Government to take would be so far general that they would be directed against all persons born in the European dominions of the King of Spain, in whatever country they might be domiciliated; that the safety of the Republic might compel the Mexican Government to prevent such persons from coming into the country, and it had been resolved to reserve that right, especially as it was well known that, even the most liberal among the Spaniards, the friends of the constitution and of the liberty of the Peninsula, had proved themselves, at all times, inimical to the independence of the Americas; these persons had emigrated in great numbers to different parts of the world, and, in the event of a rebellion against the existing authorities of Mexico or of an invasion of the country by Spain, it ought not to be expected that the Government of Mexico should cede the right of shutting out all ingress into the country to persons who, under such circumstances, could not be regarded but as dangerous to the safety of the State, although they should be established in the States and territories of friendly Powers.

The plenipotentiary of the United States said, in reply, that it would be necessary to change entirely the phraseology of the article, and to express the sense of it in more general terms, and that it must be distinctly understood such measures as the Government of Mexico might judge expedient to adopt for the safety of the Republic in this particular were to be general in their nature, and not confined to the Spaniards established in the United States of America.

The Mexican plenipotentiaries assented to this proposition, and the first additional article to the treaty was extended in the following words, viz:

"The United States of America will not oppose nor reclaim any measure of precaution which the government of Mexico may deem expedient to adopt for the safety of the Republic, during the continuance of the present war between the United Mexican States and Spain, with respect to persons born in the European dominions of his Catholic Majesty, although such persons may be established in the United States of America, any article of this treaty to the contrary notwithstanding."

This article was approved, and the treaty was then signed by the respective plenipotentiaries.

J. R. POINSETT.
S. CAMACHO.
JOSÉ IGNACIO ESTEVA.

Project of a treaty between the United States of America and the United Mexican States.

ART. 1. There shall be a firm, inviolable, and universal peace, and a true and sincere friendship between the United States of America and the United Mexican States in all the extent of their possessions and territories, and between their people and citizens, respectively, without distinction of persons or places.	Agreed to.
ART. 2. The United States of America and the United Mexican States, desiring to take for the basis of their agreement the most perfect equality and reciprocity, engage mutually not to grant any particular favor to other nations, in respect to commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional.	Agreed to.
ART. 3. The inhabitants of the two countries, respectively, shall have liberty freely and securely to come with their ships and cargoes to all such places, ports, and rivers, in the territories of the United States of America and in the territories of the United Mexican States, to which other foreigners are permitted to come, to enter into the same, and to remain and reside in any parts of the said territories, respectively; also to hire and occupy houses and warehouses for the purposes of their commerce, and to trade in all sorts of produce, manufactures, and merchandise; and, generally, the merchants and traders of each nation shall enjoy the most complete protection and security for their commerce, but subject always to the laws, usages, and statutes of the two countries, respectively.	Agreed to. A provision was here introduced respecting the coasting trade.
ART. 4. No higher or other duties or charges shall be imposed in any of the ports of the United Mexican States on vessels of the United States of America than those payable in the same ports by vessels of the United Mexican States; nor in the ports of the United States of America on the vessels of the United Mexican States than shall be payable in the same ports on vessels of the United States of America.	Rejected, and the fourth, fifth, and sixth articles of the treaty adopted.

The same duties shall be paid on the importation into the United Mexican States of any articles the growth, produce, or manufacture of the United States of America, whether such importation shall be in vessels of the United States of America or in vessels of the United Mexican States; and the same duties shall be paid on the importation into the ports of the United States of America of any article the growth, produce, or manufacture of the United Mexican States, whether such importation shall be in vessels of the United Mexican States or of the United States of America.

The same duties shall be paid and the same bounties allowed on the exportation of any articles the growth, produce, or manufacture of the United States of America to the United Mexican States, whether such exportation shall be in vessels of the United Mexican States or in the vessels of the United States of America; and the same duties shall be paid and the same bounties allowed on the exportation of any article the growth, produce, or manufacture of the United Mexican States to the United States of America, whether such exportation shall be in vessels of the United States of America or in the vessels of the United Mexican States.

ART. 5. The merchants, commanders of vessels, and other citizens of both countries shall be free to manage, themselves, their own business in all the ports and places subject to the jurisdiction of each other, with respect to the sale of their goods and merchandise by wholesale or retail, and with respect to loading, unloading, and sending off their vessels, or to consign the management of it to whomsoever they may think proper to employ, either as brokers, factors, agents, or interpreters; and they shall not be obliged to employ for the aforesaid purposes any other person, nor to pay higher salaries or remunerations than, in the same operations, the citizens of either of the countries employ or pay, and, in all cases, shall enjoy perfect freedom of buying and selling, and to agree and fix, as they may deem fit, the price of whatever articles of goods or merchandise imported into or exported from either of the countries, respectively; they being, in all such cases, to be treated as the citizens of the country where they reside.

Rejected, and the seventh article of the treaty adopted; same in substance.

ART. 6. The citizens of neither of the contracting parties shall be liable to any embargo, nor shall their vessels, cargoes, merchandise, or effects be detained for any military expedition, nor for any public or private purpose whatsoever, without a sufficient indemnification.

Eighth article of the treaty agreed to.

ART. 7. The citizens of both countries, respectively, shall be exempt from compulsory service in the army or navy; nor shall any forced loan be imposed upon them; nor shall they be subjected to any other charges, or contributions, or taxes, than such as are paid by the citizens of the States in which they reside.

Ninth article of the treaty agreed to.

ART. 8. Whenever the citizens of either of the contracting parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions of the other with their vessels, whether merchant or of war, public or private, through stress of weather, pursuit of pirates, or enemies, they shall be received and treated with humanity, giving to them all favor and protection for repairing their ships, procuring provisions, and placing themselves in a situation to continue their voyage, without obstacle or hinderance of any kind.

Tenth article of the treaty agreed to.

ART. 9. All the ships, merchandise, and effects belonging to the citizens of one of the contracting parties which may be captured by pirates, whether within the limits of its jurisdiction or on the high seas, and may be carried or found in the rivers, bays, ports, or dominions of the other, shall be delivered up to the owners, they proving, in due and proper form, their rights before the competent tribunals; it being well understood that the claim shall be made within the term of one year by the parties

Eleventh article of the treaty agreed to.

themselves, their attorneys, or agents of the respective Governments.

ART. 10. When any vessel belonging to the citizens of either of the contracting parties shall be wrecked, foundered, or shall suffer any damage on the coasts, or within the dominions of the other, there shall be given to them all assistance and protection, in the same manner which is usual and customary with the vessels of the nation where the damage happens, permitting them to unload the said vessel, if necessary, of its merchandises and effects, without exacting for it any duty, impost, or contribution whatever, until they may be exported.

Twelfth article of the treaty agreed to.

ART. 11. The citizens of each of the contracting parties shall have power to dispose of their personal goods, within the jurisdiction of the other, by sale, donation, testament, or otherwise, and their representatives, being citizens of the other party, shall succeed to their said personal goods, whether by testament or *ab intestato;* and they may take possession thereof, either by themselves or others acting for them, and dispose of the same at their will, paying such duties only as the inhabitants of the country wherein the said goods are shall be subject to pay in like cases; and if, in the case of real estate, the said heirs would be prevented from entering into the possession of the inheritance on account of their character of aliens, there shall be granted to them the term of three years to dispose of the same as they may think proper, and to withdraw the proceeds without molestation, and exempt from all rights of detraction on the part of the Government of the respective States.

Rejected.

Thirteenth article of treaty adopted; same in substance.

ART. 12. Both the contracting parties promise, and engage formally, to give their special protection to the persons and property of the citizens of each other, of all occupations, who may be in the territories subject to the jurisdiction of the one or the other, transient or dwelling therein, leaving open and free to them the tribunals of justice, for their judicial recourse, on the same terms which are usual and customary with the natives or citizens of the country in which they may be; for which they may employ, in defence of their rights, such advocates, solicitors, notaries, agents, and factors, as they may judge proper, in all their trials at law; and such citizens or agents shall have free opportunity to be present at the decisions and sentences of the tribunals in all cases which may concern them, and likewise at the taking of all examinations and evidence which may be exhibited in the said trials.

Fourteenth article of the treaty agreed to.

ART. 13. It is likewise agreed that the most perfect and entire security of conscience shall be enjoyed by the citizens of both the contracting parties in the countries subject to the jurisdiction of the one and the other, without their being liable to be disturbed or molested on account of their religious belief, so long as they respect the laws and established usages of the country. Moreover, the bodies of the citizens of one of the contracting parties who may die in the territories of the other shall be buried in the usual burying grounds, or in other decent and suitable places, and shall be protected from violation and disturbance.

Rejected; fifteenth article of treaty adopted; same in substance.

ART. 14. It shall be lawful for the citizens of the United States of America and of the United Mexican States to sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandise laden thereon, from any port to the places of those who now are, or hereafter shall be, at enmity with either of the contracting parties. It shall, likewise, be lawful for the citizens aforesaid to sail with the ships and merchandises before mentioned, and to trade with the same liberty and security from the places, ports, and havens of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy before mentioned to neutral places, but, also, from one place belonging to an

Rejected; sixteenth article of treaty adopted; same in substance.

enemy to another place belonging to an enemy, whether they be under the jurisdiction of one Power or under several. And it is hereby stipulated that free ships shall also give freedom to goods, and that everything shall be deemed to be free and exempt which shall be found on board the ships belonging to the citizens of either of the contracting parties, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that, although they be enemies to both or either party, they are not to be taken out of that free ship, unless they are officers or soldiers, and in the actual service of the enemies: Provided, however, and it is hereby agreed, that the stipulations in this article contained, declaring that the flag shall cover the property, shall be understood as applying to those Powers only who recognize this principle; but if either of the two contracting parties shall be at war with a third, and the other neutral, the flag of the neutral shall cover the property of enemies whose Governments acknowledge this principle, and not of others.

This provision was not agreed to.

ART. 15. It is likewise agreed that in the case where the neutral flag of one of the contracting parties shall protect the property of the enemies of the other, by virtue of the above stipulations, it shall always be understood that the neutral property found on board such enemy's vessel shall be held and considered as enemy's property, and as such shall be liable to detention and confiscation, except such property as was put on board such vessel before the declaration of war, or even afterwards, if it were done without the knowledge of it; but the contracting parties agree that, two months having elapsed after the declaration, their citizens shall not plead ignorance thereof. On the contrary, if the flag of the neutral does not protect the enemy's property, in that case the goods and merchandises of the neutral, embarked in such enemy's ships, shall be free.

Seventeenth article of treaty agreed to.

ART. 16. This liberty of navigation and commerce shall extend to all kinds of merchandises, excepting those only which are distinguished by the name of contraband; and under this name of contraband, or prohibited goods, shall be comprehended, first, cannons, mortars, howitzers, swivels, blunderbusses, muskets, fuses, rifles, carbines, pistols, pikes, swords, sabres, lances, spears, halberds, and grenades, bombs, powder, matches, balls, and all other things belonging to the use of these arms; secondly, bucklers, helmets, breast-plates, coats of mail, infantry belts, and clothes made up in the form, and for a military use; thirdly, cavalry belts, and horses with their furniture; fourthly, and generally, all kinds of arms and instruments of iron, steel, brass, and copper, or of any other materials, manufactured, prepared, and formed expressly to make war by sea or land.

Eighteenth article of the treaty agreed to.

ART. 17. All other merchandises and things, not comprehended in the articles of contraband, explicitly enumerated and classified as above, shall be held and considered as free and subjects of free and lawful commerce, so that they may be carried and transported in the freest manner by both the contracting parties, even to places belonging to an enemy, excepting only those places which are at that time besieged or blocked up. And, to avoid all doubt in this particular, it is declared that those places only are besieged or blockaded which are actually attacked by a belligerent force capable of preventing the entry of the neutral.

Nineteenth article of treaty agreed to.

ART. 18. The articles of contraband before enumerated and classified, which may be found in a vessel bound for an enemy's port, shall be subject to detention and confiscation, leaving free the rest of the cargo and the ships, that the owners may dispose of them as they see proper. No vessel of either of the

Twentieth article of treaty agreed to.

two nations shall be detained on the high seas, on account of having on board articles of contraband, whenever the master, captain, or supercargo of said vessel will deliver up the articles of contraband to the captor, unless the quantity of such articles be so great, and of so large a bulk, that they cannot be received on board the capturing ship without great inconvenience; but in this and in all other cases of just detention, the vessel detained shall be sent to the nearest convenient and safe port for trial and judgment according to law.

Twenty first article of treaty agreed to.

ART. 19. And whereas it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is besieged, blockaded, or invested, it is agreed that every vessel so circumstanced may be turned away from such port or place, but shall not be detained, nor shall any part of her cargo, if not contraband, be confiscated, unless, after warning of such blockade or investment from the commanding officer of the blockading forces, she shall again attempt to enter; but she shall be permitted to go to any other port or place she may think proper. Nor shall any vessel of either party that may have entered into such port before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her cargo, nor, if found therein after the reduction and surrender, shall such vessel or her cargo be liable to confiscation, but she shall be restored to the owners thereof.

Twenty-second article of treaty agreed to.

ART. 20. In order to prevent all kind of disorder in the visiting and examination of the ships and cargoes of both the contracting parties on the high seas, they have agreed, mutually, that whenever a vessel-of-war, public or private, shall meet with a neutral of the other contracting party, the first shall remain out of cannon shot, and may send its boat with two or three men only, in order to execute the said examination of the papers concerning the ownership and cargo of the vessel, without causing the least extortion, violence, or ill-treatment, for which the commanders of the said armed ships shall be responsible with their persons and property; for which purpose the commanders of said private armed vessels shall, before receiving their commissions, give sufficient security to answer for all the damages they may commit. And it is expressly agreed that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting her papers, or for any other purpose whatever.

Twenty-third article of treaty agreed to.

ART. 21. To avoid all kind of vexation and abuse in the examination of papers relating to the ownership of the vessels belonging to the citizens of the two contracting parties, they have agreed, and do agree, that in case one of them should be engaged in war, the ships and vessels belonging to the citizens of the other must be furnished with sea-letters or passports, expressing the name, property, and bulk of the ship, as also the name and place of habitation of the master or commander of said vessel, in order that it may thereby appear that the ship really and truly belongs to the citizens of one of the parties; they have likewise agreed that such ships being laden, besides the said sea-letters or passports, shall also be provided with certificates containing the several particulars of the cargo, and the place whence the ship sailed, so that it may be known whether any forbidden or contraband goods be on board the same; which certificate shall be made out by the officers of the place whence the ship sailed in the accustomed form; without which requisites the said vessel may be detained to be adjudged by the competent tribunal, and may be declared legal prize, unless the said defect shall be satisfied or supplied by testimony entirely equivalent.

Twenty-fourth article of treaty agreed to.

ART. 22. It is further agreed that the stipulations above expressed, relative to the visiting and examination of vessels, shall apply only to those which

sail without convoy, and when said vessels are under convoy the verbal declaration of the commander of the convoy, on his word of honor, that the vessels under his protection belong to the nation whose flag he carries; and when they are bound to an enemy's port, that they have no contraband goods on board shall be sufficient.

ART. 23. It is further agreed that in all cases the established courts for prize causes in the country to which the prizes may be conducted shall alone take cognizance of them. And whenever such tribunal of either party shall pronounce judgment against any vessel, or goods, or property, claimed by the citizens of the other party, the sentence or decree shall mention the reason or motives on which the same shall have been founded; and an authenticated copy of the sentence or decree, and of all the proceedings of the case, shall, if demanded, be delivered to the commander or agent of said vessel without any delay, he paying the legal fees for the same.

Twenty-fifth article of treaty agreed to.

ART 24. For the greater security of the intercourse between the citizens of the United States of America and the United Mexican States, it is agreed now, for then, that if there should be, at any time hereafter, an interruption of the friendly relations which now exist, or a war unhappily break out between the two contracting parties, there shall be allowed the term of six months to the merchants residing on the coasts and one year to those residing in the interior of each other's States and territories, respectively, to arrange their business, dispose of their effects, or transport them wherever they please, giving them a safe conduct to protect them to the port they may designate. Those citizens who may be established in the States and territories aforesaid, exercising any other trade or occupation, shall be permitted to remain in the uninterrupted enjoyment of their liberties and property so long as they conduct themselves peaceably and do not commit any offence against the laws; and their goods and effects, of whatever class and condition they may be, shall not be subject to any embargo or sequestration whatever, nor to any charge nor tax other than may be established upon similar goods and effects belonging to the citizens of the States in which they reside, respectively; nor shall the debts between individuals, nor moneys in the public funds or in public or private banks, nor shares in companies, be confiscated, embargoed, or detained.

Twenty-sixth article of treaty agreed to.

ART. 25. Both the contracting parties being desirous of avoiding all inequality in relation to their public communications and official intercourse, have agreed, and do agree, to grant to the envoys, ministers, and other public agents, the same favors, immunities, and exemptions which those of the most favored nation do or shall enjoy; it being understood that whatever favors, immunities, or privileges the United States of America or the United Mexican States may find it proper to give to the ministers and public agents of any other power shall, by the same act, be extended to those of each of the contracting parties.

Twenty-seventh article of treaty agreed to.

ART. 26. In order that the consuls and vice-consuls of the two contracting parties may enjoy the rights, prerogatives, and immunities which belong to them by their public character, they shall, before entering upon the exercise of their functions, exhibit their commission or patent, in due form, to the Government to which they are accredited; and having obtained their exequatur, they shall be held and considered as such by all the authorities, magistrates, and inhabitants in the consular district in which they reside.

Twenty-eighth article of treaty agreed to.

ART. 27. It is likewise agreed that the consuls, their secretaries, officers, and persons attached to the service of consuls, they not being citizens of the country in which the consul resides, shall be exempt from the public service, and also from all kind of taxes, imposts, and contributions, except those which they shall be obliged to pay on account

Rejected in the first conference, but afterwards agreed to, twenty-ninth article of treaty.

of commerce, or their property, to which the citizens and inhabitants, native and foreign, of the country in which they reside are subject, being in everything besides subject to the laws of the respective States. The archives and papers of the consulate shall be respected inviolably, and under no pretext whatever shall any magistrate seize or in any way interfere with them.

Thirtieth article of treaty agreed to.

ART. 28. The said consuls shall have power to require the assistance of the authorities of the country for the arrest, detention, and custody of deserters from the public and private vessels of their country, and for that purpose they shall address themselves to the courts, judges, and officers competent, and shall demand the said deserters in writing, proving by an exhibition of the registers of the vessel's or ship's roll, or other public documents, that those men were part of the said crews; and on this demand so proved, (saving, however, where the contrary is proved,) the delivery shall not be refused. Such deserters, when arrested, shall be put at the disposal of the said consul, and may be put in the public prisons at the request and expense of those who reclaim them, to be sent to the ships to which they belonged, or to others of the same nation. But if they be not sent back within two months, to be counted from the day of their arrest, they shall be set at liberty, and shall be no more arrested for the same cause.

Thirty-first article of treaty agreed to.

ART. 29. For the purpose of more effectually protecting their commerce and navigation, the two contracting parties do hereby agree, as soon hereafter as circumstances will permit them, to form a consular convention, which shall declare specially the powers and immunities of the consuls and vice consuls of the respective parties.

Thirty-second article of treaty agreed to.

ART. 30. The United States of America and the United Mexican States, desiring to make as durable as circumstances will permit the relations which are to be established between the two parties by virtue of this treaty or general convention of peace, amity, commerce, and navigation, have declared solemnly, and do agree, to the following points:

Firstly. The present treaty shall remain in full force and virtue for the term of twelve years, to be counted from the day of the exchange of the ratifications, in all the parts relating to commerce and navigation; and in all those parts relating to peace and friendship it shall be permanently and perpetually binding on both Powers.

Secondly. If any one or more of the citizens of either party shall infringe any of the articles of this treaty, such citizen shall be held personally responsible for the same, and the harmony and good correspondence between the two nations shall not be interrupted thereby; each party engaging in no way to protect the offender, or sanction such violation.

Thirdly. If, (what indeed cannot be expected,) unfortunately, any of the articles contained in the present treaty shall be violated or infringed in any other way whatever, it is expressly stipulated that neither of the contracting parties will order or authorize any acts of reprisal, nor declare war against the other on complaints of injuries or damages, until the said party considering itself offended shall first have presented to the other a statement of such injuries or damages, verified by competent proof, and demanded justice and satisfaction, and the same shall have been either refused or unreasonably delayed.

Fourthly. Nothing in this treaty contained shall, however, be construed or operate contrary to former and existing public treaties with other Sovereigns or States.

The present treaty of peace, amity, commerce, and navigation shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the President of the United Mexican States, with the consent and approbation of the Congress

of the same, and the ratifications shall be exchanged in the city of Washington, within ——— months, to be counted from the date of the signature hereof, or sooner, if possible.

In faith whereof, we, the plenipotentiaries of the United States of America and of the United Mexican States, have signed and sealed these presents.

Done in the city of Mexico, on the ——— day of ———, in the year of our Lord one thousand eight hundred and twenty-six, in the fiftieth year of the independence of the United States of America, and the sixth of that of the United Mexican States.

[SEAL.]

[SEAL.]

[SEAL.]

IN SENATE OF THE UNITED STATES, *February* 12, 1827.

The following treaty was read twice, by unanimous consent, and referred to the Committee on Foreign Relations:

Treaty of amity, navigation, and commerce, between the United States of America and the United Mexican States.

The United States of America and the United Mexican States, desiring to establish, in an equitable and permanent manner, the rules which ought to govern the commercial intercourse and friendly relations that happily prevail between the two parties, and considering that this end can only be obtained by taking for the basis of their agreement the most perfect equality and reciprocity, and by avoiding all preferences to other nations, but reserving to each party the liberty of admitting them, at its pleasure, to a full participation of the same advantages, have resolved to conclude, on this basis, a treaty of amity, commerce, and navigation.

With this intention, the President of the United States of America has appointed, for their plenipotentiary, Joel Roberts Poinsett, a citizen of the United States of America, and their envoy extraordinary near the United Mexican States; and the President of the United Mexican States, his excellency Don Sebastian Camacho, Secretary of State and of Exterior and Interior Relations, and his excellency Don José Ignacio Esteva, Secretary of State and of the Treasury of the Mexican Republic; and the said plenipotentiaries have concluded and agreed upon the following articles:

ARTICLE FIRST. There shall be a firm, inviolable, and universal peace, and a true and sincere friendship between the United States of America and the United Mexican States, in all the extent of their possessions and territories, and between their people and citizens, respectively, without distinction of persons or places.

ARTICLE SECOND. The United States of America and the United Mexican States, desiring to take for the basis of their agreement the most perfect equality and reciprocity, engage, mutually, not to grant any particular favor to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional.

ARTICLE THIRD. The inhabitants of the two countries, respectively, shall have liberty freely and securely to come with their vessels and cargoes to all such places, ports, and rivers, in the territories of the United States of America, and in the territories of the United Mexican States, to which other foreigners are permitted to come, to enter into the same, and to remain and reside in any part of the said territories, respectively; also, to hire and occupy houses and warehouses for the purposes of their commerce, and to trade there in all sorts of produce, manufactures, and merchandise; and, generally, the merchants and traders of each nation shall enjoy the most complete protection and security for their commerce; and they shall not pay other or higher duties, imposts, or fees whatsoever than those which the most favored nations are or may be obliged to pay, and shall enjoy all the rights, privileges, and exemptions, with respect to navigation and commerce, which the citizens of the most favored nation do now or may enjoy; but subject always to the laws, usages, and statutes of the two countries respectively.

The liberty to enter and discharge the vessels of both nations of which this article treats shall not be understood to authorize the coasting trade permitted only to national vessels.

ARTICLE FOURTH. No other or higher duties shall be imposed on the importation into the United Mexican States of any article, the produce, growth, or manufacture of the United States of America, than those which the same or like articles, the produce, growth, or manufacture of any other foreign country, do now or may hereafter pay; nor shall articles the produce, growth, or manufacture of the United Mexican States be subject, on their introduction into the United States of America, to other or higher duties than those which the same or like articles of any other foreign country do now or may hereafter pay. Higher duties shall not be imposed in the respective States, on the exportation of any article to the States of the other contracting party, than those which are now or may hereafter be paid on the exportation of like articles to any other foreign country; nor shall any prohibition be established on the exportation or importation of any articles the produce, growth, or manufacture of the United States of America, nor of the United Mexican States, respectively, in either of them, which shall not in like manner be established with respect to other foreign countries.

ARTICLE FIFTH. That which is agreed upon in the preceding article with respect to duties of importation and exportation is understood in the same manner, and subject to the same restrictions, with respect to duties on tonnage, light-houses, ports, pilots, salvage in case of damage or shipwreck, recapture of vessels, or any other local imports or charges whatsoever, which are, or may hereafter be, established in the respective States of the contracting parties.

ARTICLE SIXTH. If the importation into the Territories and States of the United States of America of any article, the produce, growth, or manufacture of the States or Territories of the United Mexican States, take place in the vessels of the United Mexican States, they shall not pay other nor higher duties than those which, in like case, the vessels of the most favored nation do now or may hereafter pay; and in the same manner, if the importation into the Territories and States of the United Mexican States of any article, the produce, growth, or manufacture of the Territories and States of the United States of America, take place in the vessels of the United States of America, they shall not pay other nor higher duties than those which the vessels of the most favored nation do now or may hereafter pay. Articles, the produce, growth, or manufacture of the States and Territories of the United States of America, which may be exported from the United States of America, in a Mexican vessel, shall not pay higher duties, and shall enjoy the same drawbacks and bounties as if the exportation took place in vessels of the most favored nation; and, reciprocally, articles, the produce, growth, or manufacture of Mexico, exported from the Territories and States of Mexico, in vessels of the United States of America, shall not pay higher duties, and shall enjoy the same drawbacks and bounties as the vessels of the most favored nation.

When, hereafter, the mercantile marine of Mexico shall be augmented in such a manner as to render it sufficient for the necessities of its commerce, there may be established between the contracting parties, by common accord, a perfect equality of duties, bounties, and drawbacks of importation and exportation, in their respective States and Territories, on articles of the produce, growth, or manufacture of their respective States or Territories, indiscriminately in vessels of both nations.

ARTICLE SEVENTH. All merchants, captains, or commanders of vessels, and others, citizens of the United States of America, shall have full liberty in the United Mexican States to direct or manage, themselves, their own affairs, or to commit the management of them to whomsoever they may think proper, either as a broker, factor, agent, or interpreter, nor shall they be obliged to employ, for the aforesaid purposes, any other persons than those employed by Mexicans, nor to pay them higher salaries or remunerations than such as are in like cases paid by Mexicans; and absolute freedom shall be allowed in all cases to the buyer and seller to bargain and fix the price of any goods, wares, or merchandise imported into, or exported from, the United Mexican States, as they may think proper, observing the laws, usages, and customs of the country. The citizens of Mexico shall enjoy the same privileges in the States and Territories of the United States of America, being subject to the same conditions.

ARTICLE EIGHTH. The citizens of neither of the contracting parties shall be liable to any embargo, nor shall their vessels, cargoes, merchandise, or effects be detained for any military expedition, nor for any public or private purpose whatever, without a corresponding compensation.

ARTICLE NINTH. The citizens of both countries, respectively, shall be exempt from compulsory service in the army or navy; nor shall any forced loan be imposed exclusively upon them, nor shall they be subjected to any other charges, or contributions or taxes, than such as are paid by the citizens of the States in which they reside.

ARTICLE TENTH. Whenever the citizens of either of the contracting parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions of the other, with their vessels, whether merchant or of war, public or private, through stress of weather, pursuit of pirates or enemies, they shall be received and treated with humanity, with the precautions which may be deemed expedient on the part of the respective Governments, in order to avoid fraud, giving to them all favor and protection for repairing their vessels, procuring provisions, and placing themselves in a situation to continue their voyage without obstacle or hindrance of any kind.

ARTICLE ELEVENTH. All vessels, merchandise, and effects belonging to the citizens of one of the contracting parties, which may be captured by pirates, whether within the limits of its jurisdiction or on the high seas, and may be carried into or found in the rivers, bays, ports, or dominions of the other, shall be delivered up to the owners, they proving, in due and proper form, their rights before the competent tribunals; it being well understood that the claim shall be made within the term of one year, counting from the capture of said vessel or merchandise, by the parties themselves, or their attorneys, or by agents of the respective Governments.

ARTICLE TWELFTH. When any vessel, belonging to the citizens of either of the contracting parties, shall be wrecked, foundered, or shall suffer any damage on the coasts or within the dominions of the other, there shall be given to it all assistance and protection, in the same manner which is usual and customary with the vessels of the nation where the damage happens, permitting them to unload the said vessel, if necessary, of its merchandise and effects, with the precautions which may be deemed expedient on the part of the respective governments, in order to avoid fraud, without exacting therefor any duty, impost, or contribution whatever, until they be exported.

ARTICLE THIRTEENTH. In whatever relates to the succession of estates, either by will or *ab intestato*, disposal of such property, of whatever sort or denomination it may be, by sale, donation, exchange, or testament, or in any other manner whatsoever, the citizens of the two contracting parties shall enjoy in their respective States and Territories the same privileges, exemptions, liberties, and rights, as the citizens of the most favored nation, and shall not be charged, in any of these respects, with other and higher duties or imposts than those which are now or may hereafter be paid by the citizens of the power in whose States or Territories they may be resident.

ARTICLE FOURTEENTH. Both the contracting parties promise and engage formally to give their especial protection to the persons and property of the citizens of each other, of all occupations, who may be in the Territories subject to the jurisdiction of the one or of the other, transient or dwelling therein; leaving open and free to them the tribunals of justice for their judicial recourse, on the same terms which are usual and customary with the natives or citizens of the country in which they may be, for which they may employ in defence of their rights such advocates, solicitors, notaries, or agents and factors, as they may judge proper, in all their trials at law; and said citizens, or their agents, shall enjoy, in every respect, the same rights in the prosecution or defence of their persons or property as the citizens of the country where the cause may be tried.

ARTICLE FIFTEENTH. The citizens of the United States of America, residing in the United Mexican States, shall enjoy in their houses, persons, and properties, the protection of the government; and continuing in the possession of what they now enjoy, they shall not be disturbed nor molested in any manner on account of their religion, provided they respect that of the country where they reside, and its constitution, laws, usages, and customs; they shall likewise continue to enjoy the privilege of burying, in places assigned for that purpose, such citizens of the United States of America as may die within the aforesaid United

Mexican States, nor shall the funerals or sepulchres of the dead be disturbed in any manner, nor under any pretext.

The citizens of the United Mexican States shall enjoy throughout the States and Territories of the United States of America the same protection, and shall be entitled to the free exercise of their religion, in public or in private, either within their own houses or in the chapels and places of worship set apart for that purpose.

ARTICLE SIXTEENTH. It shall be lawful for all and singular the citizens, people, and inhabitants of the United States of America, and of the United Mexican States, respectively, to sail with their vessels with all manner of security and liberty, no distinction being made who are the proprietors of the merchandise laden thereon, from any port, to the places of those who now are, or hereafter shall be, at enmity with the United States of America or with the United Mexican States. It shall likewise be lawful for the citizens, respectively, aforesaid, to sail with the vessels and merchandises before mentioned, and to trade with the same liberty and security from the places, ports, and havens of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy before mentioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same government or under several; and it is hereby stipulated that free ships shall also give freedom to goods, and that everything shall be deemed free and exempt which shall be found on board the vessels belonging to the citizens of either of the contracting parties, although the whole lading, or any part thereof, should appertain to the enemies of either; contraband goods being always excepted. It is also agreed that the same liberty be extended to persons who are on board a free vessel, so that, although they be enemies to either party, they shall not be made prisoners, or taken out of that free vessel, unless they are soldiers, and in actual service of the enemy.

ARTICLE SEVENTEENTH. It is likewise agreed, that in the case where the neutral flag of one of the contracting parties shall protect the property of the enemies of the other, by virtue of the above stipulation, it shall always be understood that the neutral property found on board such enemy's vessels shall be held and considered as enemy's property, and, as such, shall be liable to detention and confiscation, except such property as was put on board such vessel before the declaration of war, or even afterwards, if it were done without the knowledge of it; but the contracting parties agree that, two months having elapsed after the declaration, their citizens shall not plead ignorance thereof. On the contrary, if the flag of the neutral does not protect the enemy's property, in that case, the goods and merchandises of the neutral embarked in such enemy's ships shall be free.

ARTICLE EIGHTEENTH. This liberty of navigation and commerce shall extend to all kinds of merchandises, excepting those only which are distinguished by the name of contraband, and under this name of contraband or prohibited goods shall be comprehended, first, cannons, mortars, howitzers, swivels, blunderbusses, muskets, fusees, rifles, carbines, pistols, pikes, swords, sabres, lances, spears, halberts, and grenades, bombs, powder, matches, balls, and all other things belonging to the use of those arms. Secondly, bucklers, helmets, breast-plates, coats of mail, infantry belts, and clothes made up in the form and for a military use. Thirdly, cavalry belts, and horses with their furniture. Fourthly, and generally, all kinds of arms and instruments of iron, steel, brass, and copper, or of any other materials manufactured, prepared, and formed expressly to make war by sea or land.

ARTICLE NINETEENTH. All other merchandise and things not comprehended in the articles of contraband, explicitly enumerated and classified as above, shall be held and considered as free, and subjects of free and lawful commerce, so that they may be carried and transported in the freest manner by both the contracting parties, even to places belonging to an enemy, excepting only those places which are at that time besieged or blockaded. And to avoid all doubt in this particular, it is declared that those places only are besieged or blockaded which are actually besieged or blockaded by a belligerent force, capable of preventing the entry of the neutral.

ARTICLE TWENTIETH. The articles of contraband before enumerated and classified, which may be found in a vessel bound for an enemy's port, shall be subject to detention and confiscation, leaving free the rest of the cargo and the vessel, that the owners may dispose of them as they see proper. No vessel of either of the two nations shall be detained on the high seas on account of having on board articles of contraband, whenever the master, captain, or supercargo of said vessel will deliver up the articles of contraband to the captor, unless the quantity of such articles be so great, and of so large a bulk, that they cannot be received on board the capturing ship without great inconvenience; but in this, and in all other cases of just detention, the vessel detained shall be sent to the nearest convenient and safe port for trial and judgment, according to law.

ARTICLE TWENTY-FIRST. And whereas it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is besieged, blockaded, or invested, it is agreed that every vessel so circumstanced may be turned away from such port or place; but shall not be detained, nor shall any part of her cargo, if not contraband, be confiscated, unless, after warning of such blockade or investment from the commanding officer of the blockading forces, she shall again attempt to enter the aforesaid port; but she shall be permitted to go to any other port or place she may think proper. Nor shall any vessel of either of the contracting parties, that may have entered into such port before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her cargo, nor, if found therein after the reduction and surrender, shall such vessel or her cargo be liable to confiscation, but she shall be restored to the owners thereof.

ARTICLE TWENTY-SECOND. In order to prevent all kind of disorder, in the visiting and examination of the ships and cargoes of both the contracting parties on the high seas, they have agreed, mutually, that whenever a vessel of war, public or private, shall meet with a neutral vessel of the other contracting party, the first shall remain out of cannon-shot, and may send its boat with two or three men only, in order to execute the said examination of the papers concerning the ownership and cargo of the vessel, without causing the least extortion, violence, or ill-treatment, for which the commanders of the said armed ships shall be responsible with their persons and property, for which purpose the commanders of said private armed vessels shall, before receiving their commissions, give sufficient security to answer for all the damages they may commit. And it is expressly agreed, that the neutral vessel shall in no case be required to go on board the examining vessel for the purpose of exhibiting her papers, or for any other purpose whatever.

ARTICLE TWENTY-THIRD. To avoid all kind of vexation and abuse in the examination of papers relating to the ownership of the vessels belonging to the citizens of the two contracting parties, they have agreed,

and do agree, that, in case one of them should be engaged in war, the ships and vessels belonging to the citizens of the other must be furnished with sea-letters or passports, expressing the name, property, and bulk of the vessel, and also the name, and place of habitation, of the master or commander of said vessel, in order that it may thereby appear that the vessel really and truly belongs to the citizens of one of the parties; they have likewise agreed, that such vessels being laden, besides the said sea-letters or passports, shall also be provided with certificates containing the several particulars of the cargo, and the place whence the vessel sailed, so that it may be known whether any forbidden or contraband goods be on board the same; which certificate shall be made out by the officers of the place whence the vessel sailed, in the accustomed form; without which requisites the said vessel may be detained, to be adjudged by the competent tribunal, and may be declared legal prize, unless the said defect shall be satisfied or supplied by testimony entirely equivalent, to the satisfaction of the competent tribunal.

ARTICLE TWENTY-FOURTH. It is further agreed that the stipulations, above expressed, relative to the visiting and examination of vessels, shall apply only to those which sail without convoy; and when said vessels are under convoy the verbal declaration of the commander of the convoy, on his word of honor, that the vessels under his protection belong to the nation whose flag he carries, and when they are bound to an enemy's port, that they have no contraband goods on board, shall be sufficient.

ARTICLE TWENTY-FIFTH. It is further agreed that, in all cases, the established courts for prize causes in the country to which the prizes may be conducted shall alone take cognizance of them. And whenever such tribunal, of either party, shall pronounce judgment against any vessel or goods or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives on which the same shall have been founded; and an authenticated copy of the sentence or decree, in conformity with the usages and laws of the country, and of all the proceedings of the case, shall, if demanded, be delivered to the commander or agent of said vessel without any delay, he paying the legal fees for the same.

ARTICLE TWENTY-SIXTH. For the greater security of the intercourse between the citizens of the United States of America and the United Mexican States, it is agreed, now for then, that if there should be, at any time hereafter, an interruption of the friendly relations which now exist, or a war unhappily break out between the contracting parties, there shall be allowed the term of six months to the merchants residing on the coasts, and one year to those residing in the interior of each others States and Territories, respectively, to arrange their business, dispose of their effects, or transport them wherever they please, giving them a safe conduct to protect them to the port they may designate. Those citizens who may be established in the States and Territories aforesaid, exercising any other trade or occupation, shall be permitted to remain in the uninterrupted enjoyment of their liberties and property so long as they conduct themselves peaceably, and do not commit any offence against the laws; and their goods and effects, of whatever class and condition they may be, shall not be subject to any embargo or sequestration whatever, nor to any charge nor tax other than may be established upon similar goods and effects belonging to the citizens of the States in which they reside, respectively; nor shall the debts between individuals, nor moneys in the public funds, or in public or private banks, nor shares in companies, be confiscated, embargoed, or detained.

ARTICLE TWENTY-SEVENTH. Both the contracting parties, being desirous of avoiding all inequality in relation to their public communications and official intercourse, have agreed, and do agree, to grant to the envoys, ministers, and other public agents, the same favors, immunities, and exemptions which those of the most favored nations do now or shall enjoy; it being understood that whatever favors, immunities, or privileges the United States of America or the United Mexican States may find it proper to give to the ministers and public agents of any other power, shall, by the same act, be extended to those of each of the contracting parties.

ARTICLE TWENTY-EIGHTH. In order that the consuls and vice-consuls of the two contracting parties may enjoy the rights, prerogatives, and immunities which belong to them by their character, they shall, before entering upon the exercise of their functions, exhibit their commission or patent, in due form, to the Government to which they are accredited; and having obtained their *exequatur*, they shall be held and considered as such by all the authorities, magistrates, and inhabitants in the consular district in which they reside. It is agreed likewise to receive and admit consuls and vice-consuls in all the ports and places open to foreign commerce, who shall enjoy therein all the rights, prerogatives, and immunities of the consuls and vice-consuls of the most favored nation, leaving, however, each of the contracting parties at liberty to except those ports and places in which the admission and residence of such consuls and vice-consuls may not appear expedient.

ARTICLE TWENTY-NINTH. It is likewise agreed that the consuls, their secretaries, officers, and persons attached to the service of consuls, they not being citizens of the country in which the consul resides, shall be exempt from all compulsory public service, and also from all kind of taxes, imposts, and contributions, levied especially on them, except those which they shall be obliged to pay on account of commerce or their property, to which the citizens and inhabitants, native and foreign, of the country in which they reside, are subject, being in everything besides subject to the laws of the respective States. The archives and papers of the consulates shall be respected inviolably, and under no pretext whatever shall any magistrate seize, or in any way interfere with them.

ARTICLE THIRTIETH. The said consuls shall have power to require the assistance of the authorities of the country for the arrest, detention, and custody of deserters from the public and private vessels of their country, and for that purpose they shall address themselves to the courts, judges, and officers competent, and shall demand the said deserters in writing, proving by an exhibition of the registers of the vessel's or ship's roll, or other public documents, that those men were part of the said crews; and on this demand, so proved, (saving, however, where the contrary is proved,) the delivery shall not be refused. Such deserters, when arrested, shall be placed at the disposal of the said consuls, and may be put in the public prisons, at the request and expense of those who reclaim them, to be sent to the vessels to which they belonged, or to others of the same nation. But if they be not sent back within two months, to be counted from the day of their arrest, they shall be set at liberty, and shall be no more arrested for the same cause.

ARTICLE THIRTY-FIRST. For the purpose of more effectually protecting their commerce and navigation, the two contracting parties do hereby agree, as soon hereafter as circumstances will permit, to form a consular convention, which shall declare, specially, the powers and immunities of the consuls and vice-consuls of the respective parties.

ARTICLE THIRTY-SECOND. It is likewise agreed that the two contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the country

adjacent to the lines and rivers which form the boundaries of the two countries; and the better to obtain this object both parties oblige themselves, expressly, to restrain, by force, all hostilities and incursions on the part of the Indian nations living within their respective boundaries, so that the United States of America will not suffer their Indians to attack the citizens of the United Mexican States, nor the Indians inhabiting their Territory, nor will the United Mexican States permit the last mentioned Indians to commit hostilities against the citizens of the United States of America, or their Indians in any manner whatever. And, whereas several treaties of friendship exist between the two contracting parties and the said nations of Indians, it is hereby agreed that in future no treaty of alliance or other whatever, except treaties of peace, and confined to that object only, shall be made by either party with the Indians living within the boundary of the other. And in the event of any person or persons captured by the Indians who inhabit the Territory of either of the contracting parties being or having been carried into the Territories of the other, both Governments engage and bind themselves, in the most solemn manner, to return them to their country as soon as they know of their being within their respective Territories, or to deliver them up to the agent, or the representative of the Government that claims them, giving to each other, reciprocally, timely notice, and the claimant paying the expenses incurred in the transmission and maintenance of such person or persons, who, in the mean time, shall be treated with the utmost hospitality by the local authorities of the place where they may be. Nor shall it be lawful, under any pretext whatsoever, for the citizens of either of the contracting parties to purchase or hold captive prisoners made by the Indians inhabiting the Territories of the other.

ARTICLE THIRTY-THIRD. It is likewise agreed that, in the event of any slaves escaping from their owners, residing in the States or Territories of one of the contracting parties, and passing over into the States or Territories of the other, it shall be lawful for the owner or owners of such slaves, or their lawful agents, to require the assistance of the authorities of the country where they may be found for their arrest, detention, and custody, and for that purpose the proprietors, or their agents, shall address themselves to the nearest magistrate or competent officer. On such demand being made, it shall be the duty of the magistrate or competent officer to cause the said slaves to be arrested and detained; and if it shall appear that such slaves be actually the property of the claimant, the magistrate or competent officer shall surrender them to the proprietors, or their agents, to be conveyed back to the country from whence they had escaped, the claimants paying the expenses incurred by the arrest, detention, and custody of such slaves, and none other. And it is further agreed by the contracting parties that, on mutual requisitions by them, respectively, or by their respective ministers or officers authorized to make the same, they will deliver up to justice all persons who, being charged with murder or forgery, committed within the jurisdiction of either, shall seek an asylum within any of the countries of the other; provided, that this shall only be done on such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension or commitment for trial if the offence had been there committed. The expense of such apprehension and delivery shall be borne and defrayed by those who make the requisition and receive the fugitive.

ARTICLE THIRTY-FOURTH. Whereas, from the intimate relations which are established between the Territories and citizens of the United States of America and those of the United Mexican States, there must necessarily result new and important points, which will require a special convention, it is agreed that such points shall be taken into consideration at the termination of six years, to be counted from the day on which the ratifications of this treaty are exchanged, and the articles which may be then concluded and agreed upon, with the constitutional sanction of both Governments, respectively, shall be considered as making a part of this treaty, and shall have the same force as those which are contained in it.

ARTICLE THIRTY-FIFTH. The United States of America and the United Mexican States, desiring to make as durable as circumstances will permit the relations which are to be established between the two parties by virtue of this treaty, or general convention of amity, commerce, and navigation, have declared solemnly, and do agree to the following points:

First. The present treaty shall remain in full force and virtue for the term of twelve years, to be counted from the day of the exchange of the ratifications, in all the parts relating to commerce and navigation; and in all those parts which relate to peace and friendship, it shall be perpetually and permanently binding on both Powers.

Secondly. If any one or more of the citizens of either party shall infringe any of the articles of this treaty, such citizen shall be held personally responsible for the same, and the harmony and good correspondence between the two nations shall not be interrupted thereby, each party engaging in no way to protect the offender or sanction such violation.

Thirdly. If, (what indeed cannot be expected,) unfortunately, any of the articles contained in the present treaty shall be violated or infringed in any other way whatever, it is stipulated that neither of the contracting parties will order or authorize any acts of reprisal, nor declare war against the other on complaints of injuries or damages, until the said party considering itself offended shall first have presented to the other a statement of such injuries or damages, verified by competent proof, and demanded justice and satisfaction, and the same shall have been either refused or unreasonably delayed.

Fourthly. Nothing in this treaty contained shall, however, be construed to operate contrary to former and existing public treaties with other Sovereigns or States.

The present treaty of amity, commerce, and navigation, shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the President of the United Mexican States, with the consent and approbation of the Congress of the same; and the ratifications shall be exchanged in the city of Washington within eight months, to be counted from the date of the signature hereof, or sooner, if possible.

In faith whereof, we, the plenipotentiaries of the United States of America and of the United Mexican States, have signed and sealed these presents.

Done in the city of Mexico, on the 10th day of July, in the year of our Lord one thousand eight hundred and twenty-six, in the fifty-first year of the independence of the United States of America, and the sixth of that of the United Mexican States.

J. R. POINSETT. [SEAL.]
S. CAMACHO. [SEAL.]
JOSÉ IGNACIO ESTEVA. [SEAL.]

ADDITIONAL ARTICLES.

FIRST. The United States of America will not oppose nor reclaim any measure of precaution which the Government of Mexico may judge expedient to adopt for the safety of the Republic during the continuance of the present war between the United Mexican States and Spain, with respect to persons born in the European dominions of his Catholic Majesty the King of Spain, although such persons may be established in the United States of America, any article in the present treaty to the contrary notwithstanding.

SECOND. Whereas, it being equally important to the two contracting parties that their boundaries should be definitively settled by means of a solemn treaty, they bind themselves mutually to take into consideration this point as early as possible, affording in their respective Territories the succors that may be required by the Commissioners or persons sent by the other party to make scientific observations, reconnaissances, discoveries, and all operations relative to the conclusion of the aforementioned convention, on the basis of justice, and in conformity to the friendly relations which now exist between the two parties; the persons requiring such succors paying for them what is just; nor shall any acts of possession which may be made in the mean time by the citizens, people, or Indians of the Territory of the one party within the Territory of the other, without the authority and consent of the Government, create a right to claims or pretensions to indemnities at the period of concluding the definitive convention. The two additional articles shall have the same force and value as if they had been inserted, word for word, in the present treaty. In faith whereof, we, the respective plenipotentiaries, have hereunto affixed our signs and seals in the capital of Mexico on the tenth day of July, one thousand eight hundred and twenty-six.

J. R. POINSETT. [SEAL.]
S. CAMACHO. [SEAL.]
JOSÉ IGNACIO ESTEVA. [SEAL.]

19TH CONGRESS.] No. 455. [2D SESSION.

SPOLIATIONS BY FRANCE BETWEEN THE YEARS 1805 AND 1813.

COMMUNICATED TO THE SENATE FEBRUARY 12, 1827.

Mr. SANFORD, from the Committee on Foreign Relations, having considered the memorial of certain merchants of Portsmouth, in New Hampshire; the memorial of certain merchants of the city of New York; the memorial of certain merchants of the city of Philadelphia, and the memorial of certain merchants of the city of Baltimore, reported:

The memorialists have claims upon the Government of France, arising from seizures and spoliations of their property made under the authority of France at different times between the year 1805 and the year 1813, and they pray that these claims may be prosecuted against France by such measures as the magnitude and justice of the claims and the obligations of this Government to its citizens may require.

Full and numerous expositions of these claims are before this Government and the public, and the committee deem it unnecessary here to enter into any detail of facts. It is sufficient to state that the seizure and sequestration of the vessels and merchandise of our citizens in French ports by order of the French Government, and the capture of some of our vessels and the destruction of others on the high seas by the authority of France, are the grave injuries for which our citizens seek redress.

For these injuries France is responsible; these claims of our citizens are clearly just, and it is the duty of this Government to prosecute them against the Government of France.

The efforts which have been heretofore made by this Government to obtain redress for these injuries from France are also well known. They have been able, strenuous, and repeated; but they have been wholly without success. Still, the committee are unwilling to believe that France has definitively refused to listen to the voice of justice; and they are of opinion that one further effort should be solemnly made by negotiation to obtain redress. Entertaining this opinion the committee do not at this time recommend any legislative measure. Negotiation belongs to the Executive branch of the Government; and it is not doubted that every proper exertion of the Executive authority will be made to pursue this object and obtain just redress.

The committee therefore ask to be discharged from further consideration of these memorials.

19TH CONGRESS.] No. 456. [2D SESSION.

SPOLIATIONS BY FRANCE, NAPLES, HOLLAND OR THE NETHERLANDS, AND DENMARK SINCE 1805.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES FEBRUARY 23, 1827.

Mr. EVERETT, from the Committee on Foreign Affairs, to whom have been referred the memorials, respectively, of sundry citizens of Portland, of Portsmouth, of Salem, of Rhode Island, of New York, of Philadelphia, and of Baltimore; also, the petition of Benjamin Fry, and of John and Alexander Johnston; also, a letter of the Secretary of State, of January 30, accompanied by a schedule of claims on foreign Governments, prepared in obedience to a resolution of the House of Representatives of the 19th of May, 1826; also, an additional schedule of claims of citizens of New York, reported:

That the subject of the claims of American citizens on foreign Governments for captures and spoliations on the high seas, and for sequestrations, confiscations, and illegal detentions in port during the continental system, so called, is well known to the House of Representatives. The above named memorials contain the representations of large and respectable bodies of merchants in some of the most important commercial towns in the United States, and also of individual citizens. Similar memorials have on former occasions been presented to the House, and have received the respectful notice of the Committee on Foreign Affairs.

The general nature of the claims preferred in these memorials is the same, although the merits of the question vary in a certain degree in reference to the different Governments against whom the claims exist. The extent of individual hardship and outrage was also various. The document from the Department of State, alluded to above, furnishes a great deal of important information on both points. It will, in the opinion of the committee, expose to the American people a series of cases of oppression and injury not less seriously affecting the national character than fatal to the private interest of the parties concerned. It is, in fact, the circumstance which entitles these claims to the consideration of the House that they grew out of violations of national law and the faith of treaties, deeply involving the honor of the American people.

The claims preferred are on the Governments of France, the Netherlands, Naples, and Denmark. The proceedings of the American Government, in the attempt to procure by friendly negotiation that indemnity which is due as a matter alike of national and private right, have at various times been communicated to the House of Representatives. Obvious considerations have led the Executive to press with the greatest urgency the claims on the Government of France. Justice could not, perhaps, with propriety be enforced from the other Powers before, nor dispensed with after it shall have been done to our citizens by this powerful, prosperous, and magnanimous State, of whose elevated and liberal policy the people of the United States have had too many proofs to fear a final difference of sentiment on this subject. The committee are not unmindful of the plausible nature of the plea that it is hard that the present Government of France should be called upon to make reparation for the illegal acts of the late Emperor. It is, however, known to the whole world that immense sums were in the first years of the restored monarchy paid by France to the various Governments of Europe, and that the United States, the only people whose arms were not turned against France, is the only one which has been excluded from this general distribution of indemnity. There is, in fact, no hardship in now refunding to the American merchant the value of those supplies, so long since wrested from him, which were often specifically applied to the public service of France, and always formed an accession to the public stock or the private means of her citizens. However great the evils which France may have endured under the reign of Napoleon, the exhaustion and impoverishment resulting to that country were alleviated by the entire amount of the many millions of property acquired by violence from our peaceful merchants. It is not asking much that this amount should be regarded as having been loaned to France, and that it should now, after fifteen or twenty years' use, be repaid to its rightful owners. The question of hardship might be safely rested on the single consideration, whether the citizens of America ought to be the final losers of property of which, in consequence of the arbitrary measures of the late Emperor, France has for so many years gratuitously enjoyed the benefit.

But the committee deem it the less necessary to press this point as the French Government, though often alluding to it, has never denied the justice of these claims, has admitted the validity of several portions of them, and makes their allowance and payment contingent on the adjustment of another question in controversy, viz: the privileges claimed by France, in the ports of Louisiana, under the eighth article of the convention by which Louisiana was ceded to the United States. The Government of France maintains an interpretation of that article, in virtue of which French vessels are gratuitously to be admitted into the ports of Louisiana on the same terms as the vessels of Powers between which and the United States the discriminating duties have been mutually abrogated. This claim has long formed the subject of negotiation between the Governments of the United States and France, and the former has ever expressed a willingness to continue or revive the discussion. It has, however, protested, and, as the committee think, with great reason, against making the indemnification justly due to individuals for wrongs admitted to have been suffered contingent on the settlement of a political question between the two Governments. Allowing, for a moment, and for the sake of argument, that the Government of the United States is wrong in its interpretation of the eighth article of the Louisiana convention, this wrong can afford France no justification for withholding from individual citizens of the United States the payment of debts acknowledged to be due. It is, however, a satisfactory consideration that the difficulty thus arising is in a fair course of removal. In the operation of the existing commercial convention with France the discriminating duties will, on the 1st day of October next, be mutually repealed, and the controversy arising on the interpretation of the eighth article of the Louisiana convention will be thus practically settled. When this shall be the case the known character of the French Government is a pledge to the United States that justice will not long be withheld from our citizens. Once rendered by France, the indemnity so long delayed will, no doubt, be promptly accorded by the other Powers.

From the report of the Secretary of State, above alluded to, it appears that the claims on the various Powers (omitting parts of a dollar) amount to the following sums:

On France	$9,600,332
On Naples	2,032,939
On the Netherlands	750,059
On Denmark	2,662,280
	15,045,610

This aggregate is exclusive of a large amount of claims that have been presented since the preparation of the schedule, and there is also, no doubt, a considerable amount which, from various causes, has never been reported to the Department of State. So large an amount of property, of which our citizens have been deprived under circumstances closely connected with the nation, is too important an object ever to be lost sight of. It may safely be pronounced a claim which this Government, however temperately and patiently it may pursue it, will never abandon. The confidence which the committee entertain that the measures within the competence of the Executive will eventually prove successful is measured by the reliance which is felt in the justice and honor of foreign Governments. Till those measures shall have been exhausted and found inadequate the time will not have arrived for legislative interference. The committee therefore ask to be discharged from the further consideration of the subject.

To the honorable Senate and House of Representatives in Congress assembled:

Memorial of merchants and other citizens of Portland for claims on France and other European States for spoliations committed on their lawful commerce.

The subject of our claims on foreign Powers for spoliations on our commerce is one which deeply concerns us as individuals whose property has been wrongfully wrested from them and as Americans whose national honor has been violated with impunity. The duty, then, of asking a reparation of our wrongs is binding on us both as individuals and as citizens. And when we humbly *implore* remuneration for our lost property we cannot be unmindful that we are *entitled* to it on the fundamental principle of government, that protection is due when obedience is yielded. In the pursuits of lawful commerce, the success of which contributes to national power as well as individual wealth, our vessels, bearing the American flag, and entitled to its protection, have been taken from us, sometimes by lawless decrees, enacted for belligerent purposes, sometimes, by a summary process, sold to supply the deficiencies of an exhausted treasury, without even the form of trial to hide the injustice of the act. Other nations suffered from the injustice of the belligerents, but the justice of their claims, supported by the strong arm of power, was speedily acknowledged and reparation made; so that we have not the poor consolation of hailing them as brethren in our disgrace.

From the commencement of the French Revolution until the final restoration of the Bourbon Sovereign the United States were almost the only important commercial Power which continued neutral for any length of time, and, of course, our commerce suffered the most severely from the acts of the belligerents; where, however, our vessels have been condemned on just principles of national law we submit without a murmur; and in those cases where they were sold, after an open trial, for contravening decrees not construed retrospectively, although contradictory principles of international law, we would not overlook the expedient in obtaining the rights; but where sales and confiscations took place, sanctioned only by the "fiat" of the French Emperor, we cannot but believe that our Government will interfere to protect its subjects against such outrageous assumption of power.

But we are not unmindful that Government, impressed with a sense of the justice of our claims on France, has been laboring to procure reparation from that Power; but where so large a sum has been withdrawn from the active capital of our country, and where the national honor is so intimately connected with the reparation which we claim, we trust that it will not be considered rash to say that our Government will never ignominiously submit to have its citizens robbed and its sovereignty defied by any foreign Power, whether great or small. In 1811, in the instructions given to our Minister to France, his first attention was called to "the claims on France, which it is expected that her Government will satisfy to their full extent without delay."

In Mr. Madison's message to Congress, in June, 1812, after some observations on our French claims, he uses the following language: "I abstain, at this time, from recommending to the consideration of Congress definite measures with respect to that nation, in the expectation that the result of unclosed discussions between our Minister Plenipotentiary at Paris and the French Government will speedily enable Congress to decide, with greater advantage, on the course due to the *rights*, the *interest*, and the *honor* of our country." In the general instructions to Mr. Gallatin, in 1816, after professing our friendly disposition to France, the letter adds: "The history of the last ten years is replete with wrongs received from that Government, for which no justifiable pretext can be assigned." Soon after Mr. Gallatin's arrival at Paris he addressed his celebrated letter of the 9th November to the Duke de Richelieu, in which the justice of our claims is supported by the most convincing arguments. Not only, says the letter, were the Berlin and Milan decrees an evident and acknowledged violation of the law of nations, but they were also an open infraction of the 12th, 13th, and 14th articles of the convention of 1800, which did not expire until July 31, 1809. To this letter no answer was returned, but, in a personal interview, the Duke stated that he could not offer beyond an indemnity for vessels burnt at sea, and for those the proceeds of which had only been sequestered and deposited in the "caisse d'amortissement." And at a subsequent interview he concluded that a silent postponement of the subject was the least objectionable course. Mr. Gallatin replied that he was not authorized to accede to this indefinite and unexpected delay, and that it could not be viewed favorably by the United States. In 1819 his excellency Baron Louis, the Minister of Finance, in a letter to Mr. Parish, who had applied for restitution of the value of three cargoes, the proceeds of which had been placed in the Sinking Fund, thus writes: "I admit with you, sir, the iniquity of these

measures, and with you I deplore the effects; but to repair them is not within the compass of my power." In the same year indemnity was also refused by the Council of State for the vessels burnt at sea under the Berlin and Milan decrees, after the revocation of those decrees, so far as they applied to American commerce.—(Mr. Gallatin's letter to Baron Pasqueir, March 15, 1820.) A part of one of these cargoes, for restitution of the value of which Mr. Parish applied and was *refused*, was sold to a Mr. Tillietaz, who was a Belgian subject, and has since been remunerated for his loss. In the whole of the correspondence between Mr. Gallatin and the French ministers, although he always urged the justice of the claims, there is no attempt on their part to meet or answer his arguments; on the contrary, they often admit their justice and request postponement, or profess their inability to pay them. In 1822 Mr. Gallatin holds the following language in a letter to his excellency Count de Villele: "I have, in the mean while, for six years made unceasing application to his Majesty's Government for the settlement of claims, to a vast amount, affecting the interest of numerous individuals, and arising from flagrant violations of the law of nations, and of the rights of the United States, without having ever been able to obtain, to this day, satisfaction in a single instance, or even that the subject should be taken into consideration and discussed." And, finally, our minister, after meeting with delay after delay, and finding that when one obstacle was removed another was substituted, thus writes to the Secretary, when he is assured that the 8th article of the Louisiana treaty must be jointly treated with our claims: "The subject is too obvious to require any comments on my part, and the final decision leaves me no other course than to refer the whole to my Government." Such was the result of six years' almost constant intercession of our minister with the French Government. The justice, then, of our claims has been fully recognized and distinctly urged by our Government, and France, it would seem, has virtually acknowledged their obligation to compensate us for our wrongs; and yet six years' intercession has effected little better than nothing. Our negotiations with France have not been concealed from the world, but have been open to the public eye, and there is not a nation of Europe but what may have seen the American Government entreating France to make remuneration for the robberies she has committed on our property. With what opinion they may justly regard us in such circumstances is easy to foretell; and how far our submission may operate to induce a repetition of the like outrages, in the case of European wars, is for our Government to determine. In the mean time, with the passage of each year, the evidence which is necessary to substantiate our losses is growing more precarious, and the French nation, we presume, are growing every day more unwilling to satisfy old claims. In a short time, too, justice will come too late to recompense those who have been actual sufferers, and the property which has been taken from them may erect tombstones over those who lingered out life in indigence and obscurity. Besides, apathy and indifference are rapidly succeeding to the general indignation which was expressed at the losses of the sufferers, and the nation are forgetful of the past in the engrossing cares of the present.

For these reasons, your memorialists humbly believe that the proper adjustment of these claims will become more difficult by delay; and as France has now improved her finances by ten or more years of peace and prosperity, the present seems the most favorable time to urge a speedy settlement.

Believing that our claims are just; that our Government has recognized its obligations to support them under successive administrations; that France has not officially denied them; and that now is a favorable time to urge their adjustment, we respectfully request the honorable Legislature of our nation to adopt such measures for their immediate adjustment as to them the importance of the case seems to demand.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

The memorial of Thomas Sheafe *et al.*, merchants of Portsmouth, New Hampshire, respecting their claims upon the French Government for spoliations on their commerce, respectfully shows:

That the subscribers, citizens of Portsmouth, in the State of New Hampshire, are interested, as owners or underwriters, in various claims against the French Government, arising from the arbitrary and unjustifiable edicts of the Emperor Napoleon during the period between the commencement of the year 1806 and the year 1813.

These claims are susceptible of a division into several different classes:

First. The seizure and sequestration of our vessels and cargoes in French ports, by order of the French Government or some military officer, on the alleged ground that the vessel had been in an English port, either voluntarily or by stress of weather, or had been, during her voyage, visited by an English cruiser.

Second. The capture on the high seas of American vessels and carrying them into French ports for an alleged violation of the Berlin and Milan and other decrees.

Third. The seizure and sequestration of American vessels after a public notice of the repeal of those decrees had been communicated to our Government.

Fourth. The burning and destruction of American vessels on the high seas during the continuance and after the alleged repeal of those decrees.

In the three first classes the cases were submitted to the Emperor Napoleon, or to the examination and judgment of his prize courts, but in the latter there was only the momentary examination of papers by the commander of a national fleet or ship, and no other record of the proceeding than the log-book of the capturing vessel.

Representations of their particular cases, as they from time to time happened, have heretofore been made to the Government, and your memorialists are aware that the Government has made earnest and repeated demands of the French nation for satisfaction of their depredations on our commerce, and of the various shifts and pretences by which the admission of their justice has been eluded and their payment delayed.

The full extent of the losses sustained by the citizens of this town by these flagrant aggressions upon their commerce has not been yet ascertained, but, from the best opinion which your memorialists have been able to form of their amount, they will exceed the sum of two hundred thousand dollars.

These claims are principally holden by widows, orphans, and persons whose fortunes have been

undermined or wholly destroyed by these very depredations upon their property; and if a just remuneration could be obtained it would alleviate much suffering and produce much private comfort and happiness.

Believing it to be the duty of the Government to protect its citizens in the prosecution of its lawful commerce against the unprincipled assaults of foreign Powers—assaults in violation of the laws of nations and the usages of civilized communities—your memorialists respectfully request and earnestly pray that these claims may be prosecuted against the French Government by those ulterior measures to which their justice and magnitude are entitled, the obligations of the Government to its citizens require, and which the wisdom of Congress may suggest.

PORTSMOUTH, *December* 30, 1826.

To the honorable the Senate and the House of Representatives of the United States of America in Congress assembled:

The memorial of the subscribers, a committee of the merchants of Salem, having claims on the Governments of France, Naples, Holland, and Denmark for spoliations on their commerce, respectfully showeth:

That the amount of said claims, as they have reason to believe, exceeds a million and a half of dollars, arising from unjust captures and condemnations of their vessels engaged in lawful commerce, and from unjust seizures and confiscation of their property in the ports of said nations during the last war in Europe.

By these depredations many of them lost a large portion of their property, and all of them are sufferers to a considerable extent. Your memorialists believe that no class of citizens have a stronger claim to the interposition of Government in their behalf than the merchants, for they are peculiarly dependent upon it; they have ever largely contributed to its support, and it is only through such interposition that they can hope to obtain redress for injuries sustained from foreign nations.

Your memorialists hope that it will not be deemed improper in them to observe that the commerce of Salem, which was once so flourishing, has greatly declined; that, from the pressure of the times, many insolvencies have recently taken place, and a general gloom pervades a town which a few years since was enlivened by cheerful and successful industry.

Could your memorialists and the merchants whom they represent obtain anything like a just indemnity for the wrongs that they have sustained, it would go far to restore the former prosperity of the town and preserve many of them from ruin.

Your memorialists would not presume to suggest to the wisdom of Congress what measures they ought to adopt, but they would respectfully ask whether, under existing circumstances, a special embassy to the Court of France might not be productive of the most satisfactory results. It was by those who administered the Government of France during the late war in Europe that a large portion of the injuries of which they complain were directly or indirectly inflicted. That Government possesses most ample means of satisfying all just claims upon it, and it is believed that there are none more so than those of the merchants of the United States, who suffered by the lawless depredations committed on their property during the period aforesaid. Should that Government be prevailed on to do justice in this respect there is no reason to doubt that the other Governments above mentioned will readily follow their example.

Your memorialists would, in conclusion, observe, that they have perfect confidence in the disposition of Congress to obtain justice for them. They feel that they have a rightful claim to the aid of their Government, and they believe that the honor and permanent interest of the country require that no just demands upon foreign nations should be abandoned until they are satisfied.

SALEM, MASSACHUSETTS, *December* 12, 1826.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The memorial of sundry merchants of the city of Philadelphia, upon the subject of spoliations committed under the authority or decrees of the Government of France, respectfully showeth:

That in conformity to a resolution of the House of Representatives, passed the last session of Congress, they have furnished the Department of State with statements of their claims upon the Government of France for spoliations and losses sustained under its authority or various decrees, with the hope and expectation that the information therein contained would form the basis of some new measure leading to the great object of indemnity, so long and so unjustly withheld. That refraining from a painful repetition and enumeration of the sufferings and grievances referred to, which, falling in the first instance on your memorialists, have, in their consequences and effects, reached even the agricultural and manufacturing sources of prosperity of this Union, they venture respectfully to suggest to your honorable bodies the adoption of an expedient which, under analogous circumstances, has been resorted to with success on several former occasions. They refer to the institution of a special mission to France, which, according with the mild and pacific, yet firm and dignified character and policy of this Government, has heretofore been productive of the happiest results in adjusting similar demands on some of the principal powers of Europe.

Such a mission, your memorialists conceive, could not fail, from its respectful and special character, to insure the most favorable reception and immediate attention from the French Government, which, having recognized and paid the claims of their European neighbors, and even those of Algiers, for similar violations of the law of nations during the dynasty of Napoleon, could not consistently even with the ordinary rules of comity and civility reject an amicable and special overture for a renewed negotiation and investigation of their claims.

Were additional arguments wanting to prove the sound policy of such an attempt, they might be found in the recent success of our present able minister at the court of London, who, it is understood, has effected an arrangement with the British Government on a long contested and unadjusted claim under the treaty of Ghent.

Discarding all partial and selfish views of the subject, your memorialists are deeply impressed with the important truth, that the prosperity and interests of the commerce of the United States are indissolubly connected and closely interwoven with those of other great branches of national industry, more especially with agriculture and manufactures, and that every loss sustained by the merchant, by impairing and lessening the active capital of the country, necessarily affects both the farmer and artisan, and has a tendency to diminish the value of the soil, as well as its produce, while at the same time it injures the public revenue, and thereby saps the very strength of the naval and military power of the country. Even the factories, which consume our wool, our cotton, and other raw materials; the canals and turnpikes which intersect our country, and conduct its produce to the seaports, are the offspring of our commercial capital and enterprise. And your memorialists respectfully and fervently pray that the hand of a beneficent Government may be extended, by means of a special mission or otherwise, to preserve the great amount of property which is now unjustly withheld by France, in violation of the faith of treaties and of the acknowledged law of nations.

PHILADELPHIA, *December* 30, 1826.

To the honorable the Senate and the honorable the House of Representatives of the United States in Congress assembled:

The undersigned, a native citizen of the United States, residing in Newport, in the State of Rhode Island, merchant, begs leave respectfully to represent: That on the 30th day of November, A. D. 1800, he being at that time sole owner of a brig or vessel called the Favorite, of Newport aforesaid, despatched her, with a valuable cargo of his own property on board, on a voyage from the port of Newport to the Island of St. Christopher, in the West Indies, under the command of Benjamin Seabury, of Little Compton, in said State of Rhode Island, who was captain of said brig for her intended voyage; that whilst prosecuting the same, and on her outward passage, on the 19th day of December, of the same year, said brig was captured by a French privateer called the Dugomier, commanded by Captain Ragondin, and owned by a citizen of the French Island of Guadaloupe; that said brig was carried for adjudication into Basseterre, in said island, and, together with her cargo, was there finally condemned under the forms of law; that the said brig, at the time of her sailing as aforesaid, was regularly cleared for the voyage aforesaid from the custom-house at said Newport, and was furnished with all the documents and papers necessary, under the then existing treaties and laws of the United States, for her safe conduct during her contemplated voyage; that upon her arrival at Basseterre, as aforesaid, the captain and crew were immediately immured in prison, and kept in close confinement during the whole time of their stay there; that upon their liberation and subsequent arrival at the Island of St. Christopher, a solemn protest, in due form, was made, in relation to the said capture and condemnation, by the master, mate, and one of the seamen of the said brig, and an additional and supplemental protest was afterwards made by the said master upon his arrival at said Newport, viz: on the 15th day of January, A. D. 1802.

Your petitioner would further respectfully represent that, by the convention entered into by and between the Government of the United States and the French Republic, on the 3d day of September, A. D. 1800, and in and by the fourth article thereof, provision was made for the restoration or payment of all property that should thereafter be so illegally captured and condemned; and your petitioner, confiding in the ability and disposition of the Government of the United States to protect the rights and the property of its citizens engaged in legal commercial pursuits on the high seas, made early application to the then Secretary of State for advice and direction as to the proper measures to be by him pursued in order to effect a restoration of the property of the said brig and cargo, or payment therefor, by the Government of the French Republic, according to the terms and spirit of the last clause of the fourth article of the convention above referred to; and your petitioner was thereupon informed that Mr. Livingston, then American minister in France, was authorized and instructed, by the American Executive, to employ a suitable agent to urge such claims upon the French Government, and was supplied with funds for that purpose; whereupon your petitioner, at great expense of time and money, provided himself with all the documents considered necessary for the favorable exhibition of his claim, and made a voyage himself to France, exclusively for the purpose of effecting a restoration of the value of the said brig and cargo; that, upon his arrival there, he had an interview with the said American minister, and was by him referred to Mr. Fulwar Skipwith, as the agent of the American Government for prosecuting claims for French spoliations, and to him and his care he confided the documentary evidence he had collected; and, after some time spent there in unavailing endeavors to effect his object, he returned, disappointed and impoverished, to the United States; from which time to the present the claim of your petitioner, so committed by him to the authorized agent of the Government of the United States, has been suffered to repose in silence. In the mean time the circumstances of your petitioner have been exceedingly straightened and his comforts abridged by being so long and so unjustly deprived of his property.

Your petitioner would further represent that, as the convention above alluded to was entered into on the 3d day of September, A. D. 1800, and the capture of the Favorite was not made until the 19th day of December following, it follows that this claim cannot be considered as having been embraced by the stipulation for indemnity at that time entered into for such captures as had been made prior to that time, but falls within the intent of the provision made for captures which might happen at a subsequent period, and so is a subsisting valid claim of the Government of the United States against the Government of France.

Under these circumstances, therefore, your petitioner comes before the honorable Congress as his last and only resort for relief in the premises, and respectfully prays that his case may be taken into consideration, and that Congress will extend to him such protection, indemnity, and relief as are due to him as a citizen of a free and sovereign State, and such as, in his particular case, to right and justice appertain. And, as in duty bound, will ever pray.

BENJAMIN FRY.

NEWPORT, RHODE ISLAND, *January* 5, 1817.

To the honorable Senate and honorable House of Representatives of the United States in Congress assembled:

The memorial of John Johnston and Alexander Johnston, both of Wiscasset, in the State of Maine, and citizens of the United States, respectfully shows: That, in the year 1810, they were the sole owners

of the ship Cleopatra, of Wiscasset, of three hundred and seventy-eight tons burden, James Brown, master, said ship being nearly new, having been built in Wiscasset in 1807; that, in the month of June, 1810, she sailed from Liverpool, bound to Petersburg, with a cargo of salt, wholly owned by your memorialists, and one of them (John Johnston) was on board during the voyage; that, in the month of July, 1810, while prosecuting said voyage and proceeding up the Baltic, said ship was captured in the Great Belt, by a Danish armed boat, and carried into the Island of Zealand, and soon afterwards she, with her said cargo, were condemned at Copenhagen, by the Government of Denmark, and sold, and the proceeds of the sale kept by that Government, so that your memorialists totally lost the same, the Government of Denmark having never made any reparation whatever. The ship was a valuable vessel, worth *twenty-five thousand dollars*, she having cost your memorialists that sum, as they built her by the day, with great care and labor, for their own particular use. The cargo was worth *five thousand dollars*.

Your memorialists respectfully request that their case may receive your consideration, and that such measures may be adopted by the wisdom of Congress so that adequate relief may be granted them.

JOHN JOHNSTON.
ALEX. JOHNSTON.

WISCASSET, *January* 11, 1827.

To the honorable the Senate and House of Representatives in Congress assembled:

The memorial of the undersigned merchants of Baltimore respectfully represents:

That, in common with many others, they have sustained great and grievous losses under the edicts of France and her dependencies in the war which, during the reign of the Emperor Napoleon, was waged between that country and Great Britain. The injuries arising during this war out of the mutual usurpations of the belligerents, though they have been cancelled, as to Great Britain, by the extreme remedy of an appeal to arms, remain, as regards France, without atonement of any sort. Your memorialists moreover respectfully represent, that the return to peace, while it affords to the latter Power the leisure to review and redress these injuries, has restored to her a prosperity which leaves her no longer the excuse of inability to repair them. Under these circumstances your memorialists approach the Government of their country, praying that vindication of their rights which, though wisely suspended at a former period, seems now to be demanded, not only by the extent of loss which its citizens will in default of it sustain, but by a sense of national dignity and regard to the violated principles of the law of nations.

Your memorialists are not aware that France denies the justice of these claims. Indeed, the maxims of public law universally admitted by nations; treaties contracted with Napoleon by all the chief Powers of Europe, the benefits of which are, in various instances, retained by France to this day; claims for indemnity preferred by her allies, and admitted by her, for injuries sustained under his administration; the fact that actual compensation has been made by her in many cases; all these, independently of successive admissions of various parts of our claims by different ministers of France, would sufficiently demonstrate that, as regards foreign nations, the illegal acts of Napoleon are, to all intents, the acts of the ruling Government of France, and that it, by consequence, is as responsible to the sufferers as if those wrongs had emanated immediately from itself. And these facts and principles are now adverted to by your memorialists with a view to demonstrate, not a responsibility which is undenied, but the obligation which attaches to the restored Government of France in her present prosperity, and after the allowance of like claims to other Powers, to liquidate those of our citizens without delay.

Your honorable bodies are well aware that not only were the decrees complained of in contravention of acknowledged principles of public law, but the adjudications under them were, for the most part, irregular. They were made, in many cases, without any of the formalities intended for the protection of the captured neutral; they were pronounced, in others, by incompetent tribunals, as, by the Executive power, usurping the place of the courts ordinarily recognized for this purpose; they often attached on property which could, by no rational interpretation, be considered as having come within the prohibitions of the edicts; and lastly, they, as well as the decrees themselves, were made to operate retrospectively, or on property captured after the revocation of the decrees, both being in violation of sacred principles of national law. To complete the climax of oppression, the vessels and cargoes of American citizens were burnt on the high seas without even the mockery of a prize process. To all which is to be added, that a large portion of these invasions of our neutral rights were made in the face of express stipulations to the contrary, in the convention of 1800, between France and the United States.

For all the property lost to them by these usurpations your memorialists humbly apprehend themselves entitled to indemnification from the French Government, and to the interposition, to that end, of the protecting hand of their own. But they beg leave to call the attention of your honorable bodies more particularly to certain cases, not more unjust, perhaps, than the rest, but distinguished by some peculiar circumstances, which place their right to indemnity in a stronger point of light. Your memorialists allude, in the first place, to the vessels and cargoes which, in the beginning of 1807 and shortly after the promulgation of the Berlin decree, were either driven by stress of weather or compelled by warlike force into British ports, and which subsequently arrived at Antwerp. A doubt having arisen whether property thus *compelled* into England was within the operation of the decree, it was placed in the public stores to abide the decision of the Emperor, and was finally sold, and the proceeds deposited in the French treasury. They refer, secondly, to those seized at St. Sebastian towards the close of 1809, and sold in conformity to the subsequent decree of Rambouillet. And, lastly, to fourteen vessels driven by rigorous weather, in the winter of 1809–'10 into, the ports of Holland, then a kingdom nominally independent of France, and subsequently, by a treaty between King Louis and the Emperor, put under sequestration, and at the disposal of France. All these cases of seizure had this circumstance in common, that in none of them was there either trial or condemnation. The vessels and cargoes were simply seized and sold by order of the Government, for all whom it might concern, and the proceeds deposited in the public treasury. This seizure and sequestration took place, in regard to one or more vessels, under circumstances of yet greater injustice. The vessels in question went, indeed, direct from the United States to Holland. But before they ventured in they requested instructions of the Dutch consignees, by whose advice, and under a protection from capture by the King's ships, they entered the port of Amsterdam, where their cargoes were, nevertheless, deposited in the King's stores, and the greater part afterwards confiscated and placed at the disposal of France. Your memorialists humbly suggest that, in these and other like cases, they are entitled to claim

of France either the regular condemnation of their property hy the authorized tribunals or else the restoration, from the French treasury, of its illegal spoils. That the French Government is not insensible of the justice of this claim may appear from the following facts: That in no instance has any bond, given in these cases by European consignees, been enforced; and, in one instance, indemnification has been actually made by the restored Government to a Belgian house for property sequestered.

Your memorialists would now respectfully invite the attention of your honorable bodies to the circumstances under which the delay of France to liquidate and pay these claims has been vexatiously prolonged. It is known that different parts of all the claims thus accruing have, at different times, been allowed by successive French ministries, and that no positive denial has been made of any. It is not to be supposed, indeed, that that power can seriously maintain either its irresponsibleness for the acts of the imperial Government, or the legality of the Berlin and Milan decrees; and even supposing the validity of these to be insisted on, the largest number of cases in which compensation is asked are those of irregular condemnations under them, or of decisions, regular or irregular, under other decrees, incontestably contravening the law of nations, or under extra-judicial acts of the imperial Government. Of other pretences for delaying the liquidation of these claims, set up from time to time, the *tonnage question* has been put at rest by the negotiation of the Convention of Commerce; and the objection arising on the eighth article of the Louisiana treaty is too plainly unfounded in sound sense to be regarded as serious or honest. There remains, therefore, on the part of France, only the plea of pecuniary inability to meet our demands. That plea may have been of some validity while she was yet unrecovered from her disorders, and while claims were pressed on her from all sides. If the United States then allowed the reasonableness of this excuse, there is so much the more reason that their forbearance shall not be converted to their loss. It is left to the consideration of your honorable bodies whether—with the prosperity and wealth which twelve years of peace have restored to her; with her revenue of one hundred and seventy millions of dollars collected with ease, and, for the most part, independent of the fluctuations of foreign commerce; and with her ingenious population of thirty-five millions, inhabiting a country of various and precious productions—France shall be longer permitted to plead her pecuniary inability to pay claims arising out of the injuries of a former Government. If even the private interests of their own citizens could, for a moment, be passed over by the United States, they will not be insensible to what is due, at their hands, to the rights and justice of nations. Yet a Government whose position renders of the first importance the fostering of a commercial marine will be profoundly impressed with the necessity of vindicating claims such as those set forth in this appeal, not merely for the reparation of past losses, but for the security and encouragement of future enterprize. The property of the American merchant has been seized under the arbitrary decrees of other nations, at the time under the control of the French Empire. The claims arising against all these Powers require, and will no doubt receive, effectual enforcement from Government. But those existing against France will appear to the national wisdom to require the earliest adjustment on account of their magnitude, because that Government was the original fountain of mischief, and because a previous assertion of our rights against her, besides comporting better with the national dignity, will facilitate arrangement with the secondary Powers.

Your memorialists, &c.

To the honorable the Senate and House of Representatives of the United States of America, in Congress assembled:

The memorial of the subscribers, a committee appointed at a general meeting of the merchants and traders of New York, having claims upon France and other European States for spoliations committed on their commerce, respectfully showeth:

That during the late war between France and Great Britain they were engaged in the shipping business and carrying trade between this country and Europe. In the prosecution of this business they endeavored strictly to conform to the laws of nations and of the respective countries with which they traded, and confidently relied upon the protection which the Government of every civilized nation feels bound to extend to its citizens whilst engaged in their legitimate pursuits. Shortly after the commencement of that war, the belligerent Powers began a career of plunder and aggression upon neutral commerce, which served the double purpose of filling their own treasures and diminishing the resources of their enemies by cutting off their trade with neutrals.

It has always been the favorite policy of powerful belligerents to narrow the limits of neutral commerce by multiplying the pretext of seizure and confiscation; but, during the late war, this system was carried to an extent of which history had afforded no example, and was sought to be justified on principles which no civilized nation had yet dared to avow. It was upon the wealth and resources of these United States, it cannot be doubted, that the measures to which we refer were meant chiefly to operate, and it was the policy of our Government that they were intended to control. The grasping spirit of European monopoly attempted to impose upon us new shackles in place of the colonial fetters that had been shaken off, and displayed itself in continual efforts to cripple the commerce it could not prohibit, lessen the resources it was not suffered to appropriate, and arrest the growth of the prosperity it had no longer the power to crush. The first act in a series of aggressions, continually advancing in mischief and enormity, was an exclusion from an extensive branch of the carrying trade, by a sudden revival, in a new form, and with a wider application of the rule of 1756; a rule of which the injustice was confessed by its subsequent disuse, whilst its very name indicates its recent, and, therefore, unlawful origin. Our partial submission to this measure was construed into an inability to defend our neutral rights; it provoked, and was followed by, successive outrages by all the belligerent Powers upon our commerce, and the persons of those engaged in it, until the period arrived when it was believed and decided that further acquiescence would be a surrender of our national independence. The last remedy for national injuries was resorted to, and the settlement of our claims on England placed on the arbitrament of arms. By this extreme remedy the accounts between the Governments were closed; but the beneficial effects of the contest are still felt, not only in the elevation of the national character, but the greater security of the citizens of this country, when on the ocean, from the visitation of armed vessels, and in the silent abolition of pretensions which, if not expressly renounced, we venture to predict will not again be urged.

From Spain, satisfaction has been obtained by the cession of Florida, and claims of our citizens, to

the amount of $5,000,000, been liquidated and paid. There still exists, however, claims upon the Governments of France and other continental Powers of Europe, formidable in their amount, and the settlement of which is of the highest importance to the national character.

The claim upon Denmark rests upon grounds different from those upon France and the dependent kingdoms of that Power.

They grew out of a system of piratical privateering upon American commerce, which was countenanced by the Admiralty courts of that kingdom without pretence of right.

Some vessels were captured for having French consular certificates on board; the Emperor Napoleon having notified the northern courts that his consuls in the United States would not issue any neutral certificates after the 22d of September, 1810, when, in fact, his order to his consuls was not received in the United States until the 13th of November following. Still, those vessels having certificates of the French consuls, issued previous to that period, were captured and condemned; and by this celebrated juggle between these courts the property of your memorialists has been sacrificed without their having been able to obtain redress for this violation of faith and public law. Other vessels were condemned as having accepted British convoy, which your memorialists contend is, in no case, good ground of condemnation, but which certainly ought never to have been applied to those vessels which were compelled to accept, by superior force, of that protection which proved so fatal to them.

The claims upon France, however, are of a paramount character, both on account of their magnitude and of the nature of the considerations by which they are recommended to the attention of Congress. A concise statement of the origin of our claims will show that no language can too strongly characterize the transactions by which we have been deprived of our property.

In the year 1806, November 21, the Emperor of France, on the alleged ground that England had infringed the rights of neutrals in blockading the coasts of France and Holland, and prohibiting them from carrying on the trade between the colonies and the belligerent mother countries, issued his celebrated Berlin decree. By this decree the British islands were declared to be in a state of blockade, and all correspondence with them prohibited. Letters written in English were made liable to seizure, all trade in English merchandise forbidden, and the goods made lawful prize. Vessels coming directly from England or her colonies, or having been there since the publication of the decree, were prohibited from entering any French port; and any attempt to evade that regulation by means of a false declaration was punished by confiscation.

Under this decree, a number of the vessels of your memorialists, which arrived in France after its promulgation, were seized because they had put into England; being forced in by stress of weather, or sent in by English cruisers for examination. This seizure was unauthorized, even by the decree itself, which imposed no other penalty on vessels coming from English ports than their compulsory departure from those of the continent, and limited the right to seize to the single case of an attempt to evade this provision by a false declaration. At this time, too, the convention between France and the United States of September 30, 1800, was in full force. By the 22d article of that convention, it was agreed that the established courts for prize causes should alone take cognizance of the vessels and property of American and French citizens, and that, when judgment should be pronounced against them, the sentence should mention the reasons of the decision.

It was accordingly provided in the Berlin decree that the Council of Prizes, at Paris, should decide upon all questions arising under that decree. When these American vessels were seized, a question arose whether they were liable to seizure under that decree, on the ground that they had not gone voluntarily, but had been coerced into the ports of England. The question was never submitted to the Council of Prizes; but, on the 4th of September, 1807, the Director General of the Customs issued a circular, giving the most rigorous construction to the decree, and a retrospective effect to his own decision, so as to extend it over all the American vessels which had been previously seized, and were then waiting for trial. The injustice, therefore, of the condemnations which took place under this construction of the decree did not consist merely in their infringement of the law of nations, but was heightened by their violation of the express terms of a solemn treaty.

On the 11th of December, 1807, the Berlin decree was followed by the Milan decree, also in professed retaliation of the invasions of neutral rights by England. This decree provided that any ship which should have submitted to be searched by an English vessel, or had been carried into England, or paid any duty to the English Government, should be adjudged to have forfeited the protection of its own Government, to have become English property, and to be good and lawful prize.

The British islands were declared to be in a state of blockade; and all ships, of whatever nation, sailing from or to English ports were declared to be lawful prize, and liable to capture. This article was a new and further infraction of the convention of 1800, which was still in force. By the 12th and 14th articles of that convention, the French Government had expressly stipulated that free ships should give freedom to the goods of an enemy, and that American vessels might pass and repass freely to and from the ports of the enemies of France, unless the same were "actually blockaded, besieged, or invested." This decree, like that issued at Berlin, was nominally applicable to all neutral vessels; but the chief operation of both was upon American commerce. It was soon made the pretext of the seizure and sale of a great number of American vessels and cargoes, the proceeds of which, without scruple, were applied to the service of the French Government. Orders were given to capture, and even to destroy, every American vessel bound to England or her dependencies. Nor were the armed vessels of France slow or scrupulous in executing these orders. Numbers of American vessels were burnt at sea, without even the form of a trial, and condemned by no other sentence than the will of the captors. And this wanton violation of neutral rights was, in some instances, carried so far as to cause the destruction of American vessels bound from their own country, not to hostile, but neutral ports.

The violent and inimical spirit shown by both belligerents towards the commerce of the United States at last induced our Government to lay an embargo, for the purpose of withdrawing the property of its citizens from the grasp of their unprincipled policy. Even this measure, pacific as it was, had the effect of provoking further aggressions upon the remnant of our commerce, in the shape of a decree, at Bayonne, April 17, 1808, ordering the seizure of all American vessels then in the ports of France, or which might afterwards arrive there, without any pretence, except one which was false in fact, and, in its spirit, most offensive and insulting to our Government and derogatory to our national independence.

The pretence was that an embargo having been laid by Congress, no American vessel could be lawfully abroad, and consequently that those which appeared as such could have no title to the national character, but ought to be condemned as British property.

This most extraordinary claim on the part of the French Government to enforce and punish violation of our municipal regulations was met not only by proper remonstrances made by the American minister, but by an explanation, showing that, at the time of laying the embargo, there were many American vessels abroad, which were ordered not to return to the United States until that law should be repealed. The operation of the embargo on the commercial and agricultural interests of the country finally induced Congress to repeal the law in respect to all countries except England and France, and the non-intercourse system was adopted in its stead. By that system all English and French vessels and merchandise were excluded from our ports until they had revoked or so modified their hostile decrees as to exempt our commerce from their destructive operation.

In that event, the commercial intercourse of the United States was to be renewed with that belligerent which should thus evince its disposition to return to the observance of the rights of friendly nations.

On the 29th of April, 1809, this law was communicated by the American minister to the French Government. No indication was given by that Government that it was regarded as a hostile measure, and no remonstrance was made against it.

Towards the end of that year, however, orders were given to seize all American vessels in all the ports of France, or in possession of her armies; and, after a great number had been thus seized, a decree was issued, dated at Rambouillet, March 23, 1810, confirming those seizures; extending, by a retrospective operation, the principle to all American vessels which had entered France or the dependent countries since May 20, 1809, and directing the proceeds arising from their sale to be paid into the public treasury. Even this "outrageous measure," as it has been justly styled in the official correspondence of the American minister, was not the limit of the aggressions of the continental belligerents nor of our injuries.

In pursuance of the continental system promulgated in the Berlin and Milan decrees, which were communicated as orders to the dependent allies of France, many American vessels were seized in the kingdom of Naples, forty-seven in number, and valued at four millions of dollars; were enticed into the Neapolitan ports by a decree of Murat, which relaxed the rigor of the blockade decrees as to American vessels, and, when they had trusted themselves to this plighted faith, the Neapolitan Government caused them to be seized, with their cargoes, which were sold for the benefit of the Government, and some of the vessels taken into the public service. Nor were these the limits of fraud and violence. They compelled the masters of those to pay the port charges and quarantine dues, and detained them at Naples until they had drawn on their owners for the full amount of these unrighteous exactions.

In Holland the American vessels belonging to your memorialists, which arrived in her ports in 1809, some of them forced in by stress of weather, were sequestered without any pretence of their having infringed the laws of the kingdom, and their cargoes placed in the public stores. The vessels were permitted to depart, as not having violated any law; but the cargoes were detained, without any, the least, reason being given, until the 16th of March, 1810, when, under an article of a treaty signed at Paris on the 16th of January, 1810, between Holland and France, they were delivered to the French Government as American, and by them received as such, to be dealt with "according to circumstances and the political relations between France and the United States."

At this time a treaty existed between the United States and Holland, by which the citizens of this country were put on the most favored footing; and Holland stipulated to protect American property within its jurisdiction, and guarantied its exemption from seizure either for public or private use.

Notwithstanding this treaty, these cargoes, which had been stored in the King's warehouses to be examined by sworn brokers (as directed by a new municipal regulation in Holland) to determine if they accorded with the accompanying certificates of origin, were then detained until the following year, and then transferred to the French Government as American property, without the least reflection being cast on them, or even a show of trial, and were sequestered by France in the lawless policy of anticipated war with the United States. By this step the property of your memorialists was identified with the sovereign rights of their country; it was not sequestered as the property of private merchants, but on account of its nationality, and on the ground of prospective difficulties with the American Government.

The United States were thus made parties to this sequestration, which was, in the most pointed manner, directed against them as the public enemies of France, unless the American Government would vindicate the rights of neutrals by such means and in such a mode as the French Government chose to prescribe. If the independence and sovereignty of the United States mean anything, it is concerned to resist pretensions like these, and to insist on a full reparation for the wrongs sustained by their citizens from such arbitrary and unjustifiable proceedings.

Other nations have demanded and obtained indemnity for their citizens for less atrocious wrongs. In 1805 a French squadron, under L'Allemand, destroyed several neutral vessels at sea, among which were four American ships. The owners of all the vessels, excepting the American, were paid for their property during the reign of Napoleon. The American owners are yet unpaid. The French Government admit the justice of making compensation for these captures, as well as for all vessels destroyed at sea; but in no instance have your memorialists been able to procure any indemnity for their losses. It is, therefore, a great addition to the hardship of which your memorialists complain, that, while the citizens of other nations, similarly aggrieved, have met with full redress, the claims of American citizens have been contemptuously rejected; for in no other light than that of a contemptuous rejection of their claims can your memorialists regard the weak and futile pretences that have been opposed to their just demands; pretences so urged and persisted in that they have deprived your memorialists of all hope or refuge but in the energetic interposition of their own Government.

In reference, indeed, to every class and description of claims has this preference for the subjects of European Powers over American citizens been strongly manifested, as if the French Government meant to impress on the public mind, in the most marked manner, that a nation which is wanting to itself is not entitled to an equal measure of justice.

In 1814, when Napoleon was compelled to abdicate, and the Bourbons were restored by the allied forces, the present Government of France, by a treaty with the principal Powers of Europe, engaged to liquidate and pay all the legal obligations which the former Government was under to individuals "in countries beyond its territories." This it was bound to do without the formality of a treaty. In the practice of the civilized world, and according to every principle of public law, it is well established that the obligations of treaties, and other official acts of Government, are never affected by revolutions or changes of dynasty.

Indeed, the principle of making an indemnity was distinctly admitted by the representatives of France, in their note to the ministers of the allies, September 21, 1815; and in the treaty by which the

pacification of Europe was made it was inserted, to prevent any doubt as to the settled practice of nations which might be started as growing out of the extraordinary revolutions which had taken place.

By this article, which was meant as a general declaration on the part of France to the civilized world, and not merely as a covenant in favor of the parties to the treaty, all acts of violence not included within the description of damages of war were provided for, and, by a supplemental article with Great Britain, losses by assignats in the heat of the revolution, and all claims for illegal confiscations or sequestrations by the revolutionary Government, or by Napoleon, were liquidated and paid to English subjects.

If, therefore, the pretences upon which the American vessels and cargoes were sequestered under these illegal decrees were true, viz: that they really belonged to English merchants, then France would be liable to restore their value, in pursuance of that supplemental article; and if it be unfounded, it is indeed a strange and mysterious distinction that places neutral and friendly nations on a worse footing even than the enemies of France, unless (as has been well observed by a committee of the House of Representatives) that power wishes to inculcate the lesson "that it is better to be her enemy than her friend."

In pursuance of this treaty declaration, the Government of France, since the restoration, has proceeded to liquidate and extinguish claims of the subjects, both of the great Powers and petty States of Europe. Among others, your memorialists beg leave to refer to the following: Marshal Davoust, when in command at Hamburgh, in consequence of the alleged inability of the city to comply with one of his requisitions, sequestered the property deposited in the bank of that city. For all which belonged to foreigners and neutrals the French Government has acknowledged its liability, and paid to the claimants the amount of their losses. It has also discharged a private claim for some cotton and colonial produce seized by the French authorities in the Grand Duchy of Berg. Nay, even a claim amounting to 506,000 francs, by a Belgian subject, for part of one of the American cargoes seized at Antwerp, under the Berlin decree, and sold to him by the owner (one of your memorialists) after it was deposited in the public store, has been allowed and paid, with interest for its detention, while the remainder of the cargo, confessedly belonging to an American citizen, has been sold without a trial, and its proceeds expended in the public service, without any remuneration to the owner, and without even the form of any explanation to him or his Government.

The principle of indemnity has been even extended to the subjects of Algiers, and their claims, to the amount of six millions of francs, for supplies furnished to the armies of the Directory, have been admitted and paid by the present Government.

No comment is surely necessary on facts like these. The distinctions which they imply, the inferences which they justify, are deeply injurious to our national character, and call loudly for the interference of Congress to vindicate the honor of the country and the dignity of the Government.

Your memorialists were not wanting to themselves in maintaining their rights until the exercise of official violence left them no tribunal to appeal to but their own Government.

The Executive of the United States has urged their demands for justice with great ability upon the Governments of France and Holland, and these Governments, presuming upon the apathy of the American people towards the rights of the claimants, or upon the weakness of the Government, have met these remonstrances with the most futile excuses, or with cold and silent contempt.

Mr. Gallatin complained, in 1822, that, notwithstanding his repeated applications, during six years, to the French Government, he had not only failed in obtaining redress in a single instance, but that he had not even been honored with an answer. The Governments of Naples and Holland, presuming less upon their strength, have evaded our demands for justice upon various allegations, which, when examined, are found to be alike destitute of truth and reason, and which manifest an equal contempt of the common sense of mankind and of the established maxims of public and international law. They have denied their responsibility for the measures of the late Governments, and have presumed to set up, as a rule of national law, against the United States a principle directly opposite to that which they successfully asserted in the settlement of the claims of their own subjects upon France.

Committed, as France is, by the treaty of Paris, on the principle of indemnity, the French Government does not resort to such a defence.

Beneath all its smooth evasions and delays it conceals a determination to defend and enforce the validity of the Berlin and Milan decrees so far as it respects the United States.

In the cases of the Telegraph and Dolly, two American vessels burnt at sea in November and December, 1811, by French vessels-of-war, the Council of State at Paris decided, as late as 1820, that, inasmuch as the commanders of those frigates did not know that the decrees were repealed, the destruction of the American vessels was justifiable.

This extraordinary decision, which was approved and sanctioned by the King himself, your memorialists are compelled to regard as a formal adoption of the illegal decrees to which it referred, and consequently as an adoption of all the acts of aggression which those decrees have been urged to justify. There no longer exists, it therefore seems to your memorialists, even a moral distinction between the successive Governments of France, but its present rulers, justifying and enforcing, as they do, the acts of the former, are equally responsible for the injuries which those acts had occasioned. There can be no difference between the authors of the unjust and violent measures of which your memorialists complain and the Government that denies redress to American citizens on the sole ground that those very measures were justifiable.

Indeed, at no time has that Government set up against our claims the absurd and indefensible doctrine that the liabilities of the former rulers of France did not descend to her present governors, notwithstanding the change of dynasty. No! It has not been by such a plea that our demands for justice have been resisted. They have been met by silence, by delays, by evasions, and, finally, by a refusal to negotiate concerning them, unless the Government of the United States will connect them with the claim lately made by France to be admitted into the ports of Louisiana upon the same footing as British vessels. This demand was brought up and connected with our claims after all other pretences had been unavailingly resorted to, for the purpose of interposing an insurmountable obstacle to their settlement, and after more than five years had elapsed subsequent to the treaty which gave rise to that claim.

To prefer such a claim at all, to expect under any circumstances it could be admitted, was to insult the sagacity or the integrity of the American Government; but to require its admission in connexion with, or as an equivalent for, our indisputable demands for justice, is not to meet, but to trifle with the remonstrances of the United States, and is not so properly an evasion of our claims as a denial of our right.

No nation which values its honor and independence can submit to such a connexion as the French Government has demanded. The practice of the civilized world to sever all questions affecting national honor and the rights of its flag from those which grow out of the construction of treaties is too well established to require decision. Your memorialists, however, will refer to a few instances illustrating the course of every Government tenacious of its rights and its character.

A short time previous to the establishment of our national independence, an English settlement was removed, by order of a Spanish Governor, from the Falkland islands, which he considered as within his Government and as the territory of the Crown of Spain. The British Government, upon hearing of this exercise of force, immediately demanded a prompt reparation of the injury by a restoration of the settlement and a disavowal of the act. It would not listen to a discussion of the right of sovereignty; and an attempt on the part of Spain to introduce that question into the negotiation was resented as a public insult, and the Government began to arm, with the unanimous consent of the British nation.

So, again, during the administration of the younger Pitt, the British Crown acted in the same manner in relation to the vessels taken in Nootka Sound, for an alleged violation of the territorial rights of Spain. It insisted on a restitution of the vessels, full indemnification to the owners for their detention, and satisfaction to the Government for the insult offered to the flag, previous to any discussion of the right of sovereignty. In both instances these manifestations of national spirit produced the desired effect. Spain made satisfaction for the injuries; disavowed the acts of her officers; atoned for the insult offered to the flag; and then the question of sovereignty was settled by negotiation.

The same deliberate satisfaction, accompanied with an apology, was given by the British Government to the Crown of Portugal, for the violation of its neutral rights, in the destruction of some French ships by Admiral Boscawen. It is this principle, which every Government has constantly asserted, which, respecting itself, has preserved and commanded the respect of other nations; and its surrender would imply a voluntary degradation, to which your memorialists cannot suppose the Government of a free people will ever submit.

The idea of coercing an independent nation into the admission of a disputed claim, by refusing to settle claims of the paramount nature of those of the citizens of this country upon France, could only have originated in an erroneous estimate of the spirit of the American people and the character of their Government.

France must have presumed that the forbearance too long extended towards her arbitrary and unjustifiable course was not yet exhausted; that a Government which had only resorted to unheeded remonstrance against the systematized plunder of its citizens; to neglected complaints on account of treaties violated and public law infringed; and to unanswered letters asking for the liquidation of undisputed claims, long after the subjects of every other civilized nation, and even of the piratical State of Algiers, had received full indemnity for similar losses, would never be driven from its submissive and pacific policy, but would prefer a fruitless negotiation to an explicit asssertion of its rights.

It must have believed that a Government which depended upon and was regulated by popular sentiment would not venture to enforce the rights of your memorialists by any manifestation of the national power.

But even the proverbial forbearance of a republican Government may be carried too far. There are some injuries to which a nation cannot submit without degradation and loss of honor. These wrongs cannot be estimated by any pecuniary standard. They refer directly to that national feeling which is the best support of the Republic in great emergencies, and has carried the country through the war of the Revolution, and its subsequent conflicts for American rights, to that elevation among the Powers of the earth which induces its citizens to claim with pride the protection of their national character.

Of the protection of that Government your memorialists seek to avail themselves.

It has been disregarded and violated by the Governments of Denmark, France, Holland, and Naples. The remonstrances and efforts of the Executive Department have proved unavailing in obtaining redress; and they ask for the interposition of your honorable body to vindicate the rights of your memorialists, the dignity of the Government, and the honor of the United States.

Your memorialists cannot so far forget their character of petitioners as to prescribe the measures which the character of the country and the peculiar nature of their claims would seem to require. Submitting themselves, however, entirely to the wisdom of Congress, they may be permitted to suggest that experience has demonstrated that nothing is to be gained or hoped from a course of ordinary negotiation. An explicit and final answer, your memorialists are compelled to believe, will not be obtained from the Government of France until a minister shall be appointed, whose sole and special duty it shall be made to enforce the demands of justice that have hitherto been urged in vain.

If, however, any considerations of public policy should induce the Government of the United States to adopt a course which is incompatible with the vigorous prosecution of their rights, your memorialists would observe that their claims upon the attention of their own Government for remuneration will be greatly increased by such a compromise. The interests of the mercantile class of the community, while on the ocean or in foreign ports, are necessarily under the protection of their own Government. They have ventured their capital upon the sea, and within the jurisdiction of other Governments under the cover of their flag, and the public faith is pledged by that symbol to vindicate them against all unjust violence. This is their only protection; and the necessary condition of their profession renders them dependent upon the Executive and Legislative Departments of the Government for that redress which all other classes can obtain in the ordinary judicial tribunals of the country. If the Government abstains from enforcing that redress from a regard to other interests; if, from considerations of public policy, your memorialists are deprived of that indemnity to which they are entitled from foreign Governments, is it not reasonable and just that their losses should be compensated by the community to whose general interests the particular rights of your memorialists are sacrificed?

To the wisdom of Congress it belongs to decide upon the means to be adopted. But, if the justice of their claims be undeniable, your memorialists, in conclusion, humbly submit that it is their right as citizens to claim that they shall be enforced or redressed.

And, as in duty bound, will ever pray,

FRED. DE PEYSTER.
PHILIP KEARNY.
G. GRISWOLD.
ELISHA TIBBITS.
CHARLES KING.

NEW YORK, *January* 20, 1827.

20TH CONGRESS.] No. 457. [1ST SESSION.

MESSAGE OF THE PRESIDENT AT THE COMMENCEMENT OF THE SESSION.—DOCUMENTS RELATING TO THE IMPRISONMENT OF JOHN BAKER, AN AMERICAN CITIZEN, BY THE BRITISH AUTHORITIES OF NEW BRUNSWICK.—PROCLAMATION BY THE PRESIDENT OF THE TREATY WITH GREAT BRITAIN FOR INDEMNITY FOR SLAVES CARRIED AWAY IN 1815.—PROCLAMATION BY THE PRESIDENT UNDER THE ACT OF CONGRESS RELATING TO COMMERCE WITH THE BRITISH COLONIAL PORTS.

COMMUNICATED TO CONGRESS DECEMBER 4, 1827.

Fellow-citizens of the Senate and House of Representatives:

A revolution of the seasons has nearly been completed since the representatives of the people and States of this Union were last assembled at this place to deliberate and to act upon the common important interests of their constituents. In that interval the never-slumbering eye of a wise and beneficent Providence has continued its guardian care over the welfare of our beloved country. The blessing of health has continued generally to prevail throughout the land. The blessing of peace with our brethren of the human race has been enjoyed without interruption; internal quiet has left our fellow-citizens in the full enjoyment of all their rights and in the free exercise of all their faculties, to pursue the impulse of their nature and the obligation of their duty in the improvement of their own condition. The productions of the soil, the exchanges of commerce, the vivifying labors of human industry, have combined to mingle in our cup a portion of enjoyment as large and liberal as the indulgence of heaven has perhaps ever granted to the imperfect state of man upon earth; and as the purest of human felicity consists in its participation with others, it is no small addition to the sum of our national happiness, at this time, that peace and prosperity prevail to a degree seldom experienced over the whole habitable globe; presenting, though as yet with painful exceptions, a foretaste of that blessed period of promise, when the lion shall lie down with the lamb, and wars shall be no more. To preserve, to improve, and to perpetuate the sources, and to direct in their most effective channels the streams which contribute to the public weal, is the purpose for which Government was instituted. Objects of deep importance to the welfare of the Union are constantly recurring to demand the attention of the Federal Legislature; and they call with accumulated interest at the first meeting of the two Houses after their periodical renovation. To present to their consideration, from time to time, subjects in which the interests of the nation are most deeply involved, and for the regulation of which the legislative will is alone competent, is a duty prescribed by the Constitution, to the performance of which the first meeting of the new Congress is a period eminently appropriate, and which it is now my purpose to discharge.

Our relations of friendship with the other nations of the earth, political and commercial, have been preserved unimpaired; and the opportunities to improve them have been cultivated with anxious and unremitting attention. A negotiation upon subjects of high and delicate interest with the Government of Great Britain has terminated in the adjustment of some of the questions at issue upon satisfactory terms, and the postponement of others for future discussion and agreement. The purposes of the convention concluded at St. Petersburg on the 12th day of July, 1822, under the mediation of the late Emperor Alexander, have been carried into effect by a subsequent convention concluded at London on the 13th of November, 1826, the ratifications of which were exchanged at that place on the 6th day of February last. A copy of the proclamation issued on the 19th day of March last, publishing this convention, is herewith communicated to Congress. The sum of twelve hundred and four thousand nine hundred and sixty dollars, therein stipulated to be paid to the claimants of indemnity under the first article of the treaty of Ghent, has been duly received, and the commission instituted, conformably to the act of Congress of the second of March last, for the distribution of the indemnity to the persons entitled to receive it, are now in session and approaching the consummation of their labors. This final disposal of one of the most painful topics of collision between the United States and Great Britain not only affords an occasion of gratulation to ourselves, but has had the happiest effect in promoting a friendly disposition and in softening asperities upon other objects of discussion. Nor ought it to pass without the tribute of a frank and cordial acknowledgment of the magnanimity with which an honorable nation, by the reparation of their own wrongs, achieves a triumph more glorious than any field of blood can ever bestow.

The conventions of 3d July, 1815, and of 20th October, 1818, will expire by their own limitation on the 20th of October, 1828. These have regulated the direct commercial intercourse between the United States and Great Britain upon terms of the most perfect reciprocity, and they effected a temporary compromise of the respective rights and claims to territory westward of the Rocky mountains. These arrangements have been continued for an indefinite period of time after the expiration of the abovementioned conventions; leaving each party the liberty of terminating them by giving twelve months' notice to the other. The radical principle of all commercial intercourse between independent nations is the mutual interest of both parties. It is the vital spirit of trade itself; nor can it be reconciled to the nature of man or to the primary laws of human society that any traffic should long be willingly pursued, of which all the advantages are on one side and all the burdens on the other. Treaties of commerce have been found, by experience, to be among the most effective instruments for promoting peace and harmony between nations whose interests, exclusively considered on either side, are brought into frequent collisions by competition. In framing such treaties, it is the duty of each party not simply to urge with unyielding pertinacity that which suits its own interests, but to concede liberally to that which is adapted to the interest of the other. To accomplish this, little more is generally required than a simple observance of the rule of reciprocity; and were it possible for the statesmen of one nation, by stratagem and management, to obtain from the weakness or ignorance of another an over-reaching treaty, such a compact would prove an incentive to war, rather than a bond of peace. Our conventions with Great Britain are founded upon the principles of reciprocity. The commercial intercourse between the two countries is greater in magnitude and amount than between any two other nations on the globe. It is, for all purposes of benefit or advantage to both, as precious and, in all probability, far more extensive than if the parties were still constituent parts of one and the same nation. Treaties between such States, regulating the intercourse

of peace between them, and adjusting interests of such transcendent importance to both, which have been found, in a long experience of years, mutually advantageous, should not be lightly cancelled or discontinued. Two conventions, for continuing in force those above mentioned, have been concluded between the plenipotentiaries of the two Governments on the 6th of August last, and will be forthwith laid before the Senate for the exercise of their constitutional authority concerning them.

In the execution of the treaties of peace of November, 1782, and September, 1783, between the United States and Great Britain, and which terminated the war of our Independence, a line of boundary was drawn as the demarcation of territory between the two countries, extending over near twenty degrees of latitude, and ranging over seas, lakes, and mountains, then very imperfectly explored, and scarcely opened to the geographical knowledge of the age. In the progress of discovery and settlement by both parties since that time several questions of boundary between their respective territories have arisen, which have been found of exceedingly difficult adjustment. At the last war with Great Britain four of these questions pressed themselves upon the consideration of the negotiators of the treaty of Ghent, but without the means of concluding a definitive arrangement concerning them. They were referred to three separate commissions, consisting of two Commissioners, one appointed by each party, to examine and decide upon their respective claims. In the event of disagreement between the Commissioners, it was provided that they should make reports to their several Governments, and that the reports should finally be referred to the decision of a Sovereign the common friend of both. Of these commissions, two have already terminated their sessions and investigations—one by entire and the other by partial agreement. The Commissioners of the fifth article of the treaty of Ghent have finally disagreed, and made their conflicting reports to their own Governments. But from these reports a great difficulty has occurred in making up a question to be decided by the arbitrator. This purpose has, however, been effected by a fourth convention, concluded at London by the plenipotentiaries of the two Governments on the 29th of September last. It will be submitted, together with the others, to the consideration of the Senate.

While these questions have been pending, incidents have occurred of conflicting pretensions and of dangerous character upon the territory itself in dispute between the two nations. By a common understanding between the Governments it was agreed that no exercise of exclusive jurisdiction by either party, while the negotiation was pending, should change the state of the question of right to be definitively settled. Such collision has, nevertheless, recently taken place, by occurrences the precise character of which has not yet been ascertained. A communication from the Governor of the State of Maine, with accompanying documents, and a correspondence between the Secretary of State and the Minister of Great Britain, on this subject, are now communicated. Measures have been taken to ascertain the state of the facts more correctly by the employment of a special agent to visit the spot where the alleged outrages have occurred, the result of whose inquiries, when received, will be transmitted to Congress.

While so many of the subjects of high interest to the friendly relations between the two countries have been so far adjusted, it is matter of regret that their views respecting the commercial intercourse between the United States and the British colonial possessions have not equally approximated to a friendly agreement.

At the commencement of the last session of Congress they were informed of the sudden and unexpected exclusion by the British Government of access, in vessels of the United States, to all their colonial ports, except those immediately bordering upon our own territories. In the amicable discussions which have succeeded the adoption of this measure, which, as it affected harshly the interests of the United States, became a subject of expostulation on our part, the principles upon which its justification has been placed have been of a diversified character. It has been at once ascribed to a mere recurrence to the old, long-established principle of colonial monopoly, and at the same time to a feeling of resentment, because the offers of an act of Parliament, opening the colonial ports upon certain conditions, had not been grasped at with sufficient eagerness by an instantaneous conformity with them. At a subsequent period it has been intimated that the new exclusion was in resentment, because a prior act of Parliament of 1822, opening certain colonial ports under heavy and burdensome restrictions to vessels of the United States, had not been reciprocated by an admission of British vessels from the colonies, and their cargoes, without any restriction or discrimination whatever. But, be the motive for the interdiction what it may, the British Government have manifested no disposition, either by negotiation or by corresponding legislative enactments, to recede from it; and we have been given distinctly to understand that neither of the bills which were under the consideration of Congress at their last session would have been deemed sufficient in their concessions to have been rewarded by any relaxation from the British interdict. It is one of the inconveniences inseparably connected with the attempt to adjust by reciprocal legislation interests of this nature, that neither party can know what would be satisfactory to the other; and that, after enacting a statute for the avowed and sincere purpose of conciliation, it will generally be found utterly inadequate to the expectations of the other party, and will terminate in mutual disappointment.

The session of Congress having terminated without any act upon the subject, a proclamation was issued on the 17th of March last, conformably to the provisions of the 6th section of the act of March 1, 1823, declaring the fact that the trade and intercourse authorized by the British act of Parliament of June 24, 1822, between the United States and the British enumerated colonial ports, had been, by the subsequent acts of Parliament of July 5, 1825, and the order of council of July 27, 1826, prohibited. The effect of this proclamation, by the terms of the act under which it was issued, has been, that each and every provision of the act concerning navigation of April 18, 1818, and of the act supplementary thereto of May 15, 1820, revived, and is in full force. Such, then, is the present condition of the trade, that useful as it is to both parties, it can, with a single momentary exception, be carried on directly by the vessels of neither. That exception itself is found in a proclamation of the Governor of the island of St. Christopher and of the Virgin islands, inviting, for three months, from the 28th of August last, the importation of the articles of the produce of the United States, which constitute their export portion of this trade, in the vessels of all nations. That period having already expired, the state of mutual interdiction has again taken place. The British Government have not only declined negotiation upon this subject, but, by the principle they have assumed with reference to it, have precluded even the means of negotiation. It becomes not the self-respect of the United States either to solicit gratuitous favors or to accept as the grant of a favor that for which an ample equivalent is exacted. It remains to be determined by the respective Governments whether the trade shall be opened by acts of reciprocal legislation. It is, in the meantime, satisfactory to know that, apart from the inconveniences resulting from a disturbance of the

usual channels of trade, no loss has been sustained by the commerce, the navigation, or the revenue of the United States, and none of magnitude is to be apprehended from this existing state of mutual interdict.

With the other maritime and commercial nations of Europe our intercourse continues with little variation. Since the cessation, by the convention of June 24, 1822, of all discriminating duties upon the vessels of the United States and of France in either country, our trade with that nation has increased and is increasing. A disposition on the part of France has been manifested to renew that negotiation; and in acceding to the proposal, we have expressed the wish that it might be extended to other objects, upon which a good understanding between the parties would be beneficial to the interests of both. The origin of the political relations between the United States and France is coeval with the first years of our Independence. The memory of it is interwoven with that of our arduous struggle for national existence. Weakened as it has occasionally been since that time, it can by us never be forgotten; and we should hail with exultation the moment which should indicate a recollection equally friendly in spirit on the part of France. A fresh effort has recently been made by the Minister of the United States residing at Paris to obtain a consideration of the just claims of citizens of the United States to the reparation of wrongs long since committed, many of them frankly acknowledged, and all of them entitled, upon every principle of justice, to a candid examination. The proposal last made to the French Government has been to refer the subject, which has formed an obstacle to this consideration, to the determination of a Sovereign the common friend of both. To this offer no definitive answer has yet been received; but the gallant and honorable spirit which has at all times been the pride and glory of France will not ultimately permit the demands of innocent sufferers to be extinguished in the mere consciousness of the power to reject them.

A new treaty of amity, navigation, and commerce has been concluded with the Kingdom of Sweden, which will be submitted to the Senate for their advice with regard to its ratification. At a more recent date, a Minister Plenipotentiary from the Hanseatic Republics of Hamburg, Lubeck, and Bremen has been received, charged with a special mission for the negotiation of a treaty of amity and commerce between that ancient and renowned league and the United States. This negotiation has accordingly been commenced, and is now in progress, the result of which will, if successful, be also submitted to the Senate for their consideration.

Since the accession of the Emperor Nicholas to the imperial throne of all the Russias the friendly dispositions towards the United States, so constantly manifested by his predecessor, have continued unabated, and have been recently testified by the appointment of a Minister Plenipotentiary to reside at this place. From the interest taken by this Sovereign in behalf of the suffering Greeks, and from the spirit with which others of the great European Powers are co-operating with him, the friends of freedom and of humanity may indulge the hope that they will obtain relief from that most unequal of conflicts which they have so long and so gallantly sustained; that they will enjoy the blessings of self-government, which, by their sufferings in the cause of liberty, they have richly earned; and that their independence will be secured by those liberal institutions of which their country furnished the earliest examples in the history of mankind, and which have consecrated to immortal remembrance the very soil for which they are now again profusely pouring forth their blood. The sympathies which the people and Government of the United States have so warmly indulged with their cause have been acknowledged by their Government in a letter of thanks, which I have received from their illustrious President, a translation of which is now communicated to Congress, the representatives of that nation to whom this tribute of gratitude was intended to be paid, and to whom it was justly due.

In the American hemisphere the cause of freedom and independence has continued to prevail; and if signalized by none of those splendid triumphs which had crowned with glory some of the preceding years, it has only been from the banishment of all external force against which the struggle had been maintained. The shout of victory has been superseded by the expulsion of the enemy over whom it could have been achieved. Our friendly wishes and cordial good will, which have constantly followed the southern nations of America in all the vicissitudes of their war of independence, are succeeded by a solicitude, equally ardent and cordial, that, by the wisdom and purity of their institutions, they may secure to themselves the choicest blessings of social order and the best rewards of virtuous liberty. Disclaiming alike all right and all intention of interfering in those concerns which it is the prerogative of their independence to regulate as to them shall see fit, we hail with joy every indication of their prosperity, of their harmony, of their persevering and inflexible homage to those principles of freedom and of equal rights, which are alone suited to the genius and temper of the American nations. It has been therefore with some concern that we have observed indications of intestine divisions in some of the Republics of the south, and appearances of less union with one another than we believe to be the interest of all. Among the results of this state of things has been that the treaties concluded at Panama do not appear to have been ratified by the contracting parties, and that the meeting of the Congress at Tacubaya has been indefinitely postponed. In accepting the invitations to be represented at this Congress, while a manifestation was intended on the part of the United States of the most friendly disposition towards the southern Republics, by whom it had been proposed, it was hoped that it would furnish an opportunity for bringing all the nations of this hemisphere to the common acknowledgment and adoption of the principles, in the regulation of their international relations, which would have secured a lasting peace and harmony between them, and have promoted the cause of mutual benevolence throughout the globe. But as obstacles appear to have arisen to the re-assembling of the Congress, one of the two ministers commissioned on the part of the United States has returned to the bosom of his country, while the minister charged with the ordinary mission to Mexico remains authorized to attend at the conferences of the Congress whenever they may be resumed.

A hope was for a short time entertained that a treaty of peace actually signed between the Governments of Buenos Ayres and Brazil would supersede all further occasion for these collisions between belligerent pretensions and neutral rights, which are so commonly the result of maritime war, and which have unfortunately disturbed the harmony of the relations between the United States and the Brazilian Governments. At their last session Congress were informed that some of the naval officers of that Empire had advanced and practiced upon principles in relation to blockades and to neutral navigation which we could not sanction, and which our commanders found it necessary to resist. It appears that they have not been sustained by the Government of Brazil itself. Some of the vessels captured under the assumed authority of these erroneous principles have been restored; and we trust that our just expectations will be realized, that adequate indemnity will be made to all the citizens of the United States who have suffered by the unwarranted captures which the Brazilian tribunals themselves have pronounced unlawful.

In the diplomatic discussions, at Rio de Janeiro, of these wrongs sustained by citizens of the United States, and of others which seemed as if emanating immediately from that Government itself, the Chargé d'Affaires of the United States, under an impression that his representations in behalf of the rights and interests of his countrymen were totally disregarded and useless, deemed it his duty, without waiting for instructions, to terminate his official functions, to demand his passports, and return to the United States. This movement, dictated by an honest zeal for the honor and interests of his country—motives which operated exclusively upon the mind of the officer who resorted to it—has not been disapproved by me. The Brazilian Government, however, complained of it as a measure for which no adequate intentional cause had been given by them; and upon an explicit assurance, through their Chargé d'Affaires, residing here, that a successor to the late representative of the United States near that Government, the appointment of whom they desired, should be received and treated with the respect due to his character, and that indemnity should be promptly made for all injuries inflicted on citizens of the United States, or their property, contrary to the laws of nations, a temporary commission as Chargé d'Affaires to that country has been issued, which it is hoped will entirely restore the ordinary diplomatic intercourse between the two Governments, and the friendly relations between their respective nations.

Turning from the momentous concerns of our Union in its intercourse with foreign nations to those of the deepest interest in the administration of our internal affairs, we find the revenues of the present year corresponding as nearly as might be expected with the anticipations of the last, and presenting an aspect still more favorable in the promise of the next. The balance in the Treasury on the first of January last was six millions three hundred and fifty-eight thousand six hundred and eighty-six dollars and eighteen cents. The receipts from that day to the 30th September last, as near as the returns of them yet received can show, amount to sixteen millions eight hundred and eighty-six thousand five hundred and eighty-one dollars and thirty-two cents. The receipts of the present quarter, estimated at four millions five hundred and fifteen thousand, added to the above, form an aggregate of twenty-one millions four hundred thousand dollars of receipts. The expenditures of the year may perhaps amount to twenty-two millions three hundred thousand dollars, presenting a small excess over the receipts. But of these twenty-two millions, upwards of six have been applied to the discharge of the principal of the public debt; the whole amount of which, approaching seventy-four millions on the first of January last, will, on the first day of next year, fall short of sixty-seven millions and a half. The balance in the Treasury on the first of January next, it is expected, will exceed five millions four hundred and fifty thousand dollars; a sum exceeding that of the first of January, 1825, though falling short of that exhibited on the first of January last.

It was foreseen that the revenue of the present year would not equal that of the last, which had itself been less than that of the next preceding year. But the hope has been realized which was entertained, that these deficiencies would in nowise interrupt the steady operation of the discharge of the public debt by the annual ten millions devoted to that object by the act of March 3, 1817.

The amount of duties secured on merchandise imported from the commencement of the year until the 30th of September last is twenty-one millions two hundred and twenty-six thousand, and the probable amount of that which will be secured during the remainder of the year is five millions seven hundred and seventy-four thousand dollars; forming a sum total of twenty-seven millions. With the allowances for drawbacks and contingent deficiencies which may occur, though not specifically foreseen, we may safely estimate the receipts of the ensuing year at twenty-two millions three hundred thousand dollars; a revenue for the next equal to the expenditure of the present year.

The deep solicitude felt by our citizens of all classes, throughout the Union, for the total discharge of the public debt, will apologize for the earnestness with which I deem it my duty to urge this topic upon the consideration of Congress—of recommending to them again the observance of the strictest economy in the application of the public funds. The depression upon the receipts of the revenue which had commenced with the year 1826, continued with increased severity during the first two quarters of the present year. The returning tide began to flow with the third quarter, and, so far as we can judge from experience, may be expected to continue through the course of the ensuing year. In the meantime, an alleviation from the burden of the public debt will, in the three years, have been effected to the amount of nearly sixteen millions, and the charge of annual interest will have been reduced upwards of one million. But among the maxims of political economy which the stewards of the public moneys should never suffer without urgent necessity to be transcended, is that of keeping the expenditures of the year within the limits of its receipts. The appropriations of the last two years, including the yearly ten millions of the Sinking Fund, have each equalled the promised revenue of the ensuing year. While we foresee with confidence that the public coffers will be replenished from the receipts as fast as they will be drained by the expenditures, equal in amount to those of the current year, it should not be forgotten that they could ill suffer the exhaustion of larger disbursements.

The condition of the Army, and of all the branches of the public service under the superintendence of the Secretary of War, will be seen by the report from that officer, and the documents with which it is accompanied.

During the course of the last summer a detachment of the Army has been usefully and successfully called to perform their appropriate duties. At the moment when the Commissioners appointed for carrying into execution certain provisions of the treaty of August 19, 1825, with various tribes of the northwestern Indians, were about to arrive at the appointed place of meeting, the unprovoked murder of several citizens, and other acts of unequivocal hostility committed by a party of the Winnebago tribe, one of those associated in the treaty, followed by indications of a menacing character, among other tribes of the same region, rendered necessary an immediate display of the defensive and protective force of the Union in that quarter. It was accordingly exhibited by the immediate and concerted movements of the Governors of the State of Illinois and of the Territory of Michigan, and competent levies of militia under their authority; with a corps of seven hundred men of United States troops under the command of General Atkinson, who, at the call of Governor Cass, immediately repaired to the scene of danger, from their station at St. Louis. Their presence dispelled the alarms of our fellow-citizens on those borders, and overawed the hostile purposes of the Indians. The perpetrators of the murders were surrendered to the authority and operation of our laws, and every appearance of purposed hostility from those Indian tribes has subsided.

Although the present organization of the Army and the administration of its various branches of service are, upon the whole, satisfactory, they are yet susceptible of much improvement in particulars, some of which have been heretofore submitted to the consideration of Congress, and others are now first presented in the report of the Secretary of War.

The expediency of providing for additional numbers of officers in the two corps of engineers will, in some degree, depend upon the number and extent of the objects of national importance upon which Congress may think it proper that surveys should be made, conformably to the act of the 30th of April, 1824. Of the surveys which, before the last session of Congress, had been made under the authority of that act, reports were made—

1. Of the Board of Internal Improvement, on the Chesapeake and Ohio canal.
2. On the continuance of the National Road from Cumberland to the tide-waters within the District of Columbia.
3. On the continuation of the National Road from Canton to Zanesville.
4. On the location of the National Road from Zanesville to Columbus.
5. On the continuation of the same road to the seat of government in Missouri.
6. On a post road from Baltimore to Philadelphia.
7. Of a survey of Kennebec river, (in part.)
8. On a national road from Washington to Buffalo.
9. On the survey of Saugatuck harbor and river.
10. On a canal from Lake Pontchartrain to the Mississippi river.
11. On surveys at Edgartown, Newburyport, and Hyannis harbor.
12. On survey of La Plaisance bay, in the Territory of Michigan.

And reports are now prepared and will be submitted to Congress—

On surveys of the peninsula of Florida, to ascertain the practicability of a canal to connect the waters of the Atlantic with the Gulf of Mexico, across that peninsula; and also of the country between the bays of Mobile and of Pensacola, with the view of connecting them together by a canal;

On surveys of a route for a canal to connect the waters of James and Great Kenhawa rivers;

On the survey of the Swash in Pamplico sound, and that of Cape Fear, below the town of Wilmington, in North Carolina;

On the survey of the Muscle shoals in the Tennessee river, and for a route for a contemplated communication between the Hiwassee and Coosa rivers, in the State of Alabama.

Other reports of surveys upon objects pointed out by the several acts of Congress of the last and preceding sessions are in the progress of preparation, and most of them may be completed before the close of this session. All the officers of both corps of engineers, with several other persons duly qualified, have been constantly employed upon these services from the passage of the act of 30th April, 1824, to this time. Were no other advantage to accrue to the country from their labors than the fund of topographical knowledge which they have collected and communicated, that alone would have been a profit to the Union more than adequate to all the expenditures which have been devoted to the object; but the appropriations for the repair and continuation of the Cumberland road, for the construction of various other roads, for the removal of obstructions from the rivers and harbors, for the erection of light-houses, beacons, piers, and buoys, and for the completion of canals undertaken by individual associations, but needing the assistance of means and resources more comprehensive than individual enterprise can command, may be considered rather as treasures laid up from the contributions of the present age for the benefit of posterity, than as unrequited applications of the accruing revenues of the nation. To such objects of permanent improvement to the condition of the country, of real addition to the wealth as well as to the comfort of the people by whose authority and resources they have been effected, from three to four millions of the annual income of the nation have, by laws enacted at the three most recent sessions of Congress, been applied, without intrenching upon the necessities of the Treasury, without adding a dollar to the taxes or debts of the community, without suspending even the steady and regular discharge of the debts contracted in former days, which, within the same three years, have been diminished by the amount of nearly sixteen millions of dollars.

The same observations are, in a great degree, applicable to the appropriations made for fortifications upon the coasts and harbors of the United States, for the maintenance of the Military Academy at West Point, and for the various objects under the superintendence of the Department of the Navy. The report of the Secretary of the Navy, and those from the subordinate branches of both the Military Departments, exhibit to Congress, in minute detail, the present condition of the public establishments dependent upon them; the execution of the acts of Congress relating to them, and the views of the officers engaged in the several branches of the service, concerning the improvements which may tend to their perfection. The fortification of the coast, and the gradual increase and improvement of the Navy, are parts of a great system of national defence which has been upwards of ten years in progress, and which, for a series of years to come, will continue to claim the constant and persevering protection and superintendence of the legislative authority. Among the measures which have emanated from these principles, the act of the last session of Congress for the gradual improvement of the Navy holds a conspicuous place. The collection of timber for the future construction of vessels of war; the preservation and reproduction of the species of timber peculiarly adapted to that purpose; the construction of dry docks for the use of the Navy; the erection of a marine railway for the repair of the public ships; and the improvement of the navy yards for the preservation of the public property deposited in them, have all received from the Executive the attention required by that act; and will continue to receive it, steadily proceeding towards the execution of all its purposes. The establishment of a Naval Academy, furnishing the means of theoretic instruction to the youths who devote their lives to the service of their country upon the ocean, still solicits the sanction of the Legislature. Practical seamanship and the art of navigation may be acquired upon the cruises of the squadrons which, from time to time, are despatched to distant seas; but a competent knowledge, even of the art of ship-building; the higher mathematics and astronomy; the literature which can place our officers on a level of polished education with the officers of other maritime nations; the knowledge of the laws, municipal and national, which, in their intercourse with foreign States and their Governments, are continually called into operation; and, above all, that acquaintance with the principles of honor and justice, with the higher obligations of morals, and of general laws, human and divine, which constitute the great distinction between the warrior patriot and the licensed robber and pirate; these can be systematically taught and eminently acquired only in a permanent school, stationed upon the shore, and provided with the teachers, the instruments, and the books, conversant with and adapted to the communication of the principles of these respective sciences to the youthful and inquiring mind.

The report from the Postmaster General exhibits the condition of that Department as highly satisfactory for the present, and still more promising for the future. Its receipts for the year ending the first of July last amounted to one million four hundred and seventy-three thousand five hundred and fifty-one dol-

lars, and exceeded its expenditures by upwards of one hundred thousand dollars. It cannot be an over sanguine estimate to predict that in less than ten years, of which one-half have elapsed, the receipts will have been more than doubled. In the meantime a reduced expenditure upon established routes has kept pace with increased facilities of public accommodation, and additional services have been obtained at reduced rates of compensation. Within the last year the transportation of the mail in stages has been greatly augmented. The number of post offices has been increased to seven thousand; and it may be anticipated that while the facilities of intercourse between fellow-citizens, in person or by correspondence, will soon be carried to the door of every villager in the Union, a yearly surplus of revenue will accrue, which may be applied as the wisdom of Congress, under the exercise of their constitutional powers, may devise, for the further establishment and improvement of the public roads, or by adding still further to the facilities in the transportation of the mails. Of the indications of the prosperous condition of our country, none can be more pleasing than those presented by the multiplying relations of personal and intimate intercourse between the citizens of the Union dwelling at the remotest distances from each other.

Among the subjects which have heretofore occupied the earnest solicitude and attention of Congress is the management and disposal of that portion of the property of the nation which consists of the public lands. The acquisition of them, made at the expense of the whole Union, not only in treasure but in blood, marks a right of property in them equally extensive. By the report and statements from the General Land Office, now communicated, it appears that under the present Government of the United States a sum little short of thirty-three millions of dollars has been paid from the common Treasury for that portion of this property which has been purchased from France and Spain, and for the extinction of the aboriginal titles. The amount of lands acquired is near two hundred and sixty millions of acres, of which, on the first of January, 1826, about one hundred and thirty-nine millions of acres had been surveyed, and little more than nineteen millions of acres had been sold. The amount paid into the Treasury by the purchasers of the lands sold is not yet equal to the sums paid for the whole, but leaves a small balance to be refunded; the proceeds of the sales of the lands have long been pledged to the creditors of the nation; a pledge from which we have reason to hope that they will, in a very few years, be redeemed. The system upon which this great national interest has been managed was the result of long, anxious, and persevering deliberation; matured and modified by the progress of our population, and the lessons of experience, it has been hitherto eminently successful. More than nine-tenths of the lands still remain the common property of the Union, the appropriation and disposal of which are sacred trusts in the hands of Congress. Of the lands sold a considerable part were conveyed under extended credits, which, in the vicissitudes and fluctuations in the value of lands, and of their produce, became oppressively burdensome to the purchasers. It can never be the interest or the policy of the nation to wring from its own citizens the reasonable profits of their industry and enterprise by holding them to the rigorous import of disastrous engagements. In March, 1821, a debt of twenty-two millions of dollars, due by purchasers of the public lands, had accumulated, which they were unable to pay. An act of Congress, of the 2d of March, 1821, came to their relief, and has been succeeded by others, the latest being the act of the 4th of May, 1826, the indulgent provisions of which expired on the 4th of July last. The effect of these laws has been to reduce the debt from the purchasers to a remaining balance of about four millions three hundred thousand dollars due; more than three-fifths of which are for lands within the State of Alabama. I recommend to Congress the revival and continuance, for a further term, of the beneficent accommodations to the public debtors of that statute; and submit to their consideration, in the same spirit of equity, the remission, under proper discriminations, of the forfeitures of partial payments on account of purchases of the public lands, so far as to allow of their application to other payments.

There are various other subjects of deep interest to the whole Union which have heretofore been recommended to the consideration of Congress, as well by my predecessors as, under the impression of the duties devolving upon me, by myself. Among these are the debt, rather of justice than gratitude, to the surviving warriors of the revolutionary war; the extension of the judicial administration of the Federal Government to those extensive and important members of the Union, which, having risen into existence since the organization of the present judiciary establishment, now constitute at least one-third of its territory, power, and population; the formation of a more effective and uniform system for the government of the militia, and the melioration, in some form or modification, of the diversified and often oppressive codes relating to insolvency. Amidst the multiplicity of topics of great national concernment which may recommend themselves to the calm and patriotic deliberations of the Legislature, it may suffice to say that on these and all other measures which may receive their sanction my hearty co-operation will be given, conformably to the duties enjoined upon me, and under the sense of all the obligations prescribed by the Constitution.

JOHN QUINCY ADAMS.

WASHINGTON, *December* 4, 1827.

DOCUMENTS ACCOMPANYING THE PRESIDENT'S MESSAGE AT THE OPENING OF THE FIRST SESSION OF THE TWENTIETH CONGRESS, RELATING TO THE IMPRISONMENT OF JOHN BAKER, AN AMERICAN CITIZEN, BY THE BRITISH AUTHORITIES OF NEW BRUNSWICK.

Mr. Clay to Mr. Vaughan.

DEPARTMENT OF STATE, *Washington, November* 17, 1827.

SIR: In the note which I had the honor to address to you on the 19th day of September last I informed you that I would transmit a copy of yours of the 17th, in answer to mine of the 14th of the same month, to his excellency Enoch Lincoln, Governor of Maine, to obtain from him such information on the subject to which that correspondence related as he might communicate. I now transmit to you an extract from a letter of Governor Lincoln, under date the 2d instant, together with copies of two affidavits, to which he refers. From one of those affidavits (that of William Dalton) it would appear that he had resided during three years on the Aroostic river, thirty miles within the line on the American side; that the constables and officers of the province of New Brunswick, have been in the habit, under the pretence of collecting debts, of coming to the settlement where he lived, with precepts, and taking

and carrying away every species of property they could find; that they generally carried it to the parish of Kent or Fredericton, and there sold it at auction; that in a particular instance, of which the circumstances are detailed in the affidavit, the acting British officer declared that he did not care whether he was within or without his jurisdiction, for that a higher officer would bear him out in anything he did; that he even employed a menace of resorting to physical force, using at the same time opprobrious language; that the witness, in consequence of the disturbances created in the settlement by British officers, sold his possessions at a great sacrifice in their value, and removed to another part of the State of Maine; and that the inhabitants of the Aroostic settlement have been unwilling and afraid to sleep in their own houses, and have spent the night on the banks of the river and in the woods, and kept watch night and day, as is customary in Indian warfare.

The affidavit of the other witness (Jonathan Wilson) states that, at Woodstock, in the province of New Brunswick, he learned that Mr. Baker had been arrested by the British authorities, with the agency of forty-five men sent up in barges armed; that he was taken from his bed in the night; that the charge against him was for refusing and objecting to permit the British mail to pass over his land; that he was confined in a jail, which is known to the witness to be extremely loathsome, filthy, and dangerous to health; that he has been tried and sentenced to six months' imprisonment, and to the payment of £150; that he lived on Madawaska river, within the American line; and that the witness had learned from his son, who had recently been on the Aroostic, that the settlers there complained bitterly of the oppression of the officers and subjects of the British provinces; that their property was taken forcibly from them, and carried off, to the last cow.

Such is the case made out by this testimony. I shall abstain at this time from particular comments upon it. The proceedings which it discloses being incompatible with the rights of the United States, at variance with that forbearance and moderation which it has been understood between us were to be mutually observed, and exhibiting the exercise of rigorous acts of authority within the disputed territory, which could only be justified by considering it as constituting an incontestable part of the British dominions, I have to request such explanations as the occasion calls for.

In the meantime I avail myself of the opportunity to tender to you assurances of my high consideration.

H. CLAY.

Rt. Hon. C. R. VAUGHAN, *&c., &c., &c.*

Mr. Lincoln to Mr. Clay.

STATE OF MAINE, *Executive Department, Portland, November* 2, 1827.

SIR: I have the honor to transmit to you, for the consideration of the President, copies of the affidavits of William Dalton and Jonathan Wilson to the truth of the statements, in which I have reason to attach full credit. I also enclose a copy of a proclamation relating to the same subject.

I am, sir, with the highest respect, your obedient servant,

ENOCH LINCOLN.

Hon. HENRY CLAY, *Secretary of State of the United States, Washington.*

I, William Dalton, born in Bloomfield, State of Maine, county of Somerset, say, that for the last three years I have resided on the Aroostic river, thirty miles within the line on the American side, thirty-three miles up said river.

Many of the settlers on the river are emigrants from New Brunswick; others from the States. Many of these settlers are poor. The constables and officers of the provinces have been in the habit, under the pretence of collecting debts, of coming to the settlement where I lived, with precepts, and taking and carrying away every species of property they could find. They generally carried it to the parish of Kent or Fredericton, and there sold it at auction. As an instance of violent proceedings of the officers and subjects of the provinces, I would state that, at the settlement where I lived, a certain man named Joseph Arnold had a dispute with one William M'Cray about a cow, which was referred to three referees chosen among the neighbors, who decided that Arnold should keep the cow. *Said* M'Cray then went to one Esquire Morehouse, said to be a magistrate in the parish of Kent. Morehouse sent M'Neil, a constable of that parish, to the Aroostic settlement; the constable came with five men, armed with guns, pistols, and sword, and took the cow by force from Arnold. Whilst they were there I asked the constable for his precept, and for his authority to come into the American territory. He said Morehouse told him to go and take the animal and the man wherever he could find them. I saw the writ....it....an order to *replevy* in the *parish of Kent.* I asked him if he did not know that he was out of the parish of Kent. He said he did not care, for Morehouse would bear him out in anything he did. I told him he had better not come again on any such business. He said, "when I come again I shall not be obliged to show my authority to a parcel of d——d Yankee settlers from Aroostic; that if twenty-five or fifty men would not do, he would bring five hundred, armed and equipped, and take every soul, men, women, and children, to Fredericton jail." He did not pretend that he was in the parish of Kent; he said he was doing his duty, and would go wherever his master would send him.

In consequence of this state of things, I have sold out all I possessed for what I could get, and left the country to return to China, in the county of Kennebec, in the State of Maine. I raised this year 150 bushels of wheat, 175 of oats, 60 of corn, 200 of potatoes, and garden vegetables. I had built a decent and comfortable log house and a barn. I had five swine, one cow, and farming utensils. I had cleared thirty acres. I sold all my property for $184 28, all on credit, except $32 in cash. I made this sacrifice *solely* on account of public difficulties. My farm, I think, was as good land as any in North America, and the whole of the country on the Aroostic is very excellent land, and would be rapidly settled if it were not for public difficulties. My family were contented before the troubles, and had it not been for them I would not have taken $700 for my property. For the last seven weeks the inhabitants of the Aroostic settlement have been unwilling and *afraid* to sleep in their own houses, and have retired to the lower part of the settlement and spent the night on the banks of the river and in the woods, and kept watch night and day, as in an Indian war.

I arrived here, at Bangor, this 27th of October, 1827, direct from Aroostic.

WM. DALTON.

STATE OF MAINE,
Penobscot, Town of Bangor, } ss.

On this 27th day of October, 1827, the aforesaid William Dalton personally appeared, and made oath to the truth of the foregoing statement.

Before me—

EDWARD KENT, *Justice of the Peace.*

STATE OF MAINE, *Secretary of State's Office, Portland, November* 2, 1827.

I do hereby certify that the foregoing is a true copy of the original deposited in this office.

ELLIOTT G. VAUGHAN,
For A. NICHOLS,
Secretary of State, (he being absent.)

I, Jonathan Wilson, of Fairfield, county of Somerset, State of Maine, on oath depose and say that I left Fairfield about the 1st October instant for Houlton plantation and the British provinces to collect some debts due to me and others. I arrived at Houlton about the 10th instant, and from thence went to Woodstock, in the province of New Brunswick, to collect debts. Woodstock is about sixty-five miles above Fredericton. I there learned that Mr. Baker had been arrested by the British authorities. I was told this by Jos. Harvey, formerly of Bangor, State of Maine; that he was arrested by forty-five men sent up in barges armed; that he was taken from his bed in the night; that the charge against Baker was for refusing and objecting to permit the British mail to pass over his land; that they confined Baker in jail, have since tried him, and sentenced him to pay a fine of £150, and to six months' imprisonment in jail, which, to my knowledge, is extremely loathsome, filthy, and dangerous to health, and that Baker is now confined there. Baker lived on Madawaska river, within the American line. I also learnt at Houlton, by my son, Leonard Wilson, who has recently been at the Aroostic, that the settlers there complained bitterly of the oppression of the officers and subjects of the provinces; that their property was forcibly taken from them and carried off, even to the last cow.

JONATHAN WILSON.

STATE OF MAINE,
Penobscot, Town of Bangor, } ss.

On the 27th day of October, 1827, the aforesaid deponent personally appeared, and made oath to the truth of the foregoing statement.

Before me— EDWARD KENT, *Justice of the Peace.*

STATE OF MAINE, *Secretary of State's Office, Portland, November* 2, 1827.

I hereby certify that the foregoing is a true copy of the original deposited in this office.

ELLIOTT G. VAUGHAN,
For A. NICHOLS,
Secretary of State, (he being absent.)

STATE OF MAINE.

By the Governor of the State of Maine.

A PROCLAMATION.

Whereas it has been made known to this State that one of its citizens has been conveyed from it by a foreign power to a jail in the province of New Brunswick, and that many trespasses have been committed by inhabitants of the same province on the sovereignty of Maine, and the rights of those she is bound to protect—

Be it also known that, relying on the Government and people of the Union, the proper exertion will be applied to obtain reparation and security.

Those, therefore, suffering wrong, or threatened with it, and those interested by sympathy and principle on account of the violation of our territory and immunities, are exhorted to forbearance and peace, so that the preparations for preventing the removal of our landmarks, and guarding the sacred and inestimable rights of American citizens, may not be embarrassed by any unauthorized acts.

ENOCH LINCOLN.

By the Governor:

AMOS NICHOLS, *Secretary of State.*

COUNCIL CHAMBER, *Portland, November* 9, 1827.

Mr. Vaughan to Mr. Clay.

WASHINGTON, *November* 21, 1827.

The undersigned, his Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honor to acknowledge the receipt of a note from the Secretary of State of the United States, relative to the proceedings of the magistrates acting under the authority of his Britannic Majesty, in the province of New Brunswick, against two citizens of the United States established in British settlements upon the rivers Aroostic and Madawaska.

The proceedings, as described in Mr. Clay's note, are supported by two depositions on oath, which have been transmitted to the Government of the United States by his excellency Enoch Lincoln, the Governor of the State of Maine.

The affidavit of William Dalton, residing upon the river Aroostic, relates to legal process having been instituted against him by magistrates acting under British authority for the recovery of debts, or for a misdemeanor. The affidavit of Jonathan Wilson relates to the arrest at Woodstock, upon the Madawaska river, within 65 miles of Fredericton, of Mr. Baker, for having interrupted the passage of the mail from New Brunswick to Canada.

The rivers Aroostic and Madawaska are to be found, on a reference to a map made by the British Commissioners of boundary, under the 5th article of the treaty of Ghent, in that portion of the territory of New Brunswick enclosed between two lines of boundary laid down—the one by the British Commissioners, which runs by Mars Hill, and the other by the American Commissioners, which runs at the distance of about 144 miles from Mars Hill, to the north of it.

Whatever may have induced the Commissioners, on both sides, to trace the lines above mentioned as according with the true intent of the boundary laid down in the treaty of 1783, and subsequently in that of Ghent, the Governments of Great Britain and of the United States have not yet been able to reconcile the different reports of their Commissioners; and the territory in which the proceedings have occurred lately, and which form the subject of Mr. Clay's note, is still in dispute. The sovereignty and jurisdiction over that territory has consequently remained with Great Britain, having been in the occupation and possession of the crown previously to the conclusion of the treaty of 1783.

The undefined or rather unsettled claim of the United States to a portion of that territory cannot furnish any pretext for an interference with, or an interruption of, the exercise of the jurisdiction within that territory by magistrates acting under British authority on the part of the citizens of the United States who may choose to reside in those ancient settlements. The undersigned, therefore, is convinced that Mr. Clay will agree with him, that there cannot be any grounds for complaint of an undue and illegal exercise of jurisdiction, whatever motive there may be for remonstrance against the severity with which the laws may have been executed.

With regard to one of the affidavits transmitted by the Governor of Maine, that of Jonathan Wilson, it appears that he undertakes to relate the circumstances attending the arrest of Baker on the Madawaska from what he had been told by Joshua Harvey, formerly of Bangor, in the State of Maine. The undersigned takes this opportunity of communicating to the Secretary of State some circumstances attending that transaction, with which he has been made acquainted by his Majesty's Lieutenant Governor of New Brunswick. In a letter which the undersigned received on the 7th October last from his excellency, dated the 11th September, he was informed that an alien of the name of Baker, residing in a British settlement on the Madawaska, had, on the 18th July last, interrupted the passage of the mail from New Brunswick to Canada by the long-established road through that settlement. Sir Howard Douglas transmitted to him at the same time copies of depositions, taken on oath, respecting the conduct of Baker; and feeling that it was his duty as Lieutenant Governor not to abandon any right of practical sovereignty which had been exercised in the disputed territory, which has been held, occupied, and located as British settlements for any period within the last century, or even later, he considered that the report which had been made to him of the conduct of Baker was fit matter for the cognizance of the law officers of the crown; and his excellency accordingly directed the Attorney General to take such measures as he might deem necessary to enforce the municipal laws of the province, and to repress and punish the disorders which had been committed.

The undersigned has not received from Sir Howard Douglas any report yet of the proceedings against Baker subsequently to his arrest. He has the honor to submit to the consideration of the Secretary of State the accompanying documents, namely: No. 1, a report made to the Lieutenant Governor by Mr. Morehouse, a magistrate in the neighborhood of Madawaska; No. 2, the deposition of Peter Sileste, relative to the stopping of the mail; No 3, the deposition of William Feirio, relative to the flag of the United States having been hoisted by Baker; Nos. 4 and 5, the depositions of Abraham Chamberland and Peter Markee, relative to a paper circulated in a settlement upon the Madawaska for signature amongst the inhabitants, by which they were to bind themselves to resist the British authority; No. 6, the opinion of the Attorney and Solicitor General of the province.

The Secretary of State will observe in the enclosed depositions that Baker and others asserted that in the measures which they took they would be supported by the Government of the United States. It is hardly necessary for the undersigned to repeat the assurances which he has received from the Lieutenant Governor of New Brunswick, that his excellency is convinced that the Government of the United States was not, in any shape, aware of the intentions of Baker and his associates.

It is evident, from the enclosed documents, that the offensive conduct of Baker was not confined to stopping the mail, but that he had hoisted the flag of the United States, in defiance of British claims, and had sought to engage a party, in an ancient British settlement, to transfer the possession to the United States.

The undersigned has already communicated to the Secretary of State sufficient proofs of the decided resolution of his Majesty's Lieutenant Governor of New Brunswick to maintain the disputed territory in the same state in which his excellency received it after the conclusion of the treaty of Ghent; and the undersigned is convinced that a mutual spirit of forbearance animates the General Government of the United States. It is painful to reflect upon the collisions of authority to which both countries are so repeatedly exposed by the long delay which has taken place in finally adjusting the line of boundary on the northeast frontier of the United States. In the present state of uncertainty the limits of the jurisdiction of each Government are misapprehended and misunderstood by the class of persons becoming, from time

to time, settlers in the disputed district; and too much vigilance cannot be exerted by the authorities on both sides to remove that misapprehension, and control all misconduct arising out of it.

The undersigned requests that Mr. Clay will accept the assurance of his highest consideration.

CHARLES R. VAUGHAN.

Hon. HENRY CLAY, *&c., &c., &c.*

No. 1.

KENT, *August* 11, 1827.

SIR: In compliance with your request, contained in your letter of the 31st of July, I proceeded without delay to Madawaska to inquire into the conduct of Baker and the American citizens in that settlement, on which, for the information of Government, I beg leave to make the following report: After getting the affidavits of some of the French settlers, I went up the river to where there is a settlement forming by Americans, and endeavored to get in my possession the paper which had been offered for signatures, but found that quite out of the question; they positively refused to let me see it. As soon as it was known that I was in the settlement, Baker and others hoisted the American flag as a token of defiance. I ordered him to pull it down; instead of complying, Baker, as their organ, made the following declaration: That they had hoisted that flag, and that they had mutually entered into a written agreement to keep it there, and that nothing but force superior to their own should take it down; that they considered, and had a right to consider, themselves on the territory of the United States; and that they had bound themselves to resist by force the execution of the laws of Great Britain amongst them; and that they had a right to expect and would receive the protection of their Government in what they were doing.

It seems the flag in question was first raised on the 4th of July last, when Baker a few days previous personally invited the most of the French settlers to join them in that act; but I am happy to have it in my power to say that but few complied.

I find they are using every argument to induce the French people to declare themselves American subjects, and I fear if those fellows are not well looked after they will eventually succeed in their designs, for I find their insinuations have already had the effect to throw some of the people in doubt whether they are to consider themselves as British or American subjects; and I trust that his Majesty's Government will speedily take such measures as will convince the French settlers of Madawaska that the Americans have no right to act as they do, and crush this banditti; for I feel convinced that unless this transaction is promptly followed by some other to suppress them, that the French, it is more than probable, will shortly consider us the intruders.

I herewith send the affidavits of the postman whom Baker was said to have stopped, which will show what passed between them; also a list of American citizens settled on the river St. John, above the French settlements.

I have, &c.,

G. MOREHOUSE.

THOMAS WETMORE, Esq., *&c., &c., &c.*

No. 2.

NEW BRUNSWICK, *York, sc.*

Peter Sileste, of the Madawaska settlement, in the parish of Kent and county of York, in the province of New Brunswick, maketh oath and saith, that on the 18th day of July, 1827, as this deponent was proceeding up the river St. John, in charge of the mail for Canada, one John Baker, an American citizen, who resides in Madawaska, met him near the chapel, when the said Baker demanded of this deponent what he had in his canoe; on being told by this deponent that it was the mail for Canada, the said Baker then declared that England had no right to send her mails that route, and that he (Baker) had received orders from the Government of the United States to stop them; but on the deponent's saying that he should not have that mail without he was a better man than deponent, he (Baker) said it might pass for that time, but for the future it should not, as he was determined to put the orders of his Government into execution.

PETER his mark SILESTE.

Sworn before me, at Madawaska, in the parish of Kent, this 9th day of August, 1827.

GEORGE MOREHOUSE, *Magistrate for the County of York.*

No. 3.

NEW BRUNSWICK, *York, sc.*

William Feirio, of Madawaska, in the parish of Kent, county of York, and province of New Brunswick, maketh oath and saith, that by an invitation from John Baker, an American citizen, who resides in Madawaska, he, the deponent, went to the said Baker on the 4th of July last, 1827; that Baker and the other American citizens then raised a flag-staff and placed the American flag thereon; that he, the said Baker, then declared that place to be an American territory, which he repeated to this deponent and other French settlers then there; and that they must for the future look upon themselves as subjects of the United States, who would protect them and him in what he was doing.

WILLIAM his mark FEIRIO.

Sworn before me, at Madawaska, in Kent, this 8th day of August, 1827.

GEORGE MOREHOUSE, *Justice of the Peace.*

No. 4.

NEW BRUNSWICK, *York, sc.*

Abraham Chamberland, of the Madawaska settlement, in the parish of Kent and county of York, in the province of New Brunswick, maketh oath and saith, that on or about the 15th of July, 1827, one Charles Studson, an American citizen, residing in Madawaska, presented a written paper to deponent and asked him to sign it; that deponent asked him the contents of the said paper, when the said Studson informed him that by that paper they bound themselves to oppose the execution of the laws of England amongst them in Madawaska, and that his Government, the United States, would protect them in what they were doing.

his
ABRAHAM ⋈ CHAMBERLAND.
mark.

Sworn before me, at Madawaska, in the parish of Kent and county of York, this 7th August, 1827.

GEORGE MOREHOUSE,
Justice of the Peace for the County of York.

No. 5.

NEW BRUNSWICK, *York, sc.*

Peter Markee, of the Madawaska settlement, in the parish of Kent and county of York, in the province of New Brunswick, maketh oath and saith, that on or about the 15th July last, 1827, three persons, John Baker, James Bacon, and Charles Studson, American citizens, residing in the Madawaska settlement, came to this deponent and presented a paper to him to sign his name thereto; that on deponent's asking them the contents of it, they declared it was a document drawn up by them and others residing in Madawaska, the intention of which was that they bound themselves to defend each other against any act of a British officer, civil or military; that they did not intend to allow the British laws to be put in force amongst them in the Madawaska settlement; that the British Government had no right to exercise any authority over them, as that was American territory, and that the Government of the United States would protect them in what they were doing.

his
PETER ⋈ MARKEE.
mark.

Sworn before me, at Kent, in the county of York, this 7th day of August, 1827.

GEORGE MOREHOUSE,
Justice of the Peace for the County of York.

No. 6.

MAY IT PLEASE YOUR EXCELLENCY: Having considered with the attention which its great importance demands the communication from George Morehouse, Esq., of the 11th instant, with five affidavits transmitted by him, and also the other papers accompanying the despatch from your excellency's private secretary of the 22d instant, we feel quite prepared to express our opinion as to the nature of the offence committed by John Baker and other American citizens at Madawaska, and also as to the course to be pursued with them. We consider the Madawaska settlement to be within the British territory, and unquestionably in his Majesty's possession; and that Baker and his coadjutors were, and are, under the protection, and owe a temporary allegiance to his Majesty; but as they profess to act under the authority of the United States, and to lay claim to the place as part of its territory, we beg to recommend that such such steps only should be pursued as will be necessary to preserve the possession free from any infringement, either by stratagem or open violence, until the question of right shall be finally settled.

The offence with which those persons stand charged is, at least, a high misdemeanor in law, punishable by fine and imprisonment; and we beg leave to advise that Mr. Morehouse be desired, without delay, to proceed upon the evidence now before him, (which we think quite sufficient,) to arrest the offenders, and to commit them to jail, unless they will give sufficient security for their appearance at the next term of the Supreme Court to take their trials, and, in the meantime, to be of good behavior; and that the high sheriff be directed to attend in person the execution of the process. And we further recommend that informations for trespass and intrusion be immediately filed against the persons named in Mr. Morehouse's list.

Respectfully submitted.

O. WETMORE, *Attorney General*
C. PETERS, *Solicitor General.*

His Excellency Sir H. DOUGLAS, *&c., &c., &c.*

[Enclosure No. 1.]

In Mr. Vaughan's note to Mr. Clay, dated November 21, 1827.

KENT, *July* 26, 1827.

SIR: I have the honor to enclose a letter addressed to me by Mr. Francis Rice, adjutant of the Madawaska militia, by which you will see the American subjects residing in that settlement are disposed

to acts of aggression which his excellency may think proper to take measures to put a stop to. I therefore request that you will lay this before his excellency for his consideration.

I have, &c.,

GEORGE MOREHOUSE.

W. P. ODELL, Esq., *&c., &c., &c., Fredericton.*

GRAND RIVER, *Madawaska, July* 25, 1827.

SIR: Having commenced, Saturday, 21st instant, the militia company training, and finding some disorder amongst the people, occasioned by Baker and others, in the upper settlement, I find it my duty to let you know as much as I am informed concerning them. In the first place, they have a written document, wherein they say they have authority from the States to have it signed by the French people of Madawaska. This they have proposed to many of the inhabitants, and I am sorry to say they have persuaded some of them to sign it. The name of one of the signers is *Abraham Chamberland.* Baker is the *head man.* All this can be proved on oath. In the second place, Baker met the postman, and asked him what he had got with him; he told him it was the province mail. Then Baker told the postman that he had orders from the States to stop it; the man told him that if he was a better man than him, to try and take it; Baker answered, and said he would let it pass for this time, but at a future period he would put his orders in execution.

Sir, if this Baker, and others, is not stopped immediately they will corrupt a great part of our militia. You have heard of the liberty pole he has raised in this settlement; I need not give you any information as to that. Anything strange that may happen in this place I will trouble you with the shortest notice.

I am, &c.,

FRANCIS RICE.

GEORGE MOREHOUSE, Esq., *Kent.*

FREDERICTON, *July* 31, 1827.

SIR: Your letter of the 26th to the Provincial Secretary, enclosing a letter from Mr. Francis Rice to you, dated 25th instant, having been referred to me by his excellency the Lieutenant Governor, with directions to procure the necessary affidavits of the facts stated by Mr. Rice, I must request you will be pleased, with the least possible delay, to proceed to the place and possess yourself of the best proofs of the conduct of Baker and others, which you will forward to me under cover to the Secretary.

I send herewith a copy of Mr. Rice's letter for your guidance.

You will be particularly careful to ascertain, if possible, whether Baker is acting under any pretended authority or not; and procure, if you can, a copy of the paper which has been offered for signature.

Should Baker, or any other person, use any violence or force to obstruct the post, you will, of course, consider it your duty, upon receiving the complaint, under oath, [to] cause the offender to be arrested and committed to jail, unless he gives satisfactory security for his appearance at the next Supreme Court to answer to the charge.

I must beg you will furnish me with a sketch or general description of the lands which Baker, or any other American citizen, is in possession of in the neighborhood of Madawaska, and the length of time they have possessed the same.

I have, &c.,

P. WETMORE, *Attorney General.*

GEORGE MOREHOUSE, Esq.

[Endorsed.]

Refer to the Attorney General to procure the necessary affidavits of the facts, as stated in this.

H. D.

JULY 31, 1827.

[Translation.]

CORFU, *June* 15–27, 1827.

To his Excellency the President of the United States of America:

EXCELLENCY: The President of the General National Congress of my nation has just transmitted to me a letter, addressed to your excellency, in which he expresses the sentiments of gratitude with which the liberal conduct of the American nation has filled the nation over which he presides.

I deem myself exceedingly happy in having been selected as the organ of this communication; and I pray God, the Protector of America and Greece, to afford me, in future, other opportunities of witnessing the reciprocal sentiments of two nations, to one of whom I belong, and offer to the other the sentiments of my admiration and the homage of my gratitude.

I take great pleasure in availing myself of the honor afforded me by this opportunity of presenting to your excellency the homage of my own sentiments of profound respect. Your excellency's most humble and devoted servant,

COUNT CAPO D'ISTRIAS.

[Translated from a French translation of the Greek text.]

To his Excellency the President of the United States of North America:

EXCELLENCY: In extending a helping hand towards the Old World, and encouraging it in its march to freedom and civilization, the New World covers itself with increased glory, and does honor to humanity.

Greece, sir, has received with gratitude the signal testimonies of the philanthropic sentiments of the people of North America, as well as its generous assistance.

Commissioned to express to your excellency the sincere feelings of my nation, I esteem myself happy in being the organ of communication between free communities which, although separated by space, are, nevertheless, drawn towards one another by the principles of morals, and by whatever is truly beneficial to human society.

I am, with respect,

E. SISSINY,
President of the Third National Assembly of Greece.

TREZENE, *May* 5, 1827, *O. S.*

N. SPILIADY, *Secretary.*

A proclamation by the President of the United States of America promulgating the convention between the United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland. Concluded November 13, 1826.

Whereas a convention between the United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland was concluded and signed at London on the thirteenth day of November, in the year of our Lord one thousand eight hundred and twenty-six, which convention is, word for word, as follows:

Difficulties having arisen in the execution of the convention concluded at St. Petersburg on the twelfth day of July, 1822, under the mediation of his Majesty the Emperor of all the Russias, between the United States of America and Great Britain, for the purpose of carrying into effect the decision of his Imperial Majesty upon the differences which had arisen between the said United States and Great Britain, on the true construction and meaning of the first article of the treaty of peace and amity concluded at Ghent on the twenty-fourth day of December, 1814, the said United States and his Britannic Majesty being equally desirous to obviate such difficulties, have respectively named plenipotentiaries to treat and agree respecting the same, that is to say:

The President of the United States of America has appointed Albert Gallatin their Envoy Extraordinary and Minister Plenipotentiary to his Britannic Majesty;

And his Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honorable William Huskisson, a member of his said Majesty's most honorable Privy Council, a member of Parliament, President of the Committee of Privy Council for Affairs of Trade and Foreign Plantations, and Treasurer of his said Majesty's Navy; and Henry Unwin Addington, Esquire, late his Majesty's Chargé d'Affaires to the United States of America:

Who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon, and concluded the following articles:

ARTICLE 1. His Majesty the King of the United Kingdom of Great Britain and Ireland agrees to pay, and the United States of America agree to receive, for the use of the persons entitled to indemnification and compensation by virtue of the said decision and convention, the sum of twelve hundred and four thousand nine hundred and sixty dollars, current money of the United States, in lieu of, and in full and complete satisfaction for, all sums claimed or claimable from Great Britain, by any person or persons whatsoever, under the said decision and convention.

ARTICLE 2. The object of the said convention being thus fulfilled, that convention is hereby declared to be cancelled and annulled, save and except the second article of the same, which has already been carried into execution by the Commissioners appointed under the said convention, and save and except so much of the third article of the same as relates to the definitive list of claims, and has already likewise been carried into execution by the said Commissioners.

ARTICLE 3. The said sum of twelve hundred and four thousand nine hundred and sixty dollars shall be paid at Washington to such person or persons as shall be duly authorized on the part of the United States to receive the same, in two equal payments, as follows:

The payment of the first half to be made twenty days after official notification shall have been made by the Government of the United States to his Britannic Majesty's minister in the said United States of the ratification of the present convention by the President of the United States, by and with the advice and consent of the Senate thereof.

And the payment of the second half to be made on the first day of August, 1827.

ARTICLE 4. The above sums being taken as a full and final liquidation of all claims whatsoever arising under the said decision and convention, both the final adjustment of those claims and the distribution of the sums so paid by Great Britain to the United States shall be made in such manner as the United States alone shall determine, and the Government of Great Britain shall have no further concern or liability therein.

ARTICLE 5. It is agreed that from the date of the exchange of the ratifications of the present convention the joint commission appointed under the said convention of St. Petersburg of the twelfth of July, 1822, shall be dissolved; and, upon the dissolution thereof, all the documents and papers in possession of the said commission relating to claims under that convention shall be delivered over to such person or persons as shall be duly authorized on the part of the United States to receive the same; and the British Commissioner shall make over to such person or persons so authorized all the documents and papers (or authenticated copies of the same where the original cannot conveniently be made over) relating to claims under the said convention which he may have received from his Government for the use of the said Commission, conformably to the stipulations contained in the third article of the said convention.

ARTICLE 6. The present convention shall be ratified, and the ratifications shall be exchanged in London in six months from this date, or sooner, if possible.

In witness whereof, the plenipotentiaries aforesaid, by virtue of their respective full powers, have signed the same and have affixed thereunto the seals of their arms.

Done at London, this thirteenth day of November, in the year of our Lord one thousand eight hundred and twenty-six.

ALBERT GALLATIN. [L. S.]
WILLIAM HUSKISSON. [L. S.]
HENRY UNWIN ADDINGTON. [L. S.]

And whereas the said convention has been duly ratified on both parts, and the respective ratifications of the same were exchanged at London on the sixth day of February last, by Albert Gallatin, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, and Henry Unwin Addington, Esquire, late his Britannic Majesty's Chargé d'Affaires to the said United States, on the part of their respective Governments:

Now, therefore, I, John Quincy Adams, President of the United States, have caused the said convention to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this nineteenth day of March, in the year of our Lord one [L. S.] thousand eight hundred and twenty-seven, and of the Independence of the United States the fifty-first.

JOHN QUINCY ADAMS.

By the President:
H. CLAY, *Secretary of State.*

Proclamation by the President of the United States, and the act of Congress relating to the commerce of the British colonial ports.

Whereas, by the sixth section of an act of Congress entitled "An act to regulate the commercial intercourse between the United States and certain British colonial ports," which was approved on the first day of March, in the year of our Lord 1823, it is enacted "that this act, unless repealed, altered, or amended by Congress, shall be and continue in force so long as the above enumerated British colonial ports shall be open to the admission of the vessels of the United States, conformably to the provisions of the British act of Parliament of the twenty-fourth of June last, being the forty-fourth chapter of the acts of the third year of George the Fourth: but if at any time the trade and intercourse between the United States and all or any of the above enumerated British colonial ports, authorized by the said act of Parliament, should be prohibited by a British order in council, or by act of Parliament, then, from the day of the date of such order in council, or act of Parliament, or from the time that the same shall commence to be in force, proclamation to that effect having been made by the President of the United States, each and every provision of this act, so far as the same shall apply to the intercourse between the United States and the above enumerated British colonial ports in British vessels, shall cease to operate in their favor; and each and every provision of the 'Act concerning navigation,' approved on the eighteenth of April, one thousand eight hundred and eighteen, and of the act supplementary thereto, approved on the fifteenth of May, one thousand eight hundred and twenty, shall revive and be in full force."

And whereas, by an act of the British Parliament, which passed on the fifth day of July, in the year of our Lord 1825, entitled "An act to repeal the several laws relating to the customs," the said act of Parliament of the 24th of June, 1822, was repealed; and by another act of the British Parliament, passed on the fifth day of July, in the year of our Lord 1825, in the sixth year of the reign of George the Fourth, entitled "An act to regulate the trade of the British possessions abroad," and by an order of his Britannic Majesty in council, bearing date the 27th of July, 1826, the trade and intercourse authorized by the aforesaid act of Parliament of the 24th June, 1822, between the United States and the greater part of the said British colonial ports therein enumerated, have been prohibited upon and from the first day of December last past, and the contingency has thereby arisen on which the President of the United States was authorized by the sixth section aforesaid of the act of Congress of 1st March, 1823, to issue a proclamation to the effect therein mentioned:

Now, therefore, I, John Quincy Adams, President of the United States of America, do hereby declare and proclaim that the trade and intercourse authorized by the said act of Parliament of the 24th of June, 1822, between the United States and the British colonial ports enumerated in the aforesaid act of Congress of the 1st of March, 1823, have been, and are, upon and from the 1st day of December, 1826, by the aforesaid two several acts of Parliament of the 5th of July, 1825, and by the aforesaid British order in council of the 27th day of July, 1826, prohibited.

Given under my hand, at the city of Washington, this 17th day of March, in the year of our Lord 1827, and the fifty-first year of the Independence of the United States.

JOHN QUINCY ADAMS.

By the President:
H. CLAY, *Secretary of State.*

20TH CONGRESS.] No. 458. [1ST SESSION.

CONVENTION WITH GREAT BRITAIN FOR CONTINUING IN FORCE THE COMMERCIAL CONVENTION OF THE THIRD OF JULY, 1815.—CONVENTION WITH GREAT BRITAIN FOR CONTINUING IN FORCE THE THIRD ARTICLE OF THE CONVENTION OF THE 20TH OF OCTOBER, 1818, IN RELATION TO THE TERRITORIES WESTWARD OF THE ROCKY MOUNTAINS.—CONVENTION WITH GREAT BRITAIN FOR THE REFERENCE TO A FRIENDLY SOVEREIGN THE POINTS OF DIFFERENCE RELATING TO THE NORTH-EASTERN BOUNDARY OF THE UNITED STATES.

COMMUNICATED TO THE SENATE DECEMBER 12, 1827.

To the Senate of the United States:

I transmit to the Senate—

1. A convention between the United States and Great Britain for the continuance in force of the convention of July 3, 1815, after the 20th October, 1828, the term at which it would otherwise expire.

2. A convention between the same parties for continuing in force, after the 20th of October, 1828, the provisions of the third article of the convention of October 20, 1818, in relation to the territories westward of the Rocky mountains.

3. A convention between the same parties for the reference to a friendly Sovereign of the points of difference betweeen them relating to the northeastern boundary of the United States.

The first and second of these conventions were signed by the plenipotentiaries of the respective parties, at London, on the 6th day of August, and the third on the 29th day of September last.

Copies of them are also communicated, together with the correspondence and documents illustrative of their negotiation.

I request the advice of the Senate with regard to the ratification of each of them.

JOHN QUINCY ADAMS.

A CONVENTION TO REGULATE COMMERCE AND NAVIGATION BETWEEN THE UNITED STATES AND GREAT BRITAIN.

The United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland, being desirous of continuing in force the existing commercial regulations between the two countries, which are contained in the convention concluded between them on the 3d of July, 1815, and further renewed by the fourth article of the convention of the 20th October, 1818, have, for that purpose, named their respective plenipotentiaries, that is to say: The President of the United States of America, Albert Gallatin, their Envoy Extraordinary and Minister Plenipotentiary to his Britannic Majesty; and his Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honorable Charles Grant, a member of his said Majesty's most honorable Privy Council, a member of Parliament, and Vice President of the Committee of Privy Council for Affairs of Trade and Foreign Plantations, and Henry Unwin Addington, Esquire: who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon and concluded the following articles:

ARTICLE 1. All the provisions of the convention concluded between the United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland on the 3d of July, 1815, and further continued for the term of ten years by the fourth article of the convention of the 20th of October, 1818, (with the exception therein contained as to St. Helena,) are hereby further indefinitely, and without the said exception, extended and continued in force, from the date of the expiration of the said ten years, in the same manner as if all the provisions of the said convention of the 3d of July, 1815, were herein specifically recited.

ARTICLE 2. It shall be competent, however, to either of the contracting parties, in case either should think fit, at any time after the expiration of the said ten years, (that is, after the 20th of October, 1828,) on giving due notice of twelve months to the other contracting party, to annul and abrogate this convention; and it shall, in such case, be accordingly entirely annulled and abrogated, after the expiration of the said term of notice.

ARTICLE 3. The present convention shall be ratified, and the ratifications shall be exchanged in nine months, or sooner, if possible.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at London, the sixth day of August, in the year of our Lord one thousand eight hundred and twenty-seven.

ALBERT GALLATIN. [L. S.]
CHARLES GRANT. [L. S.]
HENRY UNWIN ADDINGTON. [L. S.]

The following is the convention referred to in the preceding:

A convention to regulate commerce between the territories of the United States and his Britannic Majesty.

The United States of America and his Britannic Majesty, being desirous, by a convention, to regulate the commerce and navigation between their respective countries, territories, and people, in such a manner

as to render the same reciprocally beneficial and satisfactory, have respectively named plenipotentiaries, and given them full powers to treat of and conclude such convention, that is to say: The President of the United States, by and with the advice and consent of the Senate thereof, hath appointed for their plenipotentiaries John Quincy Adams, Henry Clay, and Albert Gallatin, citizens of the United States; and his Royal Highness the Prince Regent, acting in the name and on behalf of his Majesty, has named for his plenipotentiaries the Right Honorable Frederick John Robinson, Vice President of the Committee of Privy Council for Trade and Plantations, joint paymaster of his Majesty's forces, and a member of the Imperial Parliament; Henry Goulborn, Esq., a member of the Imperial Parliament, and under Secretary of State, and William Adams, Esq., doctor of civil laws; and the said plenipotentiaries having mutually produced and shown their said full powers, and exchanged copies of the same, have agreed on and concluded the following articles, *videlicet:*

ARTICLE 1. There shall be between the territories of the United States of America and all the territories of his Britannic Majesty in Europe a reciprocal liberty of commerce. The inhabitants of the two countries, respectively, shall have liberty freely and securely to come with their ships and cargoes to all such places, ports, and rivers, in the territories aforesaid, to which other foreigners are permitted to come, to enter into the same, and to remain and reside in any parts of the said territories, respectively; also, to hire and occupy houses and warehouses for the purposes of their commerce; and generally the merchants and traders of each nation, respectively, shall enjoy the most complete protection and security for their commerce, but subject always to the laws and statutes of the two countries, respectively.

ARTICLE 2. No higher or other duties shall be imposed on the importation into the United States of any articles the growth, produce, or manufacture of his Britannic Majesty's territories in Europe, and no higher or other duties shall be imposed on the importation into the territories of his Britannic Majesty in Europe of any articles the growth, produce, or manufactures of the United States, than are or shall be payable on the like articles being the growth, produce, or manufacture of any other foreign country; nor shall any higher or other duties or charges be imposed in either of the two countries on the exportation of any articles to the United States, or to his Britannic Majesty's territories in Europe, respectively, than such as are payable on the exportation of the like articles to any other foreign country; nor shall any prohibition be imposed on the exportation or importation of any articles the growth, produce, or manufacture of the United States, or of his Britannic Majesty's territories in Europe, to or from the said territories of his Britannic Majesty in Europe, or to or from the said United States, which shall not equally extend to all other nations.

No higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels than those payable in the same ports by vessels of the United States; nor in the ports of any of his Britannic Majesty's territories in Europe on the vessels of the United States than shall be payable in the same ports on British vessels.

The same duties shall be paid on the importation into the United States of any articles the growth, produce, or manufacture of his Britannic Majesty's territories in Europe, whether such importation shall be in vessels of the United States or in British vessels; and the same duties shall be paid on the importation into the ports of any of his Britannic Majesty's territories in Europe of any article the growth, produce, or manufacture of the United States, whether such importation shall be in British vessels or in vessels of the United States.

The same duties shall be paid, and the same bounties allowed on the exportation of any articles the growth, produce, or manufacture of his Britannic Majesty's territories in Europe to the United States, whether such exportation shall be in vessels of the United States or in British vessels; and the same duties shall be paid, and the same bounties allowed on the exportation of any articles the growth, produce, or manufacture of the United States to his Britannic Majesty's territories in Europe, whether such exportation shall be in British vessels or in vessels of the United States.

It is further agreed that in all cases where drawbacks are or may be allowed upon the re-exportation of any goods the growth, produce, or manufacture of either country, respectively, the amount of the said drawbacks shall be the same, whether the said goods shall have heen originally imported in a British or American vessel; but when such re-exportation shall take place from the United States in a British vessel, or from the territories of his Britannic Majesty in Europe, in an American vessel, to any other foreign nation, the two contracting parties reserve to themselves, respectively, the right of regulating or diminishing, in such case, the amount of the said drawback.

The intercourse between the United States and his Britannic Majesty's possessions in the West Indies and on the continent of North America shall not be affected by any of the provisions of this article, but each party shall remain in the complete possession of his rights with respect to such an intercourse.

ARTICLE 3. His Britannic Majesty agrees that the vessels of the United States of America shall be admitted and hospitably received at the principal settlements of the British dominions in the East Indies, videlicet: Calcutta, Madras, Bombay, and Prince of Wales island; and that the citizens of the said United States may freely carry on trade between the said principal settlements and the said United States in all articles of which the importation and exportation, respectively, to and from the said territories, shall not be entirely prohibited; provided only, that it shall not be lawful for them, in any time of war between the British Government and any State or Power whatever, to export from the said territories, without the special permission of the British Government, any military stores, or naval stores, or rice. The citizens of the United States shall pay for their vessels, when admitted, no higher or other duty or charge than shall be payable on the vessels of the most favored European nations, and they shall pay no higher or other duties or charges on the importation or exportation of the cargoes of the said vessels than shall be payable on the same articles when imported or exported in the vessels of the most favored European nations.

But it is expressly agreed that the vessels of the United States shall not carry any articles from the said principal settlements to any port or place, except to some port or place in the United States of America where the same shall be unladen.

It is also understood that the permission granted by this article is not to extend to allow the vessels of the United States to carry on any part of the coasting trade of the said British territories; but the vessels of the United States having, in the first instance, proceeded to one of the said principal settlements of the British dominions in the East Indies, and then going with their original cargoes, or part thereof, from one of the said principal settlements to another, shall not be considered as carrying on the coasting trade. The vessels of the United States may also touch for refreshment, but not for commerce, in the course of their voyage to or from the British territories in India, or to or from the Emperor of China, at the Cape of Good Hope, the island of St. Helena, or such other places as may be in the possession of

Great Britain, in the African or Indian seas; it being well understood that, in all that regards this article, the citizens of the United States shall be subject, in all respects, to the laws and regulations of the British Government from time to time established.

ARTICLE 4. It shall be free for each of the two contracting parties, respectively, to appoint consuls for the protection of trade, to reside in the dominions and territories of the other party; but before any consul shall act as such, he shall, in the usual form, be approved and admitted by the Government to which he is sent; and it is hereby declared that, in case of illegal or improper conduct towards the laws or Government of the country to which he is sent, such consul may either be punished according to law, if the laws will reach the case, or be sent back, the offended Government assigning to the other the reasons for the same.

It is hereby declared that either of the contracting parties may except from the residence of consuls such particular places as such party shall judge fit to be so excepted.

ARTICLE 5. This convention, when the same shall be duly ratified by the President of the United States, by and with the advice and consent of the Senate, and by his Britannic Majesty, and the respective ratifications mutually exchanged, shall be binding and obligatory on the said United States and his Majesty for four years from the date of its signature; and the ratifications shall be exchanged in six months from this time, or sooner, if possible.

Done at London, this third day of July, in the year of our Lord one thousand eight hundred and fifteen.

JOHN QUINCY ADAMS. [L. S.]
H. CLAY. [L. S.]
ALBERT GALLATIN. [L. S.]
FREDERICK JOHN ROBINSON. [L. S.]
HENRY GOULDBURN. [L. S.]
WILLIAM ADAMS. [L. S.]

DECLARATION.

The undersigned, his Britannic Majesty's Chargé d'Affaires in the United States of America, is commanded by his Royal Highness the Prince Regent, acting in the name and on the behalf of his Majesty, to explain and declare, upon the exchange of the ratifications of the convention concluded at London on the third of July of the present year, for regulating the commerce and navigation between the two countries, that, in consequence of events which have happened in Europe, subsequent to the signature of the convention aforesaid, it has been deemed expedient, and determined, in conjunction with the allied Sovereigns, that St. Helena shall be the place allotted for the future residence of General Napoleon Bonaparte, under such regulations as may be necessary for the perfect security of his person; and it has been resolved, for that purpose, that all ships and vessels whatever, as well British ships and vessels as others, excepting only ships belonging to the East India Company, shall be excluded from all communication with, or approach to, that island.

It has therefore become impossible to comply with so much of the third article of the treaty as relates to the liberty of touching for refreshment at the island of St. Helena, and the ratifications of the said treaty will be exchanged under the explicit declaration and understanding that the vessels of the United States cannot be allowed to touch at or hold any communication whatever with the said island so long as the said island shall continue to be the place of residence of the said Napoleon Bonaparte.

ANTHONY ST. JNO. BAKER.

WASHINGTON, *November* 24, 1815.

CONVENTION BETWEEN THE UNITED STATES AND GREAT BRITAIN RELATIVE TO THE NORTHWESTERN BOUNDARY.

The United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland, being equally desirous to prevent, as far as possible, all hazard of misunderstanding between the two nations, with respect to the territory on the Northwest Coast of America, west of the Stony or Rocky mountains, after the expiration of the third article of the convention concluded between them on the 20th of October, 1818; and also with a view to give further time for maturing measures which shall have for their object a more definite settlement of the claims of each party to the said territory, have, respectively, named their plenipotentiaries to treat and agree concerning a temporary renewal of the said article, that is to say:

The President of the United States of America, Albert Gallatin their Envoy Extraordinary and Minister Plenipotentiary to his Britannic Majesty;

And his Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honorable Charles Grant, a member of his said Majesty's most honorable Privy Council, a member of Parliament, and Vice President of the Committee of Privy Council for Affairs of Trade and Foreign Plantations; and Henry Unwin Addington, Esq.:

Who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon and concluded the following articles:

ARTICLE 1. All the provisions of the third article of the convention concluded between the United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland on the 20th of October, 1818, shall be, and they are hereby, further indefinitely extended and continued in force, in the same manner as if all the provisions of the said article were herein specifically recited.

ARTICLE 2. It shall be competent, however, to either of the contracting parties, in case either should think fit, at any time after the 20th of October, 1828, on giving due notice of twelve months to the other contracting party, to annul and abrogate this convention; and it shall, in such case, be accordingly entirely annulled and abrogated after the expiration of the said term of notice.

ARTICLE 3. Nothing contained in this convention, or in the third article of the convention of the 20th of October, 1818, hereby continued in force, shall be construed to impair or in any manner affect the claims which either of the contracting parties may have to any part of the country westward of the Stony or Rocky mountains.

ARTICLE 4. The present convention shall be ratified, and the ratifications shall be exchanged in nine months, or sooner, if possible.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at London, the sixth day of August, in the year of our Lord one thousand eight hundred and twenty-seven.

ALBERT GALLATIN. [L. S.]
CHARLES GRANT. [L. S.]
HENRY UNWIN ADDINGTON. [L. S.]

The following is the convention above referred to:

CONVENTION WITH GREAT BRITAIN.

The United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland, desirous to cement the good understanding which happily subsists between them, have, for that purpose, named their respective plenipotentiaries, that is to say: The President of the United States, on his part, has appointed Albert Gallatin their Envoy Extraordinary and Minister Plenipotentiary to the Court of France, and Richard Rush their Envoy Extraordinary and Minister Plenipotentiary to the Court of his Britannic Majesty; and his Majesty has appointed the Right Honorable Frederick John Robinson, Treasurer of his Majesty's Navy, and President of the Committee of Privy Council for Trade and Plantations, and Henry Goulbourn, Esq., one of his Majesty's under Secretaries of State: who, after having exchanged their respective full powers, found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE 1. Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbors and creeks of his Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have, forever, in common with the subjects of his Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon islands, on the shores of the Magdalen islands, and also on the coasts, bays, harbors and creeks, from Mount Joly, on the southern coast of Labrador, to and through the Straits of Bellisle, and thence northwardly indefinitely along the coast, without prejudice, however, to any of the exclusive rights of the Hudson Bay Company; and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbors and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce, forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks or harbors of his Britannic Majesty's dominions in America not included within the above-mentioned limits: Provided, however, that the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever; but they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

ARTICLE 2. It is agreed that a line drawn from the most northwestern point of the Lake of the Woods, along the forty-ninth parallel of north latitude, or if the said point shall not be in the forty-ninth parallel of north latitude, then that a line drawn from the point due north or south, as the case may be, until the said line shall intersect the said parallel of north latitude; and from the point of such intersection due west along and with the said parallel shall be the line of demarcation between the territories of the United States and those of his Britannic Majesty, and that the said line shall form the northern boundary of the said territories of the United States, and the southern boundary of the territories of his Britannic Majesty, from the Lake of the Woods to the Stony mountains.

ARTICLE 3. It is agreed that any country that may be claimed by either party on the Northwest Coast of America, westward of the Stony mountains, shall, together with its harbors, bays and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from the date of the signature of the present convention, to the vessels, citizens and subjects of the two Powers; it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of the said country, nor shall it be taken to affect the claims of any other Power or State to any part of the said country; the only object of the high contracting parties, in that respect, being to prevent disputes and differences amongst themselves.

ARTICLE 4. All the provisions of the convention "to regulate the commerce between the territories of the United States and of his Britannic Majesty," concluded at London on the third day of July, in the year of our Lord one thousand eight hundred and fifteen, with the exception of the clause which limited its duration to four years, and excepting also, so far as the same was affected by the declaration of his Majesty respecting the island of St. Helena, are hereby extended and continued in force for the term of ten years from the date of the signature of the present convention, in the same manner as if all the provisions of the said convention were herein specially recited.

ARTICLE 5. Whereas it was agreed by the first article of the treaty of Ghent that "all territory, places and possessions whatsoever, taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery or other public property originally captured in said forts or places which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property;" and whereas, under the aforesaid article, the United States claim for their citizens, and as their private property, the restitution of, or full compensation for, all

slaves who, at the date of the exchange of the ratifications of the said treaty, were in any territory, places or possessions whatsoever, directed by the said treaty to be restored to the United States, but then still occupied by the British forces, whether such slaves were at the date aforesaid on shore, or on board any British vessel lying in waters within the territory or jurisdiction of the United States; and whereas differences have arisen whether, by the true intent and meaning of the aforesaid article of the treaty of Ghent, the United States are entitled to the restoration of, or full compensation for, all or any slaves as above described, the high contracting parties hereby agree to refer the said differences to some friendly Sovereign or State to be named for that purpose; and the high contracting parties further engage to consider the decision of such friendly Sovereign or State to be final and conclusive on all the matters referred.

ARTICLE 6. This convention, when the same shall have been duly ratified by the President of the United States, by and with the advice and consent of their Senate, and by his Britannic Majesty, and the respective ratifications mutually exchanged, shall be binding and obligatory on the said United States and on his Majesty; and the ratifications shall be exchanged in six months from this date, or sooner, if possible.

In witness whereof, the respective plenipotentiaries have signed the same, and have hereunto affixed the seal of their arms.

Done at London, this twentieth day of October, in the year of our Lord one thousand eight hundred and eighteen.

ALBERT GALLATIN. [L. S.]
RICHARD RUSH. [L. S.]
FREDERICK JOHN ROBINSON. [L. S.]
HENRY GOULBOURN. [L. S.]

CONVENTION BETWEEN THE UNITED STATES AND GREAT BRITAIN RELATIVE TO THE NORTHEASTERN BOUNDARY.

Whereas it is provided by the fifth article of the treaty of Ghent that, in case the Commissioners appointed under that article, for the settlement of the boundary line therein described, should not be able to agree upon such boundary line, the report or reports of those Commissioners, stating the points on which they have differed, should be submitted to some friendly Sovereign or State, and that the decision given by such Sovereign or State on such points of difference should be considered by the contracting parties as final and conclusive: That case having now arisen, and it having, therefore, become expedient to proceed to and regulate the reference as above described, the United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland have, for that purpose, named their plenipotentiaries, that is to say: The President of the United States has appointed Albert Gallatin, their Envoy Extraordinary and Minister Plenipotentiary at the Court of his Britannic Majesty; and his said Majesty, on his part, has appointed the Right Honorable Charles Grant, a member of Parliament, a member of his said Majesty's most honorable Privy Council, and President of the Committee of the Privy Council for Affairs of Trade and Foreign Plantations, and Henry Unwin Addington, Esq.: who, after having exchanged their respective full powers, found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE 1. It is agreed that the points of difference which have arisen in the settlements of the boundary between the American and British domains, as described in the 5th article of the treaty of Ghent, shall be referred, as therein provided, to some friendly Sovereign or State, who shall be invited to investigate and make a decision upon such points of difference.

The two contracting Powers engage to proceed in concert to the choice of such friendly Sovereign or State as soon as the ratifications of this convention shall have been exchanged, and to use their best endeavors to obtain a decision, if practicable, within two years after the arbiter shall have signified his consent to act as such.

ARTICLE 2. The reports and documents thereunto annexed of the Commissioners appointed to carry into execution the 5th article of the treaty of Ghent being so voluminous and complicated as to render it improbable that any Sovereign or State should be willing or able to undertake the office of investigating and arbitrating upon them, it is hereby agreed to substitute for those reports new and separate statements of the respective cases, severally drawn up by each of the contracting parties in such form and terms as each may think fit.

The said statements, when prepared, shall be mutually communicated to each other by the contracting parties, that is to say: by the United States to his Britannic Majesty's Minister or Chargé d'Affaires at Washington, and by Great Britain to the Minister or Chargé d'Affaires of the United States at London, within fifteen months after the exchange of the ratifications of the present convention.

After such communication shall have taken place, each party shall have the power of drawing up a second and definitive statement, if it thinks fit so to do, in reply to the statement of the other party, so communicated; which definitive statement shall also be mutually communicated, in the same manner as aforesaid, to each other, by the contracting parties, within twenty-one months after the exchange of ratifications of the present convention.

ARTICLE 3. Each of the contracting parties shall, within nine months after the exchange of ratifications of this convention, communicate to the other, in the same manner as aforesaid, all the evidence intended to be brought in support of its claim, beyond that which is contained in the reports of the Commissioners, or papers thereunto annexed, and other written documents laid before the commission under the 5th article of the treaty of Ghent.

Each of the contracting parties shall be bound, on the application of the other party, made within six months after the exchange of the ratifications of this convention, to give authentic copies of such individually specified acts of a public nature, relating to the territory in question, intended to be laid as evidence before the arbiter, as have been issued under the authority, or are in the exclusive possession, of each party.

No maps, surveys, or topographical evidence of any description, shall be adduced by either party

beyond that which is hereinafter stipulated, nor shall any fresh evidence of any description be adduced or adverted to by either party, other than that mutually communicated or applied for as aforesaid.

Each party shall have full power to incorporate in or annex to either its first or second statement any portion of the reports of the Commissioners, of papers thereunto annexed, and other written documents, laid before the commission under the 5th article of the treaty of Ghent, or of the other evidence mutually communicated or applied for as above provided, which it may think fit.

ARTICLE 4. The map called Mitchell's map, by which the framers of the treaty of 1783 are acknowledged to have regulated their joint and official proceedings, and the map A, which has been agreed on by the contracting parties, as a delineation of the water courses, and of the boundary lines in reference to the said water courses, as contended for by each party respectively, and which has accordingly been signed by the above named plenipotentiaries at the same time with this convention, shall be annexed to the statements of the contracting parties, and be the only maps that shall be considered as evidence mutually acknowledged by the contracting parties of the topography of the country.

It shall, however, be lawful for either party to annex to its respective first statement, for the purposes of general illustration, any of the maps, surveys, or topographical delineations, which were filed with the Commissioners under the 5th article of the treaty of Ghent, any engraved map heretofore published, and also a transcript of the above mentioned map A, or of a section thereof, in which transcript each party may lay down the highlands, or other features of the country, as it shall think fit; the water courses and the boundary lines, as claimed by each party, remaining as laid down in the said map A.

But this transcript, as well as the other maps, surveys, and topographical delineations, other than the map A, and Mitchell's map, intended to be thus annexed, by either party, to the respective statements, shall be communicated to the other party, in the same manner as aforesaid, within nine months after the exchange of the ratifications of this convention, and shall be subject to such objections and observations as the other contracting party may deem it expedient to make thereto, and shall annex to his first statement, either in the margin of such transcript, map, or maps, or otherwise.

ARTICLE 5. All the statements, papers, maps, and documents above mentioned, and which shall have been mutually communicated as aforesaid, shall, without any addition, subtraction, or alteration whatsoever, be jointly and simultaneously delivered in to the arbitrating Sovereign or State, within two years after the exchange of ratifications of this convention, unless the arbiter should not, within that time, have consented to act as such; in which case, all the said statements, papers, maps, and documents shall be laid before him within six months after the time when he shall have consented so to act. No other statements, papers, maps, and documents shall ever be laid before the arbiter except as hereinafter provided.

ARTICLE 6. In order to facilitate the attainment of a just and sound decision on the part of the arbiter, it is agreed that, in case the said arbiter should desire further elucidation or evidence in regard to any specific point contained in any of the said statements submitted to him, the requisition for such elucidation or evidence shall be simultaneously made to both parties, who shall thereupon be permitted to bring further evidence, if required, and to make, each, a written reply to the specific questions submitted by the said arbiter, but no further; and such evidence and replies shall be immediately communicated by each party to the other.

And in case the arbiter should find the topographical evidence laid as aforesaid before him insufficient for the purposes of a sound and just decision, he shall have the power of ordering additional surveys to be made of any portions of the disputed boundary line or territory as he may think fit; which surveys shall be made at the joint expense of the contracting parties, and be considered as conclusive by them.

ARTICLE 7. The decision of the arbiter, when given, shall be taken as final and conclusive, and it shall be carried, without reserve, into immediate effect by Commissioners appointed for that purpose by the contracting parties.

ARTICLE 8. This convention shall be ratified, and the ratifications shall be exchanged in nine months from the date hereof, or sooner, if possible.

In witness whereof, we, the respective plenipotentiaries, have signed the same, and have affixed thereto the seals of our arms.

Done at London, the twenty-ninth day of September, in the year of our Lord one thousand eight hundred and twenty-seven.

ALBERT GALLATIN. [SEAL.]
CHARLES GRANT. [SEAL.]
HENRY UNWIN ADDINGTON. [SEAL.]

Extract of a letter from Henry Clay, Secretary of State, to Albert Gallatin, Envoy Extraordinary and Minister Plenipotentiary to Great Britain.

JUNE 19, 1826.

"2. The establishment of a boundary between the territories of the two parties beyond the Rocky mountains and on the Northwest Coast of America.

"It is not thought necessary to add much to the argument advanced on this point in the instructions given to Mr. Rush, (a copy of which is herewith communicated,) and that which was employed by him, in the course of his negotiation, to support our title as derived from prior discovery and settlement at the mouth of the Columbia, and from the treaty with Spain concluded on the 22d of February, 1819. That argument is believed to have conclusively established our title on both grounds. Nor is it conceived that Great Britain has, or can make out, even a colorable title to any portion of the Northwest Coast. If she had any claim prior to the treaty of 1763, it was renounced by that treaty, according to which the Mississippi was fixed as the western limit of her territories on this continent. If she acquired any title subsequent to that epoch, we have yet to learn how and by what means it was obtained. The settlement at Nootka Sound, in 1788, cannot be admitted to have conferred any; but if it did, that settlement was north of the line to which we are now willing to agree. By the renunciation and transfer contained in the treaty with Spain of 1819, our right extended to the 60th degree of north latitude. By our treaty with Russia of April, 1824, it has been agreed to limit it to the 54th degree. By agreeing to our proposal to adopt the parallel of 49, which is conceived in a genuine spirit of concession and conciliation, and under the operation of the Russian treaty Great Britain will acquire what she had not before, or, at least, what was

open to much controversy, a clear title to an extent of five degrees of latitude fronting on the Pacific, which is but little short of that which will appertain to the United States. It was stated by the British plenipotentiaries to Mr. Rush that the surrender to the United States of the post at the mouth of the Columbia river was in fulfilment of the stipulations of the first article of the treaty of Ghent, without affecting questions of right on either side. It is most true that the restoration was in conformity to that article, but there is nothing in the terms of the article which implies any reservation of right on the part of Great Britain. And does not the stipulation itself, in virtue of which she was bound to restore it, demonstrate that at the date of that treaty she had no pretensions to the mouth of the Columbia? If she then had any claim, would she have contracted to restore the possession unconditionally and without even the formality of a reservation of her right? The course which was adopted in regard to another territorial possession claimed by both parties was very different. She had reduced by her arms Moose island, in the bay of Passamaquoddy, as well as the post at Columbia. She refused to restore Moose island, on the ground of the title which she set up to it as being included within the limits of Nova Scotia, and the respective titles of both parties were agreed to be referred to a Board of Commissioners. Now if, with respect to two possessions taken by her arms during the war, she agreed to restore one unconditionally, and insisted upon retaining the occupancy of the other as belonging to her, is not the inference irresistible that her present claim to that which was so restored did not then exist, but has been subsequently gotten up?

"It is true that the third article of the convention of 1818 recognizes that Great Britain *then* had claims on the Northwest Coast, but it neither defines nor settles them, nor specifies when they had their origin. The same article contains an express declaration that it is not to affect the claims of any other power. Now it having been shown that the title of Spain extended to the 60th degree of north latitude, that must have been one of those which were particularly in the contemplation of the parties to the above convention of 1818. And we have already seen that, subsequent to that period, the United States acquired from Spain all her territorial rights on the Northwest Coast north of the parallel of 42, as far as they extended, and consequently up to 60. As by the convention of 1818 the 49th parallel of north latitude has been agreed to be the line of boundary between the territories of the United States and Great Britain, east of the Stony mountains, there would seem to arise, from that stipulation, a strong consideration for the extension of the line along the same parallel, west of them, to the Pacific Ocean. In bringing themselves to consent to this boundary the Government of the United States feel that they are animated by a spirit of concession and compromise which, they persuade themselves, that of Great Britain cannot but recognize, and ought not to hesitate in reciprocating. You are then authorized to propose the annulment of the third article of the convention of 1818, and the extension of the line on the parallel of 49 from the eastern side of the Stony mountains, where it now terminates, to the Pacific Ocean, as the permanent boundary between the territories of the two Powers in that quarter. This is our ultimatum, and you may so announce it. We can consent to no other line more favorable to Great Britain. You are authorized further to agree that, if the above line shall pass any of the branches of the Columbia river which are navigable from where it intersects them to the ocean, British subjects shall not be disturbed in the right freely to navigate such branches and the Columbia itself to the ocean, in common with the citizens of the United States. That, in the meantime, until the line is actually traced and marked out, this right of navigation shall be so enjoyed in common; that the contracting parties will adopt measures in concert to have the line marked within the next ensuing term of fifteen years; and that if, upon the experiment being made, the branches of the Columbia are not navigable by boats from where the line passes them to the Columbia, the British right to navigate them shall cease. If the British plenipotentiaries should insist upon British subjects, who may have made any settlements or establishments south of 49, being allowed time for removal, you may agree to the term of five years for that purpose; making the stipulation reciprocal, so as to comprehend American settlements or establishments, if there be any, north of that parallel. And you will further propose, as a regulation which is deemed by the Government of the United States to be material in preventing collisions, that the citizens and subjects of the two parties shall, in trading with the natives and in the pursuit of game and fur, be restricted to the sides of the line, agreed upon, of their respective countries. It would be competent for each Government, after the fixation of the line, by its separate legislation, to exclude foreigners; but it is better that notice of such exclusion, to all persons concerned, should be at once promulgated in the body of the treaty itself.

"The third and fourth articles of the convention of the 20th day of October, 1818, negotiated by you and Mr. Rush, are limited, respectively, to a period of ten years from that date. As the term will now soon run out, it is necessary for the parties to consider whether those articles shall be allowed to expire, or be continued with or without modifications. The third article relates to the territories claimed by the contracting parties on the Northwest Coast of America, westward of the Stony mountains, and provides, among other things, that they shall be free and open, for the above mentioned term, to the vessels, citizens, and subjects of the two Powers. If you should be able, according to the instructions herein previously given, to agree with the British Government on a boundary between the territories of the two parties, that article may be rescinded, or left to expire by the lapse of time. If you should be unable to come to any such agreement, you may consent to that article remaining in force during another term of ten years. From a despatch just received from Mr. King, communicating a note from Mr. Canning, under date the 20th of April last, (copies of both are herewith,) the probability is strong that you will find no difficulty in arranging this question of boundary satisfactorily.

"The fourth article relates to the convention concluded at London on the 3d of July, 1815, and continues and extends it for the before mentioned term of ten years. You are authorized to agree to its further extension for another period of ten years; and, beyond the expiration of that time, until one party shall give to the other six calendar months' written notice of his desire to put an end to it, at the end of which time it shall altogether cease."

Mr. Canning to Mr. King.

FOREIGN OFFICE, *April* 20, 1826.

The undersigned, his Majesty's Principal Secretary of State for Foreign Affairs, has the honor to request Mr. Rufus King, Envoy Extraordinary and Minister Plenipotentiary of the United States, to have

the goodness to inform the undersigned whether Mr. King is provided with instructions for the resumption of the negotiations of last year, with respect to a settlement of boundaries upon the Northwest Coast of America? The undersigned is particularly induced to make this inquiry by having received from Mr. Vaughan a copy of the communication, lately addressed by the President of the United States to the House of Representatives, of that part of Mr. Rush's correspondence of last year which relates to this important subject.

The undersigned has to add that the British plenipotentiaries, Mr. Huskisson and Mr. Addington, are perfectly prepared to enter into conferences with Mr. King thereupon; and either to renew the proposal brought forward by Mr. Huskisson and Mr. Stratford Canning in their conference of the 13th of July, 1824, and unanswered, or to bring forward another; or to discuss any new proposal, on the same subject, which may be suggested on the part of the plenipotentiary of the United States. The undersigned has the honor to renew to Mr. Rufus King the assurance of his high consideration.

GEORGE CANNING.

RUFUS KING, Esq., *&c., &c., &c.*

No. 5.

Mr. Clay to Mr. Gallatin.

[Extract.]

DEPARTMENT OF STATE, *Washington, June* 23, 1826.

"Mr. Crook's information adds but little to what was previously possessed. If the land on the Northwest Coast, between the mouth of the Columbia river and the parallel of 49, be bad, and, therefore, we should lose but little in relinquishing it, the same consideration will apply to the British. The President cannot consent to vary the line proposed in your instructions; and I think when you come to examine them in connexion with the late note transmitted by Mr. King from Mr. Canning you will not think it necessary."

Extracts of a letter, No. 6, from Mr. Clay, Secretary of State, to Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary of the United States to Great Britain, dated

LEXINGTON, *August* 9, 1826.

"Your letter, under date at New York on the 29th of June last, having been duly received at the Department of State, and submitted to the President, was subsequently transmitted to me at this place, and I now have the honor to address you agreeably to his directions.

"He is very desirous of an amicable settlement of all the points of difference between Great Britain and the United States on just principles. Such a settlement alone would be satisfactory to the people of the United States, or would command the concurrence of their Senate. In stating in your instructions the terms on which the President was willing that the several questions pending between the two Governments might be arranged, he yielded as much to a spirit of concession as he thought he could consistently with the interests of this country. He is especially not now prepared to authorize any stipulations involving a cession of territory belonging to any State in the Union, or the abandonment, express or implied, of the right to navigate the St. Lawrence, or the surrender of any territory south of latitude forty-nine on the Northwest Coast. Adhering to these restrictions, the President would, in other respects, be willing that you should exercise more latitude in the conclusion of a treaty which you believe would be acceptable to the people of our country, and would obtain the constitutional sanction. Desirable as it is to arrange all matters of difference between the two countries, it is much better that they should remain unadjusted than be settled on terms disadvantageous to the United States, and which would therefore be unsatisfactory to the people and to other Departments of the Government. With these observations, the motive of which your candor will enable you justly to appreciate, I will now proceed more particularly to notice the several subjects of which your letter treats in the order in which they are there stated.

"II. The President cannot consent that the boundary between the territories of the two Powers on the Northwest Coast should be south of forty-nine. The British Government has not been committed by a positive rejection of a line on the parallel of forty-nine; but if it had been, its pride may take refuge in the offer which, for the first time, you are to propose, of a right in common with us to the navigation of the Columbia river. There is no objection to an extension of the time to be allowed to British settlers to remove from south of forty-nine to a period of fifteen years if you should find that it would facilitate an arrangement."

Extract of a letter, No. 18, from Mr. Clay, Secretary of State, to Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary of the United States to Great Britain, dated

FEBRUARY 24, 1827.

"Your despatches from No. 26 to 48, inclusive, have been received, together with the accompanying documents, and have been all laid before the President. And I shall now, under his direction, communicate to you such instructions as appear to be called for by the state of the pending negotiations between the United States and Great Britain with which you are charged. In doing this I shall take up the several subjects which require notice in the order in which they have been considered in the conferences which you have had with the British plenipotentiaries, beginning with—

"1st. The northwestern boundary.

"As there seems to be no prospect of an agreement at this time upon a permanent boundary which shall separate the territories of the two Powers beyond the Stony mountains, and as no utility is perceived in prolonging the discussions which have arisen on that subject, I shall abstain from any particular notice of the written statement annexed by the British plenipotentiaries to the protocol of the sixth conferences of the claims and views of Great Britain relative to that country. New and extraordinary as those claims and views strike us, they will, nevertheless, receive all the consideration which is due to the high respect which is sincerely felt for the Government of Great Britain, and to the official and deliberate exhibition which has been made of them. They certainly have not yet produced any conviction in the mind of the President of the validity of the pretensions brought forward, nor raised any doubts of the strength and solidity of our own title. I repeat what has been already stated in your general instructions, that the offer of a boundary on the parallel of 49° was made in a spirit of liberal concession, and notwithstanding our belief that our title might be satisfactorily made out much further north. Supposing Great Britain to have any well-founded claim, if there be, as there are believed to be, no other Powers than the United States and Great Britain who can assert rights of territorial sovereignty between 42° and 54° 40′, there can be no equitable division of the intermediate space, but an equal partition. Such an equal partition would assign about the parallel of 49° as the common boundary. The President regrets that the British plenipotentiaries have thought proper to decline the proposal which you made of that line; and I am charged by him to direct you to communicate the expression of this regret, and to declare that the American Government does not hold itself bound hereafter, in consequence of any proposal which it has heretofore made, to agree to the line which has been so proposed and rejected, but will consider itself at liberty to contend for the full extent of our just claims; which declaration you will have recorded in the protocol of one of your conferences. Such a protest you have already made, and had recorded in the protocol of the third conference; but it will give more weight to it to have it stated that it has been done by the express direction of the President.

"As you have not been able to conclude any agreement fixing a permanent boundary, it is preferred that there should be a simple renewal of the third article in the convention of 1818, without any other alteration than that which you proposed, of the omission of the clause respecting the claims of other Powers, and on that modification you will not insist if it be objected to.

"The second article in the projet presented by the British plenipotentiaries is inadmissible. So far as its tendency would be to prevent the United States from exercising acts of exclusive sovereignty at the mouth of the Columbia, it would be contrary to their rights, as acknowledged both in the treaty of Ghent and by the surrender of that place, made by the British Government in consequence of that treaty. It is also objectionable because it does not define, but leaves open to disputation, the acts which might be deemed the exercise of an exclusive sovereignty. And it has been properly observed by you that, from the nature of our institutions, our rights in that quarter must be protected and our citizens secured in their lawful pursuits by some species of government different from that which it has been or may be the pleasure of the British Government to establish. The form of territorial Government is that which is most approved by our experience; but such a Government might be considered incompatible with the second article if it were agreed to. If there be a simple renewal of the third article of the convention of 1818, Great Britain will have abundant security in the good faith of the United States for the fulfilment of all its stipulations; and you will therefore resist the adoption of the second article in the British projet, if it should even render you unable to come to any agreement for the renewal of the provision in the convention of 1818.

"With respect to the assignment of certain portions of the territory to each Power over which they may respectively exercise acts of exclusive sovereignty, leaving an intermediate debatable space, it does not appear probable that such an arrangement as would be satisfactory to both parties can be made. If, for example, we were to agree that such exclusive sovereignty might be exerted by the United States over all the territory, from the mouth of the Columbia south to the 42d parallel, and by Great Britain over all the territory from 49° to 54° 40′, the intermediate space between the Columbia and 49° being common to both parties, a larger extent of territory would be assigned to Great Britain than to the United States; and in the end that which was thus held in common would probably be equally divided between the two parties as the only equitable mode of separating it. Such a division would place the common boundary line south of the parallel of 49°, and would give us less territory on the Pacific than if we were at once to agree to an equal division of the entire space between 42° and 54° 40′. If, which is not likely, Great Britain would consent to the exercise of exclusive sovereignty on the part of the United States over the whole space, from the mouth of Columbia south to the 42d°, leaving the residue, from the mouth of the Columbia to 54° 40′, in common, as is provided for in the third article of the convention of 1818, we should be willing to agree to such a stipulation.

"In respect to the duration of the renewed provision, the President prefers that it should be fixed for the same term of ten years, which is limited in the convention of 1818. But if the article in regard to this subject should not be thrown into the shape of a separate convention, but should be inserted in the same convention which regulates our commercial intercourse with the British European possessions, you are then authorized to agree that the whole convention shall continue in force after the expiration of the term of ten years, and until one party shall have given to the other six months' written notice of his desire to put an end to the convention."

Mr. Gallatin to Mr. Clay.

No. 17.] LONDON, *October* 30, 1826.

SIR: I have to acknowledge the receipt of your despatch No. 6, dated the 5th of August last.

I beg leave to observe that, of the three general restrictions laid down by the President, it was only to the second, which relates to the territory west of the Stony mountains, that I had suggested a modification. It was not my intention, in case it had been approved, to have proposed it to the British Government. But it had appeared to me that it might be expected to come from them, as it was natural that they should wish to keep possession of the mouth of the river Caledonia, almost the whole course of which is north of the forty-ninth degree of latitude. And it had seemed to me at least questionable whether it was not more eligible to yield that point, in case an arrangement could not be concluded

without it, rather than to agree, as I am instructed, * * * * to a renewal of the agreement contained in the convention of 1818, which will leave to Great Britain for ten years longer, and consolidate their actual possession of the whole or nearly the whole territory in dispute. The President having, on due consideration, decided that suggestion to be inadmissible, I will of course use my best endeavors to carry his intentions into effect. But I consider it as consistent with the spirit of my instructions to agree, if required, that the British should be allowed the navigation of the river Caledonia to the sea, on the same principle on which the right of navigating the river Columbia is to be admitted.

I had understood from the beginning that no abandonment, express or implied, must be made of the right to navigate the St. Lawrence; and all my observations have been directed to the terms on which it might be practicable to make a temporary arrangement, founded on mutual convenience, but without abandoning or impairing the right. But this difficult subject will demand a serious investigation, and I reserve it for a distinct despatch, as intimated in my last.

I not only acquiesce but entirely concur in the President's opinion, that no stipulation involving a cession of territory belonging to any State in the Union ought, or indeed, perhaps, can be made without the consent of the State. A compromise founded on that assent cannot be concluded now, since the States concerned in the northeastern boundary have not been consulted; and, under those circumstances, the instructions allow me all the latitude that, in all probability, can be wanted. My first object will be, as heretofore stated, to try to clear up the subject from the difficulties and obscurity in which the proceedings of the commission have involved it, to make it more intelligible to the umpire, which I am satisfied will be highly advantageous to us. The next will be to transfer the negotiation to Washington, for the double purpose of either agreeing to a joint statement or of attempting a compromise. It will only be in case this Government should refuse thus to transfer the negotiation, and should agree to negotiate here, that I will assent to this course; and, in that case, new instructions on the subject of a compromise will be necessary.

It is extremely improbable that this Government should agree with us, not on a compromise, but on the true construction of the treaty. Even if they were satisfied that ours is correct, the pretensions of New Brunswick, the importance of obtaining a boundary that will connect that province with Canada, and public opinion, would prevent them from acceding to it, and induce them to try the chance of the arbitration. It is, nevertheless, the ground which I must take to open the negotiation here, in order to be able to clear the ground and to reduce the discussion, before the umpire, to some distinct and intelligible questions. The great probability is that we will not agree; and then the question of compromise will suggest itself, and I will try to have it referred to Washington. But there are some real difficulties on the true construction of the treaty, which render it proper that I should state what is my view of the subject. In doing it I will not enter into the argument, but only give the result of my investigation.

There are three principal points which are controverted: 1. The boundary of Maine. 2. The designation of the northwesternmost head of the Connecticut river. 3. The northern boundary of Vermont and New York, from that river to the St. Lawrence.

I think that, strictly speaking, the northwesternmost head of Connecticut river is that source of the said river from which a line extending northeast on one hand and southwest on the other, (that is to say, a line perpendicular to the northwest course,) shall not cross any branch or stream whatever that empties into the said river. But I am not prepared to say that there may not be collateral arguments, which would prove that some other source and branch of the river might be established consistent with the treaty. This, however, which is the only question that affects New Hampshire, and affects only that State, is the least important of the three, and might probably be arranged if the two Governments could agree on the two other points.

The boundary of Maine depends principally, if not altogether, on the spot which shall be considered as the northwest corner of Nova Scotia: in other words, on the place at which the line, running directly north from the source of the river St. Croix, must stop, and the line thence extend along the dividing highlands to the source of Connecticut river. Supposing all the other arguments of the British Commissioner to be abandoned, and our construction of the treaty, that the river St. John's empties into the Atlantic Ocean, to be adopted, there still remains a difficulty, arising from a want of knowledge of the geography of the country when the treaty of 1783 was concluded. It was not then known that the headwaters of the rivers Ristigouche and Matapediac, which empty into the Bay des Chaleurs, or into some other inlet of the *Gulf* of St. Lawrence, penetrated so far inland, or westward, as that the abovementioned line, running north from the source of the river St. Croix, must cross those headwaters. This, indeed, might have been suspected, from a narrow inspection of Mitchell's map, which is, however, confused in that respect. But an unfortunate expression was substituted, in the article drawn by the old Congress and adopted in the treaty, to the designation theretofore used in the public acts of the British Government. This was the insertion of the words "Atlantic Ocean," instead of the word "sea." And now, on account of the aforesaid north line crossing the headwaters of rivers emptying into the *Gulf* St. Lawrence, not a single point can be found on the said line that, according to the words of the treaty, is on the highlands (or, as we are used to express it in America, on the dividing ridge) which divide the rivers which fall into the Atlantic Ocean from those which fall into the river St. Lawrence. For, rejecting altogether the British pretension of stopping at Mars Hill, south of the St. John's, and adopting our own construction that the river St. John's falls into the Atlantic Ocean, the line, after crossing the said river, reaches, at the distance of about one hundred miles north from the source of the St. Croix, the highland or ridge which divides the waters which fall into the Atlantic Ocean from those which fall into the *Gulf* St. Lawrence; and the said line, after crossing the headwaters of the last mentioned river or rivers, reaches, at the distance of about one hundred and forty-five miles north from the source of the St. Croix, the highland or ridge, (which we claim as that designated by the treaty,) and which divides the waters which fall into the *Gulf* St. Lawrence from those which fall into the *river* St. Lawrence. The Gulf St. Lawrence, not having been mentioned in the treaty, must, (unless the designation of this boundary by the treaty be considered as a nullity,) and may almost equally, be construed as meaning either the river St. Lawrence or the Atlantic Ocean. In the first case, the north line must stop at about one hundred miles from the source of the St. Croix; in the other case, which I think the most correct construction, the north line would extend as far as we claim—that is to say, about forty-five miles further north. In both cases we keep all the territory watered by the branches of the St. John's which lies west of the north line. The only difference between those two constructions consists in that tract of land of about 300,000 acres lying west of the north line, which is drained by waters emptying into the *Gulf* St. Lawrence. Both constructions are admissible and consistent with the spirit of the treaty of 1783, the letter of which it is impossible to fulfil. An

agreement, by which the north line would stop at one hundred miles from the source of the St. Croix, and the line would then run along the highlands which divide the waters emptying into the St. John's river and other rivers that fall into the Atlantic Ocean from the waters of the rivers which fall either into the Gulf of St. Lawrence or into the river St. Lawrence, would not only be advantageous, but, being in conformity with the treaty of 1783, may be concluded without consulting any State, since whatever right Massachusetts or Maine may have to that territory is derived from the treaty.

The forty-fifth degree of latitude, which is the boundary line from the river Connecticut to the river St. Lawrence, was considered as established by ancient surveys. But I have no doubt that that made jointly by the surveyors under the late commission must, in conformity with the treaty of Ghent, be confirmed. If we complain of its accuracy, and obtain a resurvey, we will only gain some delay; since, considering the skill of the persons employed, the coincidence of their observations, and the perfection of the instruments used, it is hardly possible that an error of more than one, and seems impossible that one of more than four seconds should have been made, which, in the last case, would make a difference of little more than four hundred feet. The claim derived from an undisputed possession of thirty-four years cannot, with propriety, be urged, since the treaty of Ghent, with a full knowledge of that possession, and without regard for it, provides expressly for a revision of that boundary; besides which, the principle of possession, if admitted, would operate against us to an indefinite extent, as relates to the boundary of Maine. Mr. Hassler's suggestion of claiming the geocentric instead of the observed latitude is altogether untenable. This correction is, indeed, indispensable in relation to certain astronomical observations, and has of late years been introduced even in the English Nautical Almanac. But it never has been, and, without a total subversion of the whole system of received geography, cannot be, admitted in pure geographical questions. There is not a single map or table of latitudes in which the parallels of latitude are not laid down according to the observed and not to the geocentric latitude. This last has never been resorted or heretofore been appealed to in the execution of any treaty; and the parallel of thirty-one degrees of latitude, which, before the acquisition of Louisiana and Florida, was the boundary line between the United States and the Spanish provinces, was actually surveyed and ascertained, by the mutual consent of both parties, and without any suggestion to the contrary, in conformity with the observed latitude.

You are at the same time aware that the forty-fifth parallel of latitude, as thus ascertained by the two surveyors under the late joint commission, is extremely disadvantageous to the United States, since this parallel has thereby been found to be about two miles south of the ancient line, leaving to Great Britain Rouse's Point, which commands the entrance of Lake Champlain, and the fortress which has been erected there at a considerable expense by the United States. This circumstance is, therefore, a strong, perhaps the strongest, argument in favor of an attempt to arrange the whole controversy by compromise. The British Government is as well aware as that of the United States of the weakness of the British claim as relates to the boundary of Maine, and of the hold the newly-discovered situation of the forty-fifth parallel of latitude gives them against us. And I have no doubt that, when alluding, in the negotiation of the year 1824, to a liberal proposal they were disposed to make, the British Commissioners intended to offer to confirm the ancient boundary, in whole or in part, from the river Connecticut to the river St. Lawrence, as a part of the compensation to be made to the United States for agreeing to such boundary of Maine as would answer the views of Great Britain. But what thus constitutes one of the strongest inducements for a compromise is also one of the greatest obstacles to it. However advantageous an arrangement on that basis might be deemed to the United States, the State of Maine will, undoubtedly, object to a cession of their territory for the benefit either of other States or of the Union at large. Yet it seems necessary that, when that State is consulted on the propriety of a compromise, this important consideration should be kept in view, and not be concealed from them. It is in that view of the subject that it may become proper to remind the State that they can produce no charter, no grant prior to the treaty of 1783, of the territory east of Kennebec river and north of forty-five degrees of latitude; at least, that no such charter or grant has come within the knowledge of the Government of the United States; that any claim the States of Massachusetts or Maine may have on that territory is derived from that treaty; that, in fact, that territory, if not previously included within the boundaries of the State of Massachusetts, was an acquisition made by that treaty, and became thereby, not the property and part of that State, but the joint property and territory of the United States. I am aware that this fact, at least I think it to be an incontestable fact, must be resorted to with caution, and I certainly never will advert to it here, since a plausible though only specious argument might be drawn from it against us in our controversy on the main question with Great Britain.

Permit me to add an observation on the subject of compromise. Agents had been appointed by the States of Massachusetts and Maine, whose operations have since been suspended at the request of the General Government, for purposes connected with the rights of sovereignty and soil of these States to the disputed territory. It would seem, from certain proceedings of the Legislature of New Brunswick, that some of those agents, besides performing their duties, suggested that an amicable arrangement of the boundary might take place by making the river St. John's the line of division. This suggestion appears to me incautious, and I think that the States ought to be put on their guard on that subject. It must not be forgotten that the chance of an arrangement by compromise is extremely uncertain, and the necessity of resorting to the arbitration very probable. An umpire, whether he be a King or a farmer, rarely decides on strict principles of law: he has always a bias to try if possible to split the difference, and, with that bias, he is very apt to consider any previous proposal from either party as a concession that his title was defective, and as justifying a decision on his part that will not displease too much either party, instead of one founded on a strict investigation of the title. It seems, indeed, that in any negotiation which may take place for a compromise, any proposition on our part inconsistent with our construction of the treaty, and which would not secure to us all the waters that empty into the St. John's west of the line running north from the source of the St. Croix, would be dangerous. If such proposal, deemed on the whole better than to run the chance of an arbitration, comes from Great Britain, it may then, but, I think, not till then, be taken into consideration.

I have, in my last despatch, communicated all that has as yet occurred to me in relation to the colonial intercourse. Whether the subjects embraced by the proposals of the British Commissioners to Mr. Rush at their twenty-second conference will be taken into consideration at this time depends on the course the negotiation may take. I would feel inclined to make them the subject of a distinct convention, not on account of the reluctance I naturally feel to be the instrument of their being agreed to without other objects being provided for at the same time, but because, whilst I allow that you are a much better judge

than I can be of the present state of public opinion, I still feel an apprehension that, if included in a convention for other important objects, they might endanger the whole, and perhaps prevent a ratification.

I omitted to say in the first part of this letter that there was no difficulty, so far as *argument* was concerned, in supporting the claim of the United States against Great Britain to the whole territory west of the Stony mountains which lies south of the forty-ninth degree of latitude. But it was, I believe, unfortunate to have made the arrangement with Russia before we had concluded one with Great Britain.

In speaking of the several branches of Connecticut river which might be considered as embraced by the designation made in the treaty, I alluded to the inferences which might be drawn from the magnitude or acknowledged name of any particular branch, or from the fact of its having been the acknowledged boundary between the States of Vermont and New Hampshire. The observations I made respecting the want of title on the part of Massachusetts to the disputed territory are equally applicable to New Hampshire, whose charter did not extend north of the forty-fifth degree of latitude.

I have the honor to be, with great respect, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State, Washington.*

Mr. Gallatin to Mr. Clay.

No. 20.] LONDON, *November* 7, 1826.

SIR: I alluded in my letter of the 30th ultimo to the defective title of the State of Maine to a portion of their territory. I wrote from recollection, and find that I was under a mistake. The part of the State to which my observation applied is the northern part of the territory *west* of the Kennebec river, which is not disputed by Great Britain, and not that part which lies *east* of the Kennebec, and which embraces the whole territory in controversy with Great Britain. For particulars I beg leave to refer to the grant of the ancient Maine territory to Gorges, which was the foundation of the claim of Massachusetts to it, and to the charter of 1691 of Massachusetts, by which *that* Maine territory (viz: west of Kennebec) is annexed to that then province, as well as the territory between said Maine and Nova Scotia (viz: between Kennebec and the river St. Croix) and Nova Scotia itself. The act by which this last province was finally erected into a distinct regal government may affect the general question if it fixes any boundaries. It must bear date some time after the treaty of Utrecht; but I have not been able to procure it.

My observation was correct as related to the State of New Hampshire. No part of the territory controverted in that quarter with Great Britain, and the question respecting which depends on the ascertainment of the northwest source of the river Connecticut, is within the chartered boundaries of that State, inasmuch as it lies north of the 45th degree of latitude.

I have the honor to be, respectfully, sir, your most obedient and humble servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State, Washington.*

Mr. Gallatin to Mr. Clay.

No. 26.] LONDON, *November* 16, 1826.

SIR: The pending negotiation, and the researches they render necessary, do not permit me to communicate more than a brief account of what it seems most important that you should know without delay.

The negotiations on the subject of the convention signed on the 13th instant had been conducted in presence of Mr. Canning, and rather with him than with the British plenipotentiaries. Yesterday, 15th, the first regular conference was held with these alone, when we agreed to take up, in the first place, the subject of the territorial claims west of the Stony mountains. The British plenipotentiaries stated that the last proposal having come from Great Britain, and being one of those which, at the close of the negotiation, (of 1824,) had been referred to Washington, they now expected our answer to that proposal, and that, if not acceded to, I would make any new one I might be authorized to offer. I answered that, without reference to any point of form, I was prepared to say that my Government could not agree to the boundary line proposed by Great Britain, but that, whilst insisting on the 49th parallel of latitude, I was authorized to modify Mr. Rush's proposal by the addition of a condition calculated to remove the most important objection of Great Britain to the line we had proposed; and I accordingly offered the article, of which a copy is enclosed, and which has been taken for consideration till our next meeting. This, on account of the opening of Parliament, has been appointed for the 22d instant.

I had but little to add to the arguments used by Mr. Rush in support of the right of the United States to the territory in question. Mr. Baylies' report supplied me with additional arguments in opposition to the pretended discoveries of Ad. Drake north of 40° or 42° of north latitude. I pointed out the discovery of Gray's harbor, now improperly called "Whitby's," north of the Columbia river, by Captain Gray; referred to the line established in pursuance of the treaty of Utrecht, and made a short recapitulation of the whole. But what it imports you most to know is the ground on which, as far as I could understand it, Great Britain founds her pretensions.

As relates to discoveries, they refer to Meares and Dixon's voyages to prove that the prior right, as respects the Straits of Fuca or Gulf of Georgia, is incontestably theirs, several English vessels having entered them before Captain Gray did; and they also attempt to lessen his discoveries of Gray's harbor and of the mouth of Columbia river, by saying that Captain Meares had previously discovered and named Cape Shoalwater, south of Gray's harbor, Cape Disappointment, the northern entrance of Columbia river, and Deception bay, which was in fact just outside of the said entrance. I state the facts as the British plenipotentiaries gave them, not having had time to verify them. The inference which I understood them to draw was, that, so far as the United States and British discoveries could constitute a title, we could establish none along the seacoast north of the mouth of the Columbia, the whole coast having, without reference to Drake's or Cook's voyages, been explored by British navigators from that river, northwardly prior to the date of any American discovery.

But the general ground assumed by the British plenipotentiaries is, that the mere discovery, without occupancy, constitutes no title. They insist that the United States have not any right to the sovereignty of any part of the country; and I understood that they disclaimed any on the part of Great Britain, although, from the general tenor of their argument, I should infer that they intend ultimately to claim such right of sovereignty with respect to the settlements of their subjects made prior to the convention of 1818.

The whole of this doctrine, which excludes titles derived from prior discovery and substitutes occupancy, rests on the Nootka convention, of the 28th October, 1790, between Spain and Great Britain. By the third article of that instrument it was agreed "that the respective subjects of the two parties should not be disturbed or molested, either in navigation or carrying on their fisheries in the Pacific Ocean or in the South Seas, or in landing on the coasts of those seas, *in places not already occupied*, for the purpose of carrying on their commerce with the natives of the country, *or of making settlements there*." This agreement is made subject to certain restrictions and provisions, the only one of which applicable to the present discussion is that "as well in the places which are to be restored to the British subjects (Nootka sound) as in all other parts of the northwestern coasts of North America, or of the islands adjacent, situate to the north of the parts of the said coast already occupied by Spain, wherever the subjects of either of the two Powers shall have made settlements since the month of April, 1789, or shall hereafter make any, the subjects of the other shall have free access, and shall carry on their trade without any disturbance or molestation." From these provisions the British plenipotentiaries draw the following inferences:

1. The United States cannot claim, under their treaty with Spain, any greater right than Spain then had; and as the Nootka convention has no reference to the discoveries of either party, and is unlimited in its duration, they cannot resort to any Spanish discovery in support of their presumed title to any part of the country.

2. As, at the time of concluding the Nootka convention, Louisiana did belong to Spain, and she made no exception to the provisions of that convention on account of any presumed boundaries of that province having been established by former treaties with Great Britain or of right extending to the Pacific, the United States cannot claim any territory on that ocean as owners of Louisiana, either as a natural extension of its boundaries westwardly, or as implied from the designation of the boundary line (the forty-ninth parallel of latitude) settled, between Canada and Louisiana on the one part, and the British possessions of Hudson's bay on the other part, by the Commissioners appointed in pursuance of the treaty of Utrecht.

3. This convention (the Nootka) must be considered generally as having become an international law, at least for the Pacific; superseded the claims ascribed to mere prior discovery; set aside the exclusive pretensions of Spain to the northwest part of the American Continent, and opened it to the commerce and settlements of all countries whatever, including the United States.

4. Actual occupancy and regard to mutual convenience are, therefore, the only bases of any arrangement for the establishment of a boundary, for the partition, between the only Powers having settlements or laying claims thereto, of a country which was heretofore held in common.

As neither Meares' discoveries nor the Nootka convention had been mentioned in the negotiation of 1815, and as that convention appeared to have been only alluded to in that of 1818, and as, in this last, the objection to the right derived from discoveries was not general, but applied only to the circumstance of those of the United States having been made by private vessels, much of the argument was new to me. From some expressions in your instructions, I am led to infer that, at all events, it is for the first time brought forth in so distinct a shape, and have thought it important to lay it before you. It is my intention to invite the British plenipotentiaries to commit it to writing, at least in an informal manner. The grounds which I took in answer, and on which I intend to enlarge at the next conference, will be communicated hereafter. There are, indeed, several facts which must be previously investigated.

Mr. Huskisson, amongst the reasons for taking up that subject first, mentioned that it had for several sessions occupied the attention of Congress, and that it was not possible to foresee the effect which the measures they might adopt would have on the question and on the friendly relations of the two countries. In a subsequent part of the conversation he said that the joint occupancy would cease in 1828 unless renewed; and that the removal by the United States of any settlement made by British subjects would be considered as an act of aggression. This having already been intimated in the course of the negotiation of 1824, I asked whether he would consider as an aggression the removal of such British subjects from Astoria or such other of our settlements as were directed to be restored by the treaty of Ghent. To which it was answered, that those were considered as in our possession; and Mr. Addington added that the British had removed from Astoria to the opposite side of the river, where I understood they had now a fort called "Vancouver."

The renewal of the convention of 1818 was mentioned as the other subject which required immediate consideration. I said that I preferred taking up the subject of boundaries first, having applied to my Government for new instructions on the renewal of the convention. I was, indeed, authorized to treat on that subject, as on former occasions, although that of the colonial intercourse should not be included. But the determination of the British Government, as communicated by Mr. Canning, not to negotiate on that subject, together with the intimation that our exclusion from the British colonies might be permanent, would perhaps be considered by the Government of the United States as giving a new aspect to the question; and I had thought it proper to make the inquiry. There was also an advantage in taking up the question of the western boundary first. The result of our negotiation on that point might have an effect on either party, as related to the question, Whether the article of the convention which provided for a joint occupancy of the western territory should be continued, and on what terms?

We had some general conversation on the northeastern boundary. The difficulty of making a joint statement was alluded to: and it was suggested that it might be better that each party should make a brief statement of the case, both which, together, might with advantage be substituted to the eight volumes of arguments, reports, and proceedings of the late commission. I mentioned that the statement, joint or separate, must by me be submitted to my Government before I could agree that it should be considered as final. The reasons I assigned appeared conclusive; and this course will, I think, be agreed to. I must here observe that it is only the extreme length of the reports which, with reference to the umpire, appears inconvenient. In other respects they are very valuable; contain, I believe, all the facts and arguments that can be resorted to; and some of them are drawn with great ability. But I apprehend much difficulty from the want of surveys approved as correct by both parties. It seems to me that,

without any commitment as to the inferences that might be drawn from them, the commission might have ordered and approved those which were necessary to establish facts.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY,
Secretary of State, Washington.

[With Mr. Gallatin's No. 26.]

ARTICLE A.—It is agreed that the boundary line between the territories claimed by the United States and those claimed by his Britannic Majesty west of the Stony mountains shall be drawn due west from the said mountains, where the boundary line agreed on by the second article of the convention of London of the 20th October, 1818, terminates, along the forty-ninth parallel of north latitude, to the Pacific Ocean. If the said line shall cross the great northwesternmost branch of the Columbia river, marked in the map as McGillivray's river, or any of the other branches of the Columbia river, at a place or places from which the said McGillivray's river, or any such other branch of the Columbia river, is navigable to the main last mentioned river; the navigation of the said McGillivray's river, and of any such other branch or branches to the Columbia river, and of the Columbia itself to the ocean, shall be perpetually free to the subjects of Great Britain, in common with the citizens of the United States. The high contracting parties shall adopt measures, in concert, to have the said boundary line ascertained within fifteen years from the date of the signature of this convention, and the right of navigation shall in the meantime be enjoyed; but if it shall be found that neither the said McGillivray's river nor any of the other branches of the Columbia river is navigable by boats from where the boundary line crosses them to the main Columbia river, the navigation of the said main river and of its branches within the limits of the United States shall cease to be free to the subjects of Great Britain. It is further specially agreed that neither of the high contracting parties, their respective citizens or subjects, shall henceforward form any settlements within the limits assigned by the boundary line aforesaid to the other; it being, at the same time, understood that any such settlement already formed by the citizens or subjects of either party within the limits of the other shall continue to be occupied and enjoyed at the pleasure of the present occupants without let or hindrance of any kind until the expiration of the term of ten years from the date hereof and no longer. The provisions of the third article of the convention of London of the 20th of October, 1818, shall, in every other respect, continue in force for the said term of ten years; at the end of which term the citizens and subjects of the two parties shall, in trading with the natives and in the pursuit of game and fur, be restricted to the side of the boundary line of their respective countries.

A true copy.

W. B. LAWRENCE,
Secretary of Legation.

Mr. Gallatin to Mr. Clay.

No. 29.] LONDON, *November* 25, 1826.

SIR: I have the honor to enclose copy of the protocol of the first conference with the British plenipotentiaries. They considered the refusal of Mr. Rush, at the 20th conference of 1824, to accede to their verbal proposal of making the Columbia river the boundary as owing to his not being authorized by his instructions to agree to it, and the article which they had, at the 23d conference, given in writing as one of the subjects referred to Washington according to the 25th conference. As I was ready both to reject their article and to offer the new one, it appeared of no importance in what form this was done. Before this article A was attached to the protocol, I struck out the word *northwesternmost*, as descriptive of McGillivray's river, as it appeared as inapplicable as that of *northeasternmost*, used in the article P, proposed in 1824 by the British plenipotentiaries. This alteration must therefore be made in the copy of the article already forwarded.

At our second conference of the 22d instant the British plenipotentiaries said that they had referred to their Government the article offered by me, and that they were not yet prepared to give an answer. A general, desultory conversation ensued on the subject, in the course of which nearly all the grounds assumed and objections raised on both sides were brought forward, but not thoroughly discussed. I have already given the outlines of the argument of the British plenipotentiaries, and will now state mine.

1. The United States claimed a natural extension of their territory to the Pacific Ocean, on the ground of contiguity and population, which gave them a better right to the adjacent unoccupied land than could be set up by any other nation. This was strengthened by the doctrine admitted to its fullest extent by Great Britain, as appeared by all her charters, extending from the Atlantic to the Pacific Ocean, to colonies established then only on the borders of the Atlantic. How much more natural and stronger the claim, when made by a nation whose population extended to the central parts of the continent, and whose dominions were by all acknowledged to extend to the Stony mountains. If the principle assumed by Great Britain from 1580 to 1732, as related to Atlantic colonies, was correct, she could not deny its application to the United States, now owners of Louisiana. The boundary line agreed on by the Commissioners appointed in pursuance of the treaty of Utrecht, (the 49th parallel of latitude,) though falling short of what might be claimed by the United States on other grounds, was offered by them, and must at all events be binding on Great Britain. That line was indefinite; it had already been confirmed to the Stony mountains; there was no reason why it should not be continued as far as the claims of both parties extended. In point of fact, the occupancy, on which Great Britain principally relied, was solely owing to that westwardly extension of their trading settlements of Hudson's bay and its waters.

2. In right of their own discoveries, viz: the mouth of Columbia river by Captain Gray, and the complete exploration of the river, from its most westerly sources to its mouth, before any of its branches had been explored by the British, the United States had a right to claim against Great Britain and every other nation the whole territory drained by that river and its various branches, together with a certain portion of the coast north and south of the mouth of the river. In this also we were supported by the established usage amongst nations, and as adopted by Great Britain in various instances, (and amongst other, in her charter to the Hudson Bay Company, which charter extends to all the territory watered by the rivers emptying into the bay.)

3. By virtue of their treaty with Spain, the United States claimed all which Spain might have lawfully claimed north of 42° of latitude, either as derived from Spanish discoveries or by virtue of rights of sovereignty acknowledged by other nations, and by Great Britain particularly. On the last subject I

did not dwell, having not yet sufficiently investigated the articles of the treaty of Utrecht, which may affect that question. As to discoveries, I gave to the British plenipotentiaries a copy of the same extract, from the official Spanish account published in 1802, which I had transmitted from Paris to the Department of State in the despatch No. 235, dated September 26, 1821, [1822.] That Spanish work, which I could then only borrow, I have now found here and purchased.

It was not merely, I said, by examining each of these grounds separately that the claim of the United States could be justly appreciated. To each of them, taken by itself, objections might be made tending to show that it did not constitute a complete right of sovereignty. Considered together, and supporting each other as they did, they appeared to us to establish our claim on the most solid foundation. But our never having refused to agree to a line of demarcation with Great Britain, was a sufficient proof that we admitted that she had claims that deserved and to which we paid due consideration. It was on that account that the United States had reduced the extent of their own to the boundary line they had offered, and had added to it the proposal of allowing to British subjects the free navigation of the Columbia river. Claiming, themselves, by right of discovery and settlement, they allowed what was due to Great Britain on the same account, and all that she could justly claim under the Nootka convention, according to its true construction. But they could not admit her pretensions to the extent now set up, or as impairing their claim within the boundary (at least) offered by them.

In the first place, the Nootka convention, on which so much reliance was put, was a compact only between Spain and Great Britain. Whatever construction was given to that instrument, it could affect the United States so far only as they claimed under the Spanish title. Their claim, in their own right, and as derived from their own discoveries and subsequent settlement, could not, in the slightest degree, be affected by that compact.

But what was the true intent and meaning of the Nootka convention? Though not limited in its duration by any express stipulation, it was necessarily so from its nature. Though the settlements which might be made by either party were not expressly qualified or restricted, it was evident that the sole object of the convention was commerce, and commerce with the natives; and that it was for that, and for that object alone, that the country was left open to the subjects of the two contracting Powers. That the object of the convention was not to settle the territorial claims of the parties; that it had no connexion with an ultimate partition of the country, or with its colonization for permanent purposes, was evident from the provisions of that instrument. It permitted promiscuous and intermixed settlements everywhere on the coast to the subjects of both parties, and it even made every such settlement made by either party common to the other. This clearly excluded any possibility of distinct jurisdiction, territorial rights, or sovereignty. In all these respects the convention left the parties where it found them, and in possession of all such rights, either of discovery or others, as might affect those questions, whenever that of permanent and separate possession and sovereignty came to be discussed and finally settled by the contracting Powers.

Supposing, even, for the sake of argument, that the convention was susceptible of the construction now put on it by Great Britain: was it now any longer in force? The war between her and Spain, which had been terminated by the treaty of 1809, had intervened. The treaties of commerce between the two countries had been renewed by the treaty of July, 1814. So far as the Nootka convention was of a commercial nature, and the United States considered it as exclusively of that character, it was still in force; but if its stipulations were, as contended for by Great Britain, of a different nature, the question would arise whether they were such as to be, according to the doctrine held by her on that subject, still binding, or whether they had been abrogated by the war.

To this exposition of the Nootka convention the British plenipotentiaries did not agree. They considered its principles and provisions as permanent, and not abrogated by war; as only declaratory of what was already previously the natural law; as having established this, and made it, in an incontrovertible manner, the international law on that subject. Those vague claims of ancient discoveries and of distant settlements, on which Spain had founded hers, to the exclusive sovereignty of the whole western coast of America, had been set at rest by that convention. In order to resist that claim, Great Britain had, in 1790, been willing to run the risk of a war. Not for her benefit alone, but for that of all nations, she had contended for and established that principle of natural law by which vacant land belongs to the first occupant. Under this she did not claim exclusive rights of sovereignty; she only denied ours. In making a final arrangement with the United States, she considered the whole country as still open equally to both parties, and to be divided as such and on that principle. Of this we had no right to complain, since she might plead claims derived from occupancy or discoveries to a much greater extent than ourselves.

I observed that this argument was less founded on the positive stipulations of the Nootka convention than on a recurrence to antecedent presumed principles of natural law. But the answer was the same in either case. As an abstract principle, that of first occupancy, being the foundation of property and sovereignty between individuals and nations, respectively, might be admitted; but it was not sufficient alone to preserve peace amongst them. The impossibility of reconciling the general right of promiscuous and intermixed settlements by different nations with any correct notion of tranquil possession and distinct jurisdiction had already been mentioned. It was on that account, in order to prevent otherwise unavoidable collisions, for the purpose of assigning to each nation a distinct portion of vacant territory, that the right of prior discovery; that of contiguity to territory already occupied; that of extending the claim of a nation possessing the mouth of a river to the whole of its waters, if not previously occupied by others, had been recognized by nations in general, and enforced by Great Britain herself. As the arguments brought forward by each party on this subject were unsatisfactory to the other, we may be considered as at issue on that question.

I observed, as related to the settlements of the British in that quarter: 1st. That those made subsequent to the convention of 1818 added nothing to the claims of the British, the rights of both parties having been expressly reserved by that convention, which allowed of a joint occupancy. 2d. That none certainly existed on the Columbia, even so late as at the time when that river was explored by Lewis and Clark, and that there were none to our knowledge south of the 49th degree of latitude when our settlement of Astoria was commenced. 3d. That those British settlements were only factories for commercial purposes, which gave no more permanent territorial rights than similar establishments made in a civilized country. No notice has, as yet, been taken of that observation. Some allusion was made to Indian purchases, on which I do not think that any reliance is placed.

The dates and nature of the respective discoveries south of the 49th degree underwent some discussion. In reply to the attempt made to lessen the merit of Captain Gray's discovery of the Columbia river,

I said that the fact of the coast extending from 42° to 50° being once known, (as it had been ascertained by Cook and several Spanish navigators, Perez, Maurelle, Martinez, Quadra, &c.,) the sole object of discovery for subsequent navigators was the entrance of straits, or of a large river communicating with the interior of the country. It was what Meares sought and what he failed in, as had been the case with Maurelle and other of his predecessors, and as was also the case with Vancouver, who had, in his journal, recorded the fact. Meares had given names indicative of his total failure—Cape Disappointment and Deception bay. Under date of April 28, 1792, Vancouver states that from 42° to 48° there was no large river; nothing but small brooks. On the next day he met Captain Gray, of the Columbia, who informed him that he had discovered the mouth of a large river, into which the winds and currents had prevented him to enter. Persevering in his effort, Gray returns southwardly, and, on the 11th May following, enters the river, and ascends it about 25 miles. On his return he met again Vancouver at Nootka, and, with that information, he (Vancouver) sent one of his lieutenants to survey the river. This duty was performed in October following by that officer, who ascended the river about 20 miles higher up than Gray. It was impossible to deny, with those facts, that the discovery was Gray's, and exclusively his own. The only other harbor on that coast south of Fuca's straits was also discovered by Gray, and bears his name on Vancouver's map, though since changed into Whitby's by subsequent English map-makers, whom our own have copied with great servility. And here permit me to observe that I cannot see the policy of substituting the fabulous name of Oregon to that of Columbia, which was that of Gray's ship, and perpetuates his discovery.

The next most important discovery, and most intimately connected with the present discovery, is that of the Straits of Fuca. We cannot draw any argument in our favor from the supposed ancient discovery (in 1592) by a man of that name, said to have been in the Spanish service. The whole story rests on the evidence of an Englishman named Locke, who is said to have met at Venice that Fuca, a Greek, from Cephalonia, who gave him verbally that relation, which has been printed in ancient English collections, (Purchas, &c.) Not only the greater part of that relation is certainly fabulous, for it states that in thirty days he reached, by sea, Hudson's bay, but the Spanish official account disclaims any knowledge, either of Fuca or of any such voyage, although it gives a short abstract of other voyages made in 1595 and 1603 by Vizcairo, who did not reach further than Cape Mendocino, and about 43° of north latitude. The facts, well ascertained, are as followeth:

In 1778 Captain Cook discovered Cape Flattery, the southern entrance of the straits, which he did not perceive.

In 1787 Captain Barclay, of the Imperial Eagle, discovered Barclay's sound, now called Nitinat, near the northern entrance of the straits, and the straits themselves, into which he sent his boat, which ascended them several miles.

In August, 1788, Captain Duncan, in the British ship Princess Royal, entered the straits, and traded at the village of Classet, on the southern shore, and within two miles of the entrance.

In July of the same year Captain Meares, in the Felice, anchored, as Barclay, in Barclay's sound, and, like him, sent his boat in the straits, which she ascended about thirty miles, (not leagues, as he says.)

In the same year, date unknown, but, it is said, subsequent to Meares, the same Captain Gray, then commanding the Washington, entered the straits with his vessel, and penetrated fifty miles up. He went in and traded with the natives several times afterwards. It must be observed that, excepting the mouth of the Columbia river, we know nothing of Gray's discoveries but through British accounts. By these it appears that he had also made some between the 54th and 56th degrees of north latitude.

In June, 1790, Captain Quimper, of the Spanish Navy, explored the straits as far as Point Quadra, (Vancouver's port of discovery.)

In May, June, and July, 1791, Captain Eliza, of the Spanish packet San Carlos, explored the straits as far as the channel of San Rosario, between the 49th and 50th degrees of north latitude.

In May, 1792, Vancouver entered the straits and completed the exploration, partly in company with the Spanish vessels *Sutil* and *Mexicano*, with whom he re-entered the ocean by the northern entrance of the straits, and from whom he learnt, with mortification, that one-half had already been explored the preceding years by Quimper and Eliza.

You will perceive that all this makes a complex case. To the first discovery made by Barclay I have objected that it was not properly an English one, as, in order to avoid the monopoly of the South Sea Company, his ship, though English property, was fitted at Ostend, and must, it is presumed, have sailed under the Austrian flag.

There was, in the course of the conversation, more susceptibility shown by the British plenipotentiaries than was called for by my observations. That the United States had no right to dispossess a single British subject, or in any way to exercise jurisdiction in any part of the territory in question, was again repeated, saying, however, that they claimed no such right on their side. I said that I thought it fair to state that, although the United States would avoid any act tending to produce collision, yet, as, from local position, the British traders were daily making new settlements, my Government must also take possession, and that they could not do it otherwise than by establishing military posts. This did not seem to me to appear objectionable; at least, no objection was made to it. On the subject of jurisdiction we must, if we do not agree on a boundary line, come to some understanding.

The latter part of our conversation was of a more conciliatory nature. Mr. Huskisson said that it would be lamentable that, in this age, two such nations as the United States and Great Britain should be drawn to a rupture on such a subject as the uncultivated wilds of the Northwest Coast. But the honor and dignity of both countries must be respected, and the mutual convenience of both parties should also be consulted. He then objected to the straight line which we proposed, as having no regard to such convenience, and observed particularly that its cutting off the southern portion of Quadra and Vancouver's island, (that on which Nootka sound is situated,) was quite inadmissible. I told him that, taking only convenience into consideration, their proposal was far more objectionable. The survey of the Columbia river, which was on the table, had the soundings marked, from which it appeared that, with the exception of a small harbor of very little depth, the channel was, for fifteen or twenty miles, exclusively close to the northern shore, so as to give to the British the whole command of the entrance and navigation of the river, if this had been made the boundary. I added that, from the forty-second parallel of latitude to Fuca's straits, there was not a single port of any consequence but the mouth of Columbia river, and that, on account of the breakers and bar, was of difficult access, and fitted only for commercial purposes. By allowing the free navigation of the river to the British, we gave them all the advantages attached to that port. On the other hand, from Fuca's straits, inclusively, to the Russian boundary line, the coast abounded with ports

of any depth, and fitted for naval stations. To agree to a line that would leave all of these to them, would be giving them the exclusive naval command of the coast. It was impossible that we would agree to this, and we could have a share in that respect only by a boundary line that would give us a portion of the straits.

Writing this letter in great haste, and not having time to correct, I may not have stated the arguments as clearly and forcibly as might have been done. The British plenipotentiaries insisted that, according to the law of nations, as acknowledged by all, discovery without settlement gave no title, and that in the ancient British charters places already occupied by other civilized nations had always been excepted.

Whether there is a disposition to come to a reasonable agreement is yet doubtful. If such disposition does exist, there will still be two difficulties. I think that the first, their insisting on a more convenient and natural line than the forty-ninth parallel of latitude, may be obviated by adhering to that line only as a basis, that is to say, by insisting on an equivalent north of the line, in compensation of what, for convenience sake, we may yield south of it.

The other difficulty relates to the restriction on the right of navigating the Columbia, by the insertion of the words "if found navigable, &c." The British will say that they are useless, since the right cannot be enjoyed if the river is not navigable, and that they can therefore be used only to call their right in question, even though the river was navigable. But what is meant by "navigable?" It is well known that the navigation of the main Columbia river is interrupted by the great falls, around which boats are generally, if not always, carried by land. As it was certain that the offer made by the Government of the United States was not intended as nugatory, I took care to frame the article so that those falls should not be included in the restriction. But there may be, for aught we know, falls and rapids in the branches of the Columbia below the forty-ninth degree, such as to render them not navigable for common boats. The whole navigation of the rivers of that country above tide-water, except, perhaps, on the main river, is carried on by the British traders in bark canoes, to which such falls and rapids are a difficulty, but not an impediment. From Lake Superior to the Pacific the intercourse is carried on in those canoes, which are carried around the portages. It is, indeed, to that mode of conveyance that the British are exclusively indebted for the extension of their commerce to the western sea. They have all that is necessary for it—the species of birch which does not grow in more southern latitudes, and Canadians for canoe men. They will therefore object to any restrictive words that might impede what is the ordinary navigation of the country.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State, Washington.*

27th.—Mr. Huskisson has requested that our next conference, which had been fixed for Tuesday, should be postponed to Friday, December 1.

[With Mr. Gallatin's No. 29.]

Protocol of the first conference of the American and British Plenipotentiaries, held at the Foreign Office on the 15th of November, 1826.

Present: Mr. Gallatin, Mr. Huskisson, and Mr. Addington.

After the communication of the respective full powers, it was agreed that the negotiations should be conducted as in 1824, by conference and protocol, each party being at liberty to annex to the protocol any written statement which he might think expedient.

The plenipotentiaries then agreed to take up, in the first place, the subject of territorial claims on the Northwest Coast of America, west of the Rocky mountains.

After some general discussion, the British plenipotentiaries observed that a proposal of settlement on that subject having been offered on the part of Great Britain during the course of the negotiations in 1824, which proposal had been taken by the American plenipotentiary for reference to his Government, they presumed that Mr. Gallatin was prepared to give an answer to that or to offer some new proposal.

The American plenipotentiary stated that the Government of the United States could not accede to the boundary line which had been offered by Great Britain, but that, whilst insisting on the forty-ninth parallel of north latitude, he was authorized to substitute for the proposal made by Mr. Rush in 1824, which must be considered withdrawn, another with a new condition, which would evince the earnest desire of the United States to arrange the subject of difference; and he accordingly offered the annexed article A.

This article the British plenipotentiaries took, without further observation, for reference to their Government.

Adjourned to Wednesday, the 22d instant, at two o'clock.

A true copy. W. B. LAWRENCE, *Secretary of Legation.*

Mr. Gallatin to Mr. Clay.

No. 31.] LONDON, *December* 2, 1826.

SIR: There is no prospect of an agreement with the British Government on the subject of a boundary line west of the Stony mountains.

Our third conference took place yesterday. I opened it by some further observations on the true meaning and effect of the Nootka convention. Considered, which it really is, as purely of a commercial nature, it was still in force, and binding upon the United States, so far as they claimed in right of Spain. If, as seemed to be contended by Great Britain, its stipulations extended beyond a commercial arrangement, the question would arise, whether, since they had not been renewed, they were abrogated by war? This I was not prepared, and, indeed, did not think necessary to discuss. That the convention had no other object but to recognize a freedom of commerce with the natives was evident, both from its tenor and from the incident out of which it had grown. It was conceded that the promiscuous settlements, common to both parties, which might be made in conformity with that instrument, were incompatible with any notion of distinct jurisdiction and of sovereignty; that a division line, a partition of the country, could not take place but by virtue of a new agreement. It necessarily followed that the convention had stipulated nothing in that respect, and that whenever such agreement came under consideration, the parties might

claim all that, according to the law and usages of nations, they had a right to claim, in the same manner as if the convention had not taken place. To that law and usages, as not having in any manner been abrogated by the convention, the United States did appeal, both in their own right and in the right of Spain. Whatever right be claimed, either as a natural extension of Louisiana, or under the arrangement made in pursuance of the treaty of Utrecht, or by virtue of the first discoveries of Spain, the United States had now as much right to claim as what they considered theirs by virtue of their own discoveries. These arguments were neither admitted nor refuted by the British plenipotentiaries.

They spoke in general terms of the right of Great Britain to make settlements anywhere north of the thirty-eighth parallel of latitude, and to the navigation of all the rivers emptying into the Pacific north of that latitude. And they took occasion to animadvert on the condition upon which, by the article I had proposed, their right to navigate the Columbia was made to depend ; a condition which would be inadmissible, even if they were to receive the privilege as a grant, instead of its being a right already belonging to Great Britain.

In answer to that special objection, I said that, if the right to navigate the river, contemplated by the article, had been confined to the navigation from the forty-ninth degree of latitude to tide-water, the condition would have been unnecessary, since the British actually navigating the river would have been a complete proof that it was navigable. But it was contemplated by the article that they should have also the free navigation of the river from and to the sea. This was intended for the special and sole purpose of giving them an uninterrupted water communication between the upper branches of the river north of the forty-ninth parallel of latitude and the sea. If the condition complained of was omitted, they would have an absolute right (and without any reciprocity within the British territories) to navigate the river in ships, from tide-water to the sea, and *vice versa*, although its upper branches, from the forty-ninth degree downwards, should not be navigable, and the water communication above stated should not exist. It was not the intention of the United States that they should have that right in that case ; and therefore the condition was annexed. If the expressions used in the article were susceptible of doubt, or liable to any well-founded objection, a different phraseology, consistent with the avowed object of the article, might be adopted. Although I anticipated, from the manner in which the subject was introduced, that this explanation would produce no effect, I deemed it necessary, in order to show how far the offer went, and that it was perfectly fair.

Mr. Huskisson then asked me whether I was authorized to deviate from the forty-ninth parallel of latitude as a boundary. I did not think that he had any right to ask the question ; but, as it was only from courtesy, and to avoid, at the opening of the negotiation, expressions at all savoring of harshness, that I had used the words "whilst insisting on the forty-ninth degree" instead of the word "ultimatum;" and as, in fact, the United States had nothing to conceal, I answered the question. To the forty-ninth parallel of latitude the United States would adhere as a basis. If, on account of the geographical features of the country, a deviation founded on mutual convenience was found expedient, a proposal to that effect might be entertained, provided it was consistent with that basis; that is to say, that any deviation in one place to the south of the forty-ninth parallel should be compensated by an equivalent in another place to the north of that parallel. [I must observe that what I had in view was the exchange of the southern extremity of Nootka's island, (Quadra and Vancouver's,) which the forty-ninth parallel cuts in an inconvenient manner, for the whole or part of the upper branches of the Columbia river north of that parallel.] I added that, if, as I presumed from the question, the British plenipotentiaries intended to make a new proposal, it was only after it was made that I would give a more specific answer—either accept it, refer it to my Government, or reject it at once.

After a short consultation between the British plenipotentiaries, Mr. Huskisson said that, when speaking of the line without reference to right but only to convenience, I had observed that the boundary proposed by Great Britain left to the United States but one seaport, and that of difficult access, and fitted only for commercial purposes ; and that, thinking that remark entitled to consideration, the British Government was disposed to offer us a port in Fuca's straits. Taking then Vancouver's map, he pointed out the line traced in the enclosed sketch, offering to the United States the *detached* territory, bounded on the west by the ocean, on the north by Fuca's straits, on the east by the entrance of Admiralty inlet, and then by the peninsula between that and Hood's inlet, and on the south by a line drawn thence to Gray's harbor on the ocean ; and he dwelt on the excellence of Port Discovery, defended by Protection island, which would thus be secured to us. On my asking how he meant that the line should run in other respects, he answered that, with that exception, the British Government adhered to the boundary proposed in 1824, viz: the Columbia river, although it might, perhaps, be agreed that the northern shore, for some distance from the mouth up the river, should remain unoccupied by both parties. I said that this proposal did not admit even of discussion as to its details, as the principle was inadmissible; that I rejected it at once, and would think it inconsistent with my instructions even to take it for reference to my Government.

The British plenipotentiaries said that since it was evident that we could not agree to a boundary line, nothing remained but to continue the joint occupancy for another period of time. To this course I expressed my assent, and some general conversation ensued on the dangers arising from collisions between the traders or settlers of the two countries, or from acts of either Government assuming exclusive jurisdiction. I understood it to be the opinion of the British plenipotentiaries that there could be no objection to the establishment of military posts, or to a jurisdiction confided by each Power to his own citizens or subjects, and that any outrages committed by either such citizens or subjects on the subjects or citizens of the other nation ought not to be considered as national acts of aggression unless authorized by Government. They alluded to the attempt of the establishment of a territorial government, which had been made in Congress, as contrary to the spirit of the existing agreement, although they declared that if they established a colony anywhere they must give it some form of government; and they spoke of the necessity of modifying the article heretofore agreed on, and still in force, on the subject of that joint occupancy. It was concluded that they should prepare an article in conformity with their own view of the subject, which, if insisted upon, and substantially differing from the present one, must, of course, be referred to the President's decision. I think that it would be more eligible to continue simply the present article, leaving it to each Government to make, through the usual channels, such communications to the other as it may deem proper on what would be considered as consistent with or infringing the agreement. But I can say nothing positive until I have seen the article they mean to propose.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. H. CLAY, *Secretary of State.*

Mr. Gallatin to Mr. Clay.

No. 32.] LONDON, *December* 5, 1826.

SIR: I enclose the draught of the convention which the British plenipotentiaries propose on the subject of a continued joint occupancy of the territory west of the Stony mountains. Mr. Addington sent it to me yesterday for inspection prior to our conference, which takes place to-morrow, and the result of which cannot reach you by this packet. In returning it, I apprised, in a private note, Mr. Addington of the necessity under which I would be of referring the subject to my Government if it was deemed necessary by the British plenipotentiaries to insert new stipulations. I also gave him notice that I would object to their second proposed article.

It must always be kept in mind that Great Britain insists that the whole country west of the Stony mountains is a vacant territory, to which no nation has any exclusive right, which is open to all, and to which a title may be acquired, and can only be acquired, by actual occupancy and settlement. The second article in question is intended not only to prevent the establishment of a territorial government by the United States, but also to establish the general doctrine that no exclusive sovereignty or dominion can be assumed or exercised over any part of the country in its present situation, and, by implication, that a concurrent jurisdiction may be exercised sufficient to preserve order amongst the traders.

With a view to prevent another inference of the same nature, I intend to propose that so much of the article now in force as relates to other foreign nations should be struck out. In our view of the subject, that provision referred only to Spain and Russia as the only nations which, besides Great Britain and the United States, would possibly have any claim to any part of the country, and the claims of both are now settled. According to the British doctrine, the article must stand as it is, since they declare that every nation has an equal right with ourselves to make settlements there. Still, as my instructions contemplate a simple renewal of the article, I will not insist on that amendment. For the same reason, and thinking it very difficult to find any general stipulation to which both parties would agree, beyond what is contained in the existing article, I will try to have it done in that way, leaving any subsequent arrangement to depend on executive regulations. If it should be found impossible to renew the article without some additional stipulation, none has presented itself to my mind better calculated to preserve peace, and to enable us to acquire a good footing in the country, than the adoption of the second proposed article, but limited to the country contained between the forty-ninth parallel and the boundary insisted on by the British. This would be more favorable to us than any temporary line (beyond which settlements should not be made) to which the British would be likely to agree.

I apprehend some difficulty in settling the protocol of our last conference. From the manner in which the offer of a detached territory south of Fuca's strait was made, I anticipated that it was intended as informal. I might have had it committed to writing by pretending an intention to take it into consideration, but this was so inconsistent with the spirit of my instructions, and the proposal was so obviously inadmissible, that, as already stated, I declared that I could not refer it to my Government. I therefore expected that it should not be inserted in the protocol; but in a draught of this sent to me by the British plenipotentiaries, they propose that it should be stated that they had declined making any new proposal. To this I cannot assent, as there is a material difference between omitting to insert a fact and a positive assertion in the protocol that no such fact had taken place.

Your despatch, No. 11, of 31st October was received two days ago. I will, at to-morrow's conference, request the British plenipotentiaries to state whether, and if any, what, alterations they intend to propose to the convention of 1815. I believe that in this case also it will be found best to renew that agreement in its present form, as originally contemplated by the instructions.

I have the honor to be, respectfully, sir, your very obedient servant,

ALBERT GALLATIN.

Hon. H. CLAY, *Secretary of State.*

[With Mr. Gallatin's No. 32.]

DRAUGHT OF CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES.—COLUMBIA TERRITORY.

Whereas, by the third article of the convention concluded in London on the 30th of October, 1818, between his Britannic Majesty and the United States of America, it was provided that any country that might be claimed by either of the contracting parties on the Northwest Coast of America should be free and open, for the term of ten years from the date of the signature of that convention, to the subjects and citizens of the two Powers, any territorial claim which either party might have to any part of such country being mutually reserved. His Britannic Majesty and the United States, considering that the term for which the above provision was to remain in force is now not far from its expiration, and being equally desirous to preclude all danger of misunderstanding between themselves with respect to the said country, have determined to renew the provision above described, for which purpose they have respectively named plenipotentiaries to treat and agree respecting the same; that is to say, his Britannic Majesty, &c., &c., and the United States, &c., &c., who have agreed and concluded the following articles:

ARTICLE 1. It is agreed that any country which may be claimed by either of the contracting parties on the Northwest Coast of America westward of the Rocky mountains shall, together with its harbors, bays, creeks, and rivers, be free and open, for the term of fifteen years from the date of the ratification of the present convention, to the vessels, subjects, and citizens of the two Powers, it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the contracting parties may have to any part of the said country, nor shall it be taken to affect the claims of any other Power or State to any part of the said country, the only object of the high contracting parties being to prevent disputes and differences between themselves.

ARTICLE 2. For the more effectual prevention of such disputes and differences, it is further agreed that, during the said term of fifteen years, neither of the contracting parties shall assume or exercise any right of exclusive sovereignty or dominion over any part of the said country, nor form therein any establishment in support or furtherance of any such claim.

claim all that, according to the law and usages of nations, they had a right to claim, in the same manner as if the convention had not taken place. To that law and usages, as not having in any manner been abrogated by the convention, the United States did appeal, both in their own right and in the right of Spain. Whatever right be claimed, either as a natural extension of Louisiana, or under the arrangement made in pursuance of the treaty of Utrecht, or by virtue of the first discoveries of Spain, the United States had now as much right to claim as what they considered theirs by virtue of their own discoveries. These arguments were neither admitted nor refuted by the British plenipotentiaries.

They spoke in general terms of the right of Great Britain to make settlements anywhere north of the thirty-eighth parallel of latitude, and to the navigation of all the rivers emptying into the Pacific north of that latitude. And they took occasion to animadvert on the condition upon which, by the article I had proposed, their right to navigate the Columbia was made to depend; a condition which would be inadmissible, even if they were to receive the privilege as a grant, instead of its being a right already belonging to Great Britain.

In answer to that special objection, I said that, if the right to navigate the river, contemplated by the article, had been confined to the navigation from the forty-ninth degree of latitude to tide-water, the condition would have been unnecessary, since the British actually navigating the river would have been a complete proof that it was navigable. But it was contemplated by the article that they should have also the free navigation of the river from and to the sea. This was intended for the special and sole purpose of giving them an uninterrupted water communication between the upper branches of the river north of the forty-ninth parallel of latitude and the sea. If the condition complained of was omitted, they would have an absolute right (and without any reciprocity within the British territories) to navigate the river in ships, from tide-water to the sea, and *vice versa*, although its upper branches, from the forty-ninth degree downwards, should not be navigable, and the water communication above stated should not exist. It was not the intention of the United States that they should have that right in that case; and therefore the condition was annexed. If the expressions used in the article were susceptible of doubt, or liable to any well-founded objection, a different phraseology, consistent with the avowed object of the article, might be adopted. Although I anticipated, from the manner in which the subject was introduced, that this explanation would produce no effect, I deemed it necessary, in order to show how far the offer went, and that it was perfectly fair.

Mr. Huskisson then asked me whether I was authorized to deviate from the forty-ninth parallel of latitude as a boundary. I did not think that he had any right to ask the question; but, as it was only from courtesy, and to avoid, at the opening of the negotiation, expressions at all savoring of harshness, that I had used the words "whilst insisting on the forty-ninth degree" instead of the word "ultimatum;" and as, in fact, the United States had nothing to conceal, I answered the question. To the forty-ninth parallel of latitude the United States would adhere as a basis. If, on account of the geographical features of the country, a deviation founded on mutual convenience was found expedient, a proposal to that effect might be entertained, provided it was consistent with that basis; that is to say, that any deviation in one place to the south of the forty-ninth parallel should be compensated by an equivalent in another place to the north of that parallel. [I must observe that what I had in view was the exchange of the southern extremity of Nootka's island, (Quadra and Vancouver's,) which the forty-ninth parallel cuts in an inconvenient manner, for the whole or part of the upper branches of the Columbia river north of that parallel.] I added that, if, as I presumed from the question, the British plenipotentiaries intended to make a new proposal, it was only after it was made that I would give a more specific answer—either accept it, refer it to my Government, or reject it at once.

After a short consultation between the British plenipotentiaries, Mr. Huskisson said that, when speaking of the line without reference to right but only to convenience, I had observed that the boundary proposed by Great Britain left to the United States but one seaport, and that of difficult access, and fitted only for commercial purposes; and that, thinking that remark entitled to consideration, the British Government was disposed to offer us a port in Fuca's straits. Taking then Vancouver's map, he pointed out the line traced in the enclosed sketch, offering to the United States the *detached* territory, bounded on the west by the ocean, on the north by Fuca's straits, on the east by the entrance of Admiralty inlet, and then by the peninsula between that and Hood's inlet, and on the south by a line drawn thence to Gray's harbor on the ocean; and he dwelt on the excellence of Port Discovery, defended by Protection island, which would thus be secured to us. On my asking how he meant that the line should run in other respects, he answered that, with that exception, the British Government adhered to the boundary proposed in 1824, viz: the Columbia river, although it might, perhaps, be agreed that the northern shore, for some distance from the mouth up the river, should remain unoccupied by both parties. I said that this proposal did not admit even of discussion as to its details, as the principle was inadmissible; that I rejected it at once, and would think it inconsistent with my instructions even to take it for reference to my Government.

The British plenipotentiaries said that since it was evident that we could not agree to a boundary line, nothing remained but to continue the joint occupancy for another period of time. To this course I expressed my assent, and some general conversation ensued on the dangers arising from collisions between the traders or settlers of the two countries, or from acts of either Government assuming exclusive jurisdiction. I understood it to be the opinion of the British plenipotentiaries that there could be no objection to the establishment of military posts, or to a jurisdiction confided by each Power to his own citizens or subjects, and that any outrages committed by either such citizens or subjects on the subjects or citizens of the other nation ought not to be considered as national acts of aggression unless authorized by Government. They alluded to the attempt of the establishment of a territorial government, which had been made in Congress, as contrary to the spirit of the existing agreement, although they declared that if they established a colony anywhere they must give it some form of government; and they spoke of the necessity of modifying the article heretofore agreed on, and still in force, on the subject of that joint occupancy. It was concluded that they should prepare an article in conformity with their own view of the subject, which, if insisted upon, and substantially differing from the present one, must, of course, be referred to the President's decision. I think that it would be more eligible to continue simply the present article, leaving it to each Government to make, through the usual channels, such communications to the other as it may deem proper on what would be considered as consistent with or infringing the agreement. But I can say nothing positive until I have seen the article they mean to propose.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. H. CLAY, *Secretary of State.*

Mr. Gallatin to Mr. Clay.

No. 32.] LONDON, *December* 5, 1826.

SIR: I enclose the draught of the convention which the British plenipotentiaries propose on the subject of a continued joint occupancy of the territory west of the Stony mountains. Mr. Addington sent it to me yesterday for inspection prior to our conference, which takes place to-morrow, and the result of which cannot reach you by this packet. In returning it, I apprised, in a private note, Mr. Addington of the necessity under which I would be of referring the subject to my Government if it was deemed necessary by the British plenipotentiaries to insert new stipulations. I also gave him notice that I would object to their second proposed article.

It must always be kept in mind that Great Britain insists that the whole country west of the Stony mountains is a vacant territory, to which no nation has any exclusive right, which is open to all, and to which a title may be acquired, and can only be acquired, by actual occupancy and settlement. The second article in question is intended not only to prevent the establishment of a territorial government by the United States, but also to establish the general doctrine that no exclusive sovereignty or dominion can be assumed or exercised over any part of the country in its present situation, and, by implication, that a concurrent jurisdiction may be exercised sufficient to preserve order amongst the traders.

With a view to prevent another inference of the same nature, I intend to propose that so much of the article now in force as relates to other foreign nations should be struck out. In our view of the subject, that provision referred only to Spain and Russia as the only nations which, besides Great Britain and the United States, would possibly have any claim to any part of the country, and the claims of both are now settled. According to the British doctrine, the article must stand as it is, since they declare that every nation has an equal right with ourselves to make settlements there. Still, as my instructions contemplate a simple renewal of the article, I will not insist on that amendment. For the same reason, and thinking it very difficult to find any general stipulation to which both parties would agree, beyond what is contained in the existing article, I will try to have it done in that way, leaving any subsequent arrangement to depend on executive regulations. If it should be found impossible to renew the article without some additional stipulation, none has presented itself to my mind better calculated to preserve peace, and to enable us to acquire a good footing in the country, than the adoption of the second proposed article, but limited to the country contained between the forty-ninth parallel and the boundary insisted on by the British. This would be more favorable to us than any temporary line (beyond which settlements should not be made) to which the British would be likely to agree.

I apprehend some difficulty in settling the protocol of our last conference. From the manner in which the offer of a detached territory south of Fuca's strait was made, I anticipated that it was intended as informal. I might have had it committed to writing by pretending an intention to take it into consideration, but this was so inconsistent with the spirit of my instructions, and the proposal was so obviously inadmissible, that, as already stated, I declared that I could not refer it to my Government. I therefore expected that it should not be inserted in the protocol; but in a draught of this sent to me by the British plenipotentiaries, they propose that it should be stated that they had declined making any new proposal. To this I cannot assent, as there is a material difference between omitting to insert a fact and a positive assertion in the protocol that no such fact had taken place.

Your despatch, No. 11, of 31st October was received two days ago. I will, at to-morrow's conference, request the British plenipotentiaries to state whether, and if any, what, alterations they intend to propose to the convention of 1815. I believe that in this case also it will be found best to renew that agreement in its present form, as originally contemplated by the instructions.

I have the honor to be, respectfully, sir, your very obedient servant,

ALBERT GALLATIN.

Hon. H. CLAY, *Secretary of State.*

[With Mr. Gallatin's No. 32.]

DRAUGHT OF CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES.—COLUMBIA TERRITORY.

Whereas, by the third article of the convention concluded in London on the 30th of October, 1818, between his Britannic Majesty and the United States of America, it was provided that any country that might be claimed by either of the contracting parties on the Northwest Coast of America should be free and open, for the term of ten years from the date of the signature of that convention, to the subjects and citizens of the two Powers, any territorial claim which either party might have to any part of such country being mutually reserved. His Britannic Majesty and the United States, considering that the term for which the above provision was to remain in force is now not far from its expiration, and being equally desirous to preclude all danger of misunderstanding between themselves with respect to the said country, have determined to renew the provision above described, for which purpose they have respectively named plenipotentiaries to treat and agree respecting the same; that is to say, his Britannic Majesty, &c., &c., and the United States, &c., &c., who have agreed and concluded the following articles:

ARTICLE 1. It is agreed that any country which may be claimed by either of the contracting parties on the Northwest Coast of America westward of the Rocky mountains shall, together with its harbors, bays, creeks, and rivers, be free and open, for the term of fifteen years from the date of the ratification of the present convention, to the vessels, subjects, and citizens of the two Powers, it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the contracting parties may have to any part of the said country, nor shall it be taken to affect the claims of any other Power or State to any part of the said country, the only object of the high contracting parties being to prevent disputes and differences between themselves.

ARTICLE 2. For the more effectual prevention of such disputes and differences, it is further agreed that, during the said term of fifteen years, neither of the contracting parties shall assume or exercise any right of exclusive sovereignty or dominion over any part of the said country, nor form therein any establishment in support or furtherance of any such claim.

Mr. Gallatin to Mr. Clay.

No. 35.] LONDON, *December* 12, 1826.

SIR: We have had two conferences (the fourth and fifth) on the 6th and 11th instant, respectively. The British plenipotentiaries having concluded to insert in the protocol of the third conference the offer they had made of a detached territory south of Fuca's straits, that protocol, though agreed on yesterday, is not yet signed. Our fourth conference was principally employed in a discussion of the manner in which the joint occupancy must be understood. The article informally proposed, and of which I sent you a copy, has received some modifications, originating with the British plenipotentiaries; and they would have been ready to deliver it yesterday, but said they wished it to be accompanied by an exposition of their claim and view of the subject. This they expect to be prepared to annex to the protocol of our next conference, on the 16th instant, which will, I hope, enable me to send you, by the packet of the 24th, all the protocols, and whatever relates to the territory west of the Stony mountains. You know already that the negotiation for a permanent boundary has terminated without our being able to agree. The questions which will be referred for the President's decision relate exclusively to the joint occupancy, whether it shall be continued, and, if continued, whether any, and if any, what, explanatory or new provisions may be necessary. The proposals will come exclusively from the British plenipotentiaries, as I declared that I was not authorized to make any. I suggested, in the course of the conversation, as coming from myself, which was true, whether each Power might not be allowed to exercise exclusive sovereignty over a certain extent of territory, leaving between them a kind of border or debatable ground, where promiscuous settlements might be continued until a permanent boundary was agreed on. But the suggestion was not entertained by the British plenipotentiaries. In our conference of yesterday some general conversation took place on the subject of the convention of 1815. Mr. Huskisson said he would use his best endeavors to be ready on the 16th to make his proposals or to say that he had none to make. It is doubtful whether he will offer any new provision; but he seems inclined to propose some explanatory article. He complains of the distinction our laws have made between rolled and hammered iron, as applying, not to the quality of the article, but to the process by which manufactured, and says that Great Britain might have retaliated by making a distinction between our cotton and that of India or of the Levant, both which, for want of proper machinery and skill, are prepared for market in a different manner from ours, and on that account really less valuable. He also alluded to the law of South Carolina respecting seamen of color, but appeared to give up that point on my observing that the law applied equally to vessels of the United States. I then remarked that, even if some explanatory provisions were added to the convention, many cases must necessarily occur on which a difference of opinion would take place as to its true construction, and that it seemed better to leave all of them to the good faith and true interest of both parties. If, however, they insisted, there could be no doubt that some cases had already occurred which might render similar provisions necessary on our part, although I was not yet instructed in that respect, and therefore not prepared at this time to state what those provisions should be.

We had also some conversation on the northeastern boundary, on which the suggestions made in relation to a preliminary arrangement by the British plenipotentiaries appeared to me so extraordinary that I will postpone a communication on that subject to you until their views have been more clearly unfolded to me. I have pressed the propriety of every proposal which may render a reference to Washington necessary being made at this time, and hope, with the exception of the last mentioned subject, to be able to obtain them.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State, Washington.*

Mr. Gallatin to Mr. Clay.

No. 40.] LONDON, *December* 20, 1826.

SIR: The protocol of the first conference with the British plenipotentiaries, and the proposed article annexed to it, has been already transmitted. I have now the honor to enclose the protocols of the six following conferences; the projet of a convention for the continuance of the joint occupancy of the territory west of the Stony mountains, presented by the British plenipotentiaries, and annexed to the sixth protocol; their statement of the claims and views of the British Government, annexed to the same protocol; and my counter statement, annexed to the seventh.

The negotiation for agreeing to a definitive boundary line in that quarter has for the present failed, and may be considered as terminated. What relates to it is included in the first, second, third, and seventh protocols; so much of the sixth as refers to the statement annexed to it; the American article annexed to the first, and the statements annexed to the sixth and seventh, respectively.

The arguments used on both sides being embodied in those two statements, I beg leave to refer to them, and, for the progress of the negotiation, to the protocols, and to my former despatches. You will be pleased to observe that there is a difference between the boundaries of the detached territory, offered by the British plenipotentiaries at the third conference, as delineated in the rough sketch already transmitted and those described in the protocol.

The negotiation for a continuance of the joint occupancy is not yet terminated, and its progress may be traced in the fourth and part of the sixth protocol. I would not have insisted on the amendment proposed by me at the fourth conference to the article now in force, as I would have thought it sufficient to enter on the protocol that that article was agreed to with the understanding that it was not to be construed as an admission on the part of the United States that any other foreign country had now a right to any part of the territory in question. But I could not agree to any additional or explanatory article without the previous approbation of my Government; and you will see by my declaration in the fourth protocol that the whole subject is referred to the President.

The first question is, therefore, whether there is any advantage in a renewal and continuance of the joint occupancy; and if so, for what term? The British plenipotentiaries propose fifteen, would prefer twenty, and will agree to ten years. The next question relates to the additional conditions, which they consider as explanatory of, and in conformity with, the original agreement. Only they observed that, as

we had no settlements, the last condition was to our advantage. It is doubtful to me whether it is proposed in order to prevent any inference being drawn, in support of our claim to exclusive sovereignty, from the former settlement at Astoria, or whether to establish clearly and to impress on their subjects that Great Britain neither now nor hereafter means to claim such exclusive sovereignty. Mr. Huskisson, in the course of the discussion, several times repeated that there was no intention, on the part of Great Britain, to colonize the country. They have certainly no other immediate object than that of protecting the Northwest Company in her fur trade. In every other respect the question appeared to be with them rather one of national pride than anything else. Not only from them, but from several other distinct quarters, it is certain that that pride was sorely wounded by that part of the late President's message which declared that America was no longer open to European colonization. This was new doctrine, and was considered as dictatorial, and as hinting, too, with no favorable intentions to the existing British colonies. Those parts of the second report of a committee of the House of Representatives, at the last session of Congress, to which I have alluded in a former despatch, gave great, fresh, and additional offence, awakening anew the feelings which had been excited by the former passage in the President's message. I think it not improbable that we might have come to an arrangement had it not been for those causes. The Northwest Company is also very inimical, and has no inconsiderable weight. You will decide whether this last condition is, on the whole, for our interest or not. Although I cannot speak positively, I do not think that it would be adhered to on the part of Great Britain if you object to it.

With respect to the first condition, the British plenipotentiaries hesitated whether the word "exclusive" should remain or not. As they appeared indifferent or doubtful about it, I advised that it should remain for your consideration. The first question is, what is meant thereby?

The right of exercising sovereignty, provided it is not exclusive, will remain with each party; and by that, it is intended that each should have jurisdiction over its own citizens or subjects, and have a right to punish offences committed by them. The establishment of military posts, provided they do not command exclusively the mouth of the Columbia, is not objected to. Any impediment to the free navigation of harbors and rivers, the laying duties or establishment of any custom-house, the removing or disturbing any British settlement, and the exercise of any jurisdiction over British subjects, would be considered as infractions of the condition. But it must be observed that they would be equally considered as infractions of the existing article without the additional condition, and as acts of aggression if the joint occupancy is not continued by a convention. And it is in that sense that you must understand the words that "Great Britain will give protection," &c., in the latter part of the statement of her claims and views. It was also to those expressions, thus understood, that I alluded in the counter statement, in saying that there were certain parts of the statement on which I would make no remarks, and which I must refer to my Government. The establishment of a distinct territorial government on the west of the Stony mountains would also be objected to, as an attempt to exercise exclusive sovereignty. I observed that, although the Northwest Company might, from its being incorporated, from the habits of the men they employed, and from having a monopoly with respect to trade, so far as British subjects were concerned, carry on a species of government without the assistance of that of Great Britain, it was otherwise with us. Our population there would consist of several independent companies and individuals. We had always been in the habit, in our most remote settlements, of carrying laws, courts, justices of the peace with us. There was an absolute necessity, on our part, to have some species of government. Without it, the kind of sovereignty, or rather jurisdiction, which it was intended to admit, could not be exercised on our part. It was suggested, and seemed to be acquiesced in, that the difficulty might be obviated, provided the erection of a new territory was not confined exclusively to the territory west of the mountains; that it should be defined as embracing all the possessions of the United States west of a line that should be at some distance and east of the Stony mountains.

It appears, from all that has passed during the discussion, that the important point is to agree on the acts which may or may not be done during the joint occupancy. All those which have been thought of as likely to occur are stated in this letter; and to those I beg leave to call your attention. What are those on which you agree with the British plenipotentiaries? What are those you object to decidedly? When agreed on those points, the expressions which may be used, and which, after all, must always be general, become less important. The questions respecting those acts must at all events be decided, as in the event, either of a simple renewal of the existing article, or of no agreement whatever being made on the subject, they will still occur whenever our citizens or troops cross the mountains. I beg that the instructions may be comprehensive and explicit, so as not to render it necessary to make another reference.

Although the suggestion, mentioned in a former despatch, of lines defining exclusive sovereignty, and leaving between them debatable ground of joint occupancy and sovereignty, was not favorably received by the British plenipotentiaries, I would wish to have the President's opinion upon it. It is possible that, as a last alternative, it may be recurred to; and in that case I should know, not only whether the principle is admissible, but how the lines should be defined.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State, Washington.*

Protocol of the second conference of the American and British Plenipotentiaries, held at the Board of Trade on the 22d of November, 1826.

Present: Mr. Gallatin, Mr. Addington, and Mr. Huskisson.

The protocol of the preceding conference was read over and signed.

The subject of the territorial claims on the coast of America, west of the Rocky mountains, was resumed; and after some general discussion, in which the arguments respectively employed at the preceding conference were further developed on both sides, the further consideration of the subject was postponed, by mutual agreement, to the next meeting of the plenipotentiaries.

Adjourned to Friday, the 1st of December.

ALBERT GALLATIN.
W. HUSKISSON.
H. U. ADDINGTON.

A true copy.

W. B. LAWRENCE, *Secretary of Legation.*

Protocol of the third conference between the American and British Plenipotentiaries, held at the Board of Trade on the 1st of December, 1826.

Present: Mr. Gallatin, Mr. Huskisson, and Mr. Addington.

The British plenipotentiaries took up the subject of the article of settlement annexed by the American plenipotentiary to the protocol of the first conference, and declared that, since in that article the 49th parallel of north latitude was still insisted on by the United States as the boundary line, the said article was accordingly declined on the part of Great Britain.

Notwithstanding a declaration on the part of the American plenipotentiary, that he had no authority to depart from the basis of the 49th parallel of latitude, as above mentioned; yet, as it had been stated by him in the course of the discussion that the line proposed by Great Britain, viewed without regard to the question of right, and merely as a boundary founded on convenience, would be inadmissible, since it left no port fitted for large ships to the United States, whilst the whole northern coast of the Territory was amply supplied with such, and the United States could never agree to a line which would not give them a share in such ports; the British plenipotentiaries, in order to evince the earnest desire of their Government to afford every facility to the final adjustment of the question of boundary, submitted the following terms of accommodation, with a view to their reference to the American Government:

"That, considering that the possession of a safe and commodious port on the Northwest Coast of America, fitted for the reception of large ships, might be an object of great interest and importance to the United States, and that no such port was to be found between the 42d degree of latitude and the Columbia river, Great Britain, in still adhering to that river as a basis, was willing so far to modify her former proposal as to concede, as far as she was concerned, to the United States the possession of Port Discovery, a most valuable harbor on the southern coast of De Fuca's inlet, and to annex thereto all that tract of country comprised within a line to be drawn from Cape Flattery, along the southern shore of De Fuca's inlet, to Point Wilson, at the northwestern extremity of Admiralty inlet; from thence along the western shore of that inlet, across the entrance of Hood's inlet, to the point of land forming the northeastern extremity of the said inlet; from thence along the eastern shore of that inlet to the southern extremity of the same; from thence direct to the southern point of Gray's harbor; from thence along the shore of the Pacific to Cape Flattery, as before mentioned.

"They were further willing to stipulate that no works should at any time be erected at the entrance of the river Columbia, or upon the banks of the same, that might be calculated to impede or hinder the free navigation thereof by the vessels or boats of either party."

The American plenipotentiary considering this proposal as totally inadequate, and having declined even referring it to his Government, the British plenipotentiaries, at the same time that they left the said proposal on the protocol, protested against the offer of concession so made being even taken in any way to prejudice the claims of Great Britain included in her proposal of 1824, and declared that the offer now made was considered by the British Government as not called for by any just comparison of the grounds of those claims and of the counter claims of the United States, but rather as a sacrifice which the British Government had consented to make with a view to obviate all evils of future difference in respect to the territory west of the Rocky mountains. The proposition having, however, failed, they informed the American plenipotentiary that at a subsequent conference they should be prepared to submit a proposal for the renewal, for a fresh term of years, and in a separate form, of the provision relative to the territory in question, contained in the third article of the convention of London of 1818.

The American plenipotentiary observed that the proposal contained in the article presented by him at the first conference, and declined on the part of Great Britain, had also been made solely with a view to terminate by an amicable agreement all differences on that subject; and that he likwise protested against that proposal being ever taken in any way to prejudice the claims of the United States, as heretofore stated.

Adjourned to Wednesday, the 6th of December.

ALBERT GALLATIN.
W. HUSKISSON.
H. U. ADDINGTON.

A true copy.

W. B. LAWRENCE, *Secretary of Legation.*

Protocol of the fourth conference of the American and British Plenipotentiaries, held at the Board of Trade on the 6th of December, 1826.

Present: Mr. Gallatin, Mr. Huskisson, and Mr. Addington.

The protocol of the preceding conference was read over and signed.

The subject of a renewal of the article of the convention of 1818, which provides for a joint occupancy of the territory west of the Stony mountains, was resumed, and, after some general discussion, the American plenipotentiary observed that he had been authorized by his instructions, in case no permanent boundary line could be agreed on, to agree to the renewal of the article in question for a term not exceeding ten years; proposing only to omit so much of the article as related to the claims of other nations to that territory, as the United States did not admit that any other nation, besides the two contracting Powers, had any such claim at this time, those of Spain and Russia having been settled since the year 1818. But as, from the discussion which had taken place, it might be apprehended that the two Governments did not, perhaps, altogether agree on the true meaning of that article, and on the extent of obligations imposed by it on both parties, he thought it essential that no agreement should be concluded without a previous clear and mutual understanding in that respect. He therefore believed it necessary that he should refer the whole subject to his Government, with such new or explanatory provisions as the British plenipotentiaries might deem it proper to propose. He could not himself offer any new proposal for consideration, and would only say that any that was calculated to prevent collision, and to preserve perfect harmony in that quarter, would be favorably entertained by the Government of the United States, provided

it did not impair or affect their rights, nor prevent or impede their making settlements and enjoying all the benefits of the joint occupancy.

The British plenipotentiaries stated, in reply, that it had never been their intention to propose any arrangement which should not place the citizens of the United States upon an equal footing with the subjects of Great Britain, in respect to the territory in question, so long as it continued open to the exercise of those rights which were incident to a state of joint occupancy.

The sole object of any additional stipulation, which they might have to suggest for the consideration of the American plenipotentiary, would be to guard against possible misunderstanding, in respect to the nature and consequences of any acts that might be done in that territory by either party whilst liable to be so occupied.

The British plenipotentiaries added that they should certainly feel no objection to furnish the American plenipotentiary with a full and explicit statement of the claims which Great Britain makes, and of the obligations by which she considers herself bound in respect to that territory.

The British plenipotentiaries submitted to the American plenipotentiary whether, in renewing the third article of the convention of 1818, it might not be desirable to extend that renewal to a longer term than ten years. They suggested twenty, or, at least, fifteen years, subject to the understanding that the two Governments should use their best endeavors within that period to adjust their present differences in respect to the boundary to be drawn between them in the territories in question.

ALBERT GALLATIN.
W. HUSKISSON.
H. U. ADDINGTON.

A true copy.

W. B. LAWRENCE, *Secretary of Legation.*

Protocol of the fifth conference between the American and British Plenipotentiaries, held at the Board of Trade on the 11th of December, 1826.

Present: Mr. Gallatin, Mr. Huskisson, and Mr. Addington.

The protocol of the preceding conference was read over and signed.

Circumstances having prevented the British plenipotentiaries from submitting, as they had proposed, at this conference, a project of convention, for the renewal of the provision of the convention of 1818, relative to the country west of the Rocky mountains, as alluded to in the preceding protocol, the subject of the adjustment of boundary under the 5th article of the treaty of Ghent was entered upon by the plenipotentiaries.

After some general conversation respecting the expediency of referring to foreign arbitration, as provided by that treaty, the differences which had arisen on that subject, as well as the mode of regulating that reference, it was agreed to postpone the further consideration of this matter to a future conference, in order to give time for further investigation of several points connected with it.

The American plenipotentiary announced his having received authority from his government to treat concerning the renewal, for a further term of ten years, of the commercial convention of 1815, concluded between the United States and Great Britain.

Adjourned to Saturday, the 16th of December.

ALBERT GALLATIN.
W. HUSKISSON.
H. U. ADDINGTON.

A true copy.

W. B. LAWRENCE, *Secretary of Legation.*

Protocol of the sixth conference between the American and British Plenipotentiaries, held at the Board of Trade on the 16th of December, 1826.

Present: Mr. Gallatin, Mr. Huskisson, and Mr. Addington.

The protocol of the preceding conference was read over and signed.

The British plenipotentiaries submitted, and annexed to the protocol, the project of a convention, (A,) as alluded to in their preceding conferences, for the renewal, for a fresh term of fifteen years from the date thereof, of the provision relative to the country west of the Rocky mountains, which was contained in the convention of London of 1818. This project they accompanied with a statement, (B,) also annexed to the protocol, of the claims and views of Great Britain relative to that country.

The American plenipotentiary took both the above mentioned papers for reference to his Government, and intimated his intention of annexing to the protocol of the next conference a counter statement of the claims and views of the United States relative to the same country.

Adjourned.

ALBERT GALLATIN.
W. HUSKISSON.
H. U. ADDINGTON.

A true copy.

W. B. LAWRENCE, *Secretary of Legation.*

CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES.—COLUMBIA TERRITORY.

Whereas, by the third article of the convention concluded in London on the thirtieth of October, eighteen hundred and eighteen, between his Britannic Majesty and the United States of America, it was provided that any country that might be claimed by either of the contracting parties on the Northwest Coast of America should be free and open, for the term of ten years from the date of the signature of that convention, to the subjects and citizens of the two Powers, any territorial claim which either party might have to any part of such country being mutually reserved. His Britannic Majesty and the United States, considering that the term for which the above provision was to remain in force is now not far from its expiration, and being equally desirous to preclude all danger of misunderstanding between themselves with respect to the said country, have determined to renew the said provision; for which purpose they have respectively named plenipotentiaries to treat and agree respecting the same, that is to say: His Britannic Majesty, the Right Honorable William Huskisson, &c., &c., &c., and Henry Unwin Addington, Esq.; and the United States, Albert Gallatin, who have agreed to and concluded the following articles:

ARTICLE 1. It is agreed that any country which may be claimed by either of the contracting parties on the Northwest Coast of America, westward of the Rocky mountains, shall, together with its harbors, bays, creeks, and rivers, be free and open, for the term of *fifteen* years from the date of the ratification of the present convention, to the vessels, subjects, and citizens of the two Powers; it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the contracting parties may have to any part of the said country, nor shall it be taken to affect the claims of any other Power or State to any part of the said country. The only object of the high contracting parties, in concluding this convention, being to prevent disputes and differences between themselves.

ARTICLE 2. For the more effectual prevention of such disputes and differences, it is further agreed that, during the said term of fifteen years, neither of the contracting parties shall assume or exercise any right of exclusive sovereignty or dominion over any part of the said country; nor shall any settlement which may now exist, or which may be hereafter formed therein by either party during the said term of fifteen years, be at any time adduced in support or furtherance of any claim to such sovereignty or dominion.

The Government of Great Britain, in proposing to renew, for a further term of years, the third article of the convention of 1818, respecting the territory on the Northwest Coast of America, west of the Rocky mountains, regrets that it has been found impossible, in the present negotiation, to agree upon a line of boundary which should separate those parts of that territory which might henceforward be occupied or settled by the subjects of Great Britain from the parts which would remain open to occupancy and settlement by the United States.

To establish such a boundary must be the ultimate object of both countries. With this object in contemplation, and from a persuasion that a part of the difficulties which have hitherto prevented its attainment is to be attributed to a misconception, on the part of the United States, of the claims and views of Great Britain in regard to the territory in question, the British plenipotentiaries deem it advisable to bring under the notice of the American plenipotentiary a full and explicit exposition of those claims and views.

As preliminary to this discussion, it is highly desirable to mark distinctly the broad difference between the nature of the rights claimed by Great Britain and those asserted by the United States in respect to the territory in question.

Over a large portion of that territory, namely, from the 42d to the 49th degree of north latitude, the United States claim full and exclusive sovereignty.

Great Britain *claims no exclusive sovereignty over any portion of that territory.* Her present claim, not in respect to any part, but to the whole, is limited to a right of joint occupancy in common with other States, leaving the right of exclusive dominion in abeyance.

In other words, the pretensions of the United States tend to the ejection of all other nations, and, among the rest, of Great Britain, from all right of settlement in the district claimed by the United States.

The pretensions of Great Britain, on the contrary, tend to the mere maintenance of her own rights, in resistance to the exclusive character of the pretensions of the United States.

Having thus stated the nature of the respective claims of the two parties, the British plenipotentiaries will now examine the grounds upon which those claims are founded.

The claims of the United States are urged upon these grounds:

1. As resulting from their own *proper* right.

2. As resulting from a right derived to them from Spain; that Power having, by the treaty of Florida, concluded with the United States in 1819, ceded to the latter all her rights and claims on the western coast of America north of forty-two degrees.

3. As resulting from a right derived to them from France, to whom the United States succeeded, by treaty, in the possession of the province of Louisiana.

The first right, or right *proper*, of the United States is founded on the alleged discovery of the Columbia river by Mr. Gray, of Boston, who, in 1792, entered that river, and explored it to some distance from its mouth.

To this are added the first exploration, by Lewis and Clark, of a main branch of the same river from its source downwards; and also the alleged priority of settlement, by citizens of the United States, of the country in the vicinity of the same river.

The second right, or right derived from Spain, is founded on the alleged prior discovery of the region in dispute by Spanish navigators, of whom the chief were: 1st. Cabrillo, who, in 1543, visited that coast as far as 44°? north latitude. 2d. De Fuca, who, as it is affirmed, in 1598 entered the straits known by his name in latitude 49°. 3d. Gualli, who, in 1582, is said to have pushed his researches as high as 57° north latitude. 4th. Perez and others, who, between the years 1774 and 1792, visited Nootka sound and the adjacent coasts.

The third right, derived from the cession of Louisiana to the United States, is founded on the assump-

tion that that province, its boundaries never having been exactly defined *longitudinally*, may fairly be asserted to extend westward across the Rocky mountains to the shore of the Pacific.

Before the merits of these respective claims are considered, it is necessary to observe that one only out of three can be valid.

They are, in fact, claims obviously incompatible the one with the other. If, for example, the title of Spain, by first discovery, or the title of France, as the original possessor of Louisiana, be valid, then must one or the other of those Kingdoms have been the lawful possessor of that territory at the moment when the United States claim to have discovered it. If, on the other hand, the Americans were the first discoverers, there is necessarily an end of the Spanish claim; and if priority of discovery constitutes the title, that of France falls equally to the ground.

Upon the question, how far prior discovery constitutes a legal claim to sovereignty, the law of nations is somewhat vague and undefined. It is, however, admitted by the most approved writers that mere accidental discovery, unattended by exploration; by formally taking possession in the name of the discoverer's Sovereign; by occupation and settlement, more or less permanent; by purchase of the territory, or receiving the sovereignty from the natives, constitutes the lowest degree of title, and that it is only in proportion as first discovery is followed by any or all of these acts that such title is strengthened and confirmed.

The rights conferred by discovery, therefore, must be discussed on their own merits.

But before the British plenipotentiaries proceed to compare the relative claims of Great Britain and the United States in this respect, it will be advisable to dispose of the two other grounds of right put forward by the United States.

The second ground of claim advanced by the United States is the cession made by Spain to the United States by the treaty of Florida in 1819.

If the conflicting claims of Great Britain and Spain, in respect to all that part of the coast of North America, had not been finally adjusted by the convention of Nootka in the year 1790, and if all the arguments and pretensions, whether resting upon priority of discovery, or derived from any other consideration, had not been definitively set at rest by the signature of that convention, nothing would be more easy than to demonstrate that the claims of Great Britain to that country, as opposed to those of Spain, were so far from visionary or arbitrarily assumed, that they established more than a parity of title to the possession of the country in question, either as against Spain or any other nation.

Whatever that title may have been, however, either on the part of Great Britain or on the part of Spain, prior to the convention of 1790, it was from thenceforward no longer to be traced in vague narratives of discoveries, several of them admitted to be apochryphal, but in the text and stipulations of the convention itself.

By that convention it was agreed that all parts of the Northwest Coast of America not already occupied at that time by either of the contracting parties should thenceforward be equally open to the subjects of both for all purposes of commerce and settlement, the sovereignty remaining in abeyance.

In this stipulation, as it has been already stated, all tracts of country claimed by Spain and Great Britain, or accruing to either in whatever manner, were included.

The rights of Spain on that coast were, by the treaty of Florida in 1819, conveyed by Spain to the United States. With these rights, the United States necessarily succeeded to the limitations by which they were defined, and the obligations under which they were to be exercised. From those obligations and limitations, as contracted towards Great Britain, Great Britain cannot be expected gratuitously to release those countries merely because the rights of the party originally bound have been transferred to a third Power.

The third ground of claim of the United States rests on the right supposed to be derived from the cession to them of Louisiana by France. In arguing this branch of the question it will not be necessary to examine in detail the very dubious point of the assumed extent of that province, since, by the treaty between France and Spain of 1763, the whole of that territory, defined or undefined, real or ideal, was ceded by France to Spain, and, consequently, belonged to Spain, not only in 1790, when the convention of Nootka was signed between Great Britain and Spain, but also, subsequently, in 1793, the period of Gray's discovery of the mouth of the Columbia. If, then, Louisiana embraced the country west of the Rocky mountains to the south of the 49th parallel of latitude, it must have embraced the Columbia itself, which that parallel intersects; and, consequently, Gray's discovery must have been made in a country avowedly already appropriated to Spain, and, if so appropriated, necessarily included, with all other Spanish possessions and claims in that quarter, in the stipulations of the Nootka convention.

Even if it could be shown, therefore, that the district west of the Rocky mountains was within the boundaries of Louisiana, that circumstance would in no way assist the claims of the United States.

It may, nevertheless, be worth while to expose, in a few words, the futility of the attempt to include that district within those boundaries.

For this purpose it is only necessary to refer to the original grant of Louisiana made to De Crozat, by Louis XIV, shortly after its discovery by La Salle. That province is therein expressly described as "the country drained by the waters emptying, directly or indirectly, into the Mississippi." Now, unless it can be shown that any of the tributaries of the Mississippi cross the Rocky mountains from west to east, it is difficult to conceive how any part of Louisiana can be found to the west of that ridge.

There remains to be considered the first ground of claim advanced by the United States to the territory in question, namely, that founded on their own proper right as first discoverers and occupiers of that territory.

If the discovery of the country in question, or rather the mere entrance into the mouth of the Columbia river by a private American citizen, be, as the United States assert, (although Great Britain is far from admitting the correctness of the assertion,) a valid ground of national and exclusive claim to all the country situated between the 42d and 49th parallels of latitude, then must any preceding discovery of the same country by an individual of any other nation invest such nation with a more valid, because a prior, claim to that country.

Now, to set aside for the present Drake, Cook, and Vancouver, who all of them either took possession of or touched at various points of the coast in question, Great Britain can show that, in 1788—that is, four years before Gray entered the mouth of the Columbia river—Mr. Meares, a lieutenant of the Royal Navy, who had been sent by the East India Company on a trading expedition to the Northwest Coast of America, had already minutely explored that coast from the 49th degree to the 45th degree of north latitude; had taken formal possession of the Straits of De Fuca in the name of the Sovereign; had

purchased land; trafficked and *formed treaties* with the natives; and had *actually entered the bay of the Columbia,* to the northern headland of which he gave the name of *Cape Disappointment*—a name which it bears to this day.

Dixon, Scott, Duncan, Strange, and other private British traders, had also visited these shores and countries several years before Gray; but the single example of Meares suffices to quash Gray's claim to prior discovery. To the other navigators above mentioned, therefore, it is unnecessary to refer more particularly.

It may be worth while, however, to observe, with regard to Meares, that his account of his voyage was *published in London, in August,* 1790—that is, two years before Gray is even pretended to have entered the Columbia. To that account are appended, first, the extracts from his log-book; secondly, maps of the coasts and harbors which he visited, in which every part of the coast in question, *including the bay of the Columbia, (into which the log expressly states that Meares entered,)* is minutely laid down, its delineations tallying in almost every particular with Vancouver's subsequent survey, and with the description found in all the best maps of that part of the world adopted at this moment; thirdly, the account in question actually contains an engraving, dated in August, 1790, of the entrance of De Fuca's straits, executed after a design taken *in June,* 1788, by Meares himself.

With these physical evidences of authenticity, it is as needless to contend for, as it is impossible to controvert, the truth of Meares' statements.

It was only on the 17*th of September,* 1788, that the Washington, commanded by Mr. Gray, first made her appearance at Nootka.

If, therefore, any claim to these countries as between Great Britain and the United States is to be deduced from priority of discovery, the above exposition of dates and facts suffices to establish that claim in favor of Great Britain on a basis too firm to be shaken.

It must, indeed, be admitted that Mr. Gray, finding himself in the bay formed by the discharge of the waters of the Columbia into the Pacific, was the first to ascertain that this bay formed the outlet of a great river—a discovery which had escaped Lieutenant Meares when, in 1788, four years before, he entered the same bay.

But can it be seriously urged that this single step in the progress of discovery not only wholly supersedes the prior discoveries both of the bay and the coast by Lieutenant Meares, but equally absorbs the subsequent exploration of the river by Captain Vancouver for near a hundred miles above the point to which Mr. Gray's ship had proceeded—the formal taking possession of it by that British navigator in the name of his Sovereign, and also all the other discoveries, explorations, and temporary possession and occupation of the ports and harbors on the coast, as well of the Pacific as within the Straits of De Fuca, up to the 49th parallel of latitude?

This pretension, however, extraordinary as it is, does not embrace the whole of the claim which the United States build upon the limited discovery of Mr. Gray, namely: that the bay of which Cape Disappointment is the northernmost headland, is, in fact, the embouchure of a river; that mere ascertainment, it is asserted, confers on the United States a title in exclusive sovereignty to the whole extent of country drained by such river and by all its tributary streams.

In support of this very extraordinary pretension, the United States allege the precedent of grants and charters accorded in former times to companies and individuals by various European Sovereigns over several parts of the American continent. Amongst other instances are adduced the charters granted by Elizabeth, James I, Charles II, and George II, to sundry British subjects and associations, as also the grant made by Louis XIV to De Crozat over the tract of country watered by the Mississippi and its tributaries.

But can such charters be considered an acknowledged part of the law of nations? Were they anything more, in fact, than a cession to the grantee, or grantees, of whatever rights the grantor might suppose himself to possess to the exclusion of other subjects of the same Sovereign?—charters binding and restraining those only who were within the jurisdiction of the grantor, and of no force or validity against the subjects of other States until recognized by treaty, and thereby becoming a part of international law.

Had the United States thought proper to issue, in 1790, by virtue of their national authority, a charter granting to Mr. Gray the whole extent of country watered, directly or indirectly, by the river Columbia, such a charter would, no doubt, have been valid in Mr. Gray's favor as against all other citizens of the United States. But can it be supposed that it would have been acquiesced in by either of the Powers—Great Britain and Spain—which, in that same year, were preparing to contest by arms the possession of the very country which would have been the subject of such a grant?

If the right of sovereignty over the territory in question accrued to the United States by Mr. Gray's discovery, how happens it that they never protested against the violence done to that right by the two Powers who, by the convention of 1790, regulated their respective rights in and over a district so belonging, as it is now asserted, to the United States?

This claim of the United States to the territory drained by the Columbia and its tributary streams, on the ground of one of their citizens having been the first to discover the entrance of that river, has been here so far entered into, not because it is considered to be necessarily entitled to notice, since the whole country watered by the Columbia falls within the provisions of the convention of 1790, but because the doctrine above alluded to has been put forward so boldly and with such confidence by the United States that Great Britain considered it equally due to herself and to other Powers to enter her protest against it.

The United States further pretend that their claim to the country in question is strengthened and confirmed by the discovery of the sources of the Columbia, and by the exploration of its source to the sea, by Lewis and Clark, in 1805–'6.

In reply to this allegation Great Britain affirms, and can distinctly prove, that, if not before, at least in the same and subsequent years, her Northwestern Trading Company had, by means of their agent, Mr. Thomson, already established their posts amongst the Flathead and Kootanie tribes, on the headwaters of the northern or main branch of the Columbia, and were gradually extending them down the principal stream of that river—thus giving to Great Britain, in this particular again, as in the discovery of the mouth of the river, a title to parity at least, if not priority, of discovery, as opposed to the United States. It was from these posts that, having heard of the American establishment forming in 1811 at the mouth of the river, Mr. Thomson hastened thither, descending the river, to ascertain the nature of that establishment. Some stress having been laid by the United States on the restitution to them of Fort George by

the British, after the termination of the last war, which restitution they represent as conveying a virtual acknowledgment by Great Britain of the title of the United States to the country in which that post was situated, it is desirable to state, somewhat in detail, the circumstances attending that restitution.

In the year 1815 a demand for the restoration of Fort George was first made to Great Britain by the American Government, on the plea that the first article of the treaty of Ghent stipulated the restitution to the United States of all posts and places whatsoever taken from them by the British during the war, in which description Fort George (Astoria) was included.

For some time the British Government demurred to comply with the demand of the United States, because they entertained doubts how far it could be sustained by the construction of the treaty.

In the first place, the trading post called Fort Astoria, or Fort George, was not a national possession. In the second place, it was not a military post; and, thirdly, it was never captured from the Americans by the British.

It was, in fact, conveyed in regular commercial transfer, and accompanied by a bill of sale, for a sum of money, to the British company who purchased it, by the American company who sold it *of their own free will.*

It is true that a British sloop-of-war had, about that time, been sent to take possession of that post, but she arrived subsequently to the transaction above mentioned between the two companies, and found the British company *already in legal occupation of their self-acquired property.*

In consequence, however, of that ship having been sent out with hostile views, although those views were not carried into effect, and in order that not even the shadow of a reflection might be cast upon the good faith of the British Government, the latter determined to give the most liberal extension to the terms of the treaty of Ghent, and, in 1818, the purchase which the British company had made in 1813 was restored to the United States.

Particular care, however, was taken on this occasion to prevent any misapprehension as to the extent of the concession made by Great Britain.

Viscount Castlereagh, in directing the British Minister at Washington to intimate the intention of the British Government to Mr. Adams, then Secretary of State, uses these expressions in a despatch dated February 4, 1818:

"You will observe that whilst this Government is not disposed to contest with the American Government the point of possession as it stood in the Columbia river at the moment of the rupture, *they are not prepared to admit the validity of the title of the Government of the United States to this settlement.*"

"In signifying, therefore, to Mr. Adams the full acquiescence of your Government in the re-occupation of the *limited position* which the United States held in that river at the breaking out of the war, *you will at the same time assert, in suitable terms, the claim of Great Britain to that territory, upon which the American settlement must be considered an encroachment.*"

This instruction was executed verbally by the person to whom it was addressed.

The following is a transcript of the act by which the fort was delivered up by the British into the hands of Mr. Prevost, the American agent:

"In obedience to the command of his Royal Highness the Prince Regent, *signified in a despatch from the Right Honorable the Earl Bathurst,* addressed to the partners or agents of the Northwest Company, bearing date the 27th of January, 1818, and in obedience to a subsequent order dated the 26th July last, from W. H. Sherriff, Esq., captain of his Majesty's ship Andromache, we, the undersigned, do, in conformity to the first article of the treaty of Ghent, restore to the Government of the United States, through its agent, J. P. Prevost, Esq., the settlement of Fort George, on the Columbia river.

"Given under our hands, in triplicate, at Fort George, Columbia river, this 6th day of October, 1818.

"F. HICKEY, *Captain H. M. ship Blossom.*

"J. KEITH, *of the Northwest Company.*"

The following is the despatch from Earl Bathurst to the partners of the Northwest Company, referred to in the above act of cession:

"DOWNING STREET, *January* 27, 1818.

"Intelligence having been received that the United States sloop-of-war Ontario has been sent by the American Government to re-establish a settlement on the Columbia river which was held by that State on the breaking out of the last war, I am to acquaint you that it is the Prince Regent's pleasure, *(without, however, admitting the right of that Government to the possession in question,)* that, in pursuance of the first article of the treaty of Ghent, due facility should be given to the re-occupation of the said settlement by the officers of the United States; and I am to desire that you would contribute as much as lies in your power to the execution of his Royal Highness' commands.

"I have, &c., &c., &c.,

"BATHURST.

"The PARTNERS OR AGENTS *of the Northwest Company residing on the Columbia river.*"

The above documents put the case of the restoration of Fort Astoria in too clear a light to require further observation.

The case, then, of Great Britain, in respect to the country west of the Rocky mountains, is shortly this:

Admitting that the United States have acquired all the rights which Spain possessed up to the treaty of Florida, either in virtue of discovery, or, as is pretended, in right of Louisiana, Great Britain maintains that the nature and extent of those rights, as well as of the rights of Great Britain, are fixed and defined by the convention of Nootka; that these rights are equal for both parties; and that in succeeding to the rights of Spain under that convention the United States must also have succeeded to the obligations which it imposed.

Admitting, further, the discovery of Mr. Gray to the extent already stated, Great Britain, taking the whole line of the coast in question, with its straits, harbors, and bays, has stronger claims on the ground of prior discovery, attended with acts of occupancy and settlement, than the United States.

Whether, therefore, the United States rest their claims upon the title of Spain or upon that of prior discovery, or upon both, Great Britain is entitled to place her claims at least upon a parity with those of the United States.

It is a fact admitted by the United States that, with the exception of the Columbia river, there is no river which opens far into the *interior* on the whole western coast of the Pacific Ocean.

In the *interior* of the territory in question the subjects of Great Britain have had for many years numerous settlements and trading posts; several of these posts on the tributary streams of the Columbia, several upon the Columbia itself; some to the northward, and others to the southward of that river; and they navigate the Columbia as the sole channel for the conveyance of their produce to the British stations nearest the sea, and for the shipment of it from thence to Great Britain. It is also by the Columbia and its tributary streams that these posts and settlements receive their annual supplies from Great Britain.

In the whole of the territory in question the citizens of the United States have not a single settlement or trading post. They do not use that river, either for the purpose of transmitting or receiving any produce of their own to or from other parts of the world.

In this state of the relative rights of the two countries, and of the relative exercise of those rights, the United States claim the exclusive possession of both banks of the Columbia, and consequently that of the river itself; offering, it is true, to concede to British subjects a conditional participation in that navigation, but subject in any case to the exclusive jurisdiction and sovereignty of the United States.

Great Britain, on her part, offers to make the river the boundary; each country retaining the bank of the river contiguous to its own territories, and the navigation of it remaining forever free and upon a footing of perfect equality to both nations.

To carry into effect this proposal on our part, Great Britain would have to give up posts and settlements south of the Columbia. On the part of the United States there could be no reciprocal withdrawing from actual occupation, as there is not, and never has been, a single American citizen settled north of the Columbia.

The United States decline to accede to this proposal, even when Great Britain has added to it the further offer of a most excellent harbor, and an extensive tract of country on the Straits of De Fuca; a sacrifice tendered in the spirit of accommodation, and for the sake of a final adjustment of all differences, but which, having been made in this spirit, is not to be considered as in any degree recognizing a claim on the part of the United States, or as at all impairing the existing right of Great Britain over the port and territory in question.

Such being the result of the recent negotiation, it only remains for Great Britain to maintain and uphold the qualified rights which she now possesses over the whole of the territory in question.

These rights are recorded and defined in the convention of Nootka.

They embrace the right to navigate the waters of those countries; the right to settle in and over any part of them; and the right freely to trade with the inhabitants and occupiers of the same.

These rights have been peaceably exercised ever since the date of that convention—that is, for a period of near forty years. Under that convention valuable British interests have grown up in those countries. It is fully admitted that the United States possess the same rights, although they have been exercised by them only in a single instance, and have not, since the year 1813, been exercised at all; but beyond these rights they possess none.

To the interests and establishments which British industry and enterprise have created Great Britain owes protection. That protection will be given, both as regards settlement and freedom of trade and navigation, with every attention not to infringe the co-ordinate rights of the United States; it being the earnest desire of the British Government, so long as the joint occupancy continues, to regulate its own obligations by the same rule which governs the obligations of any other occupying party.

Fully sensible, at the same time, of the desirableness of a more definite settlement, as between Great Britain and the United States, the British Government will be ready at any time to terminate the present state of joint occupancy by an arrangement of delimitation. But such arrangement only can be admitted as shall not derogate from the right of Great Britain as acknowledged by treaty, nor prejudice the advantages which British subjects, under the same sanction, now enjoy in that part of the world.

Protocol of the seventh conference of the American and British Plenipotentiaries, held at the Board of Trade on the 19th December, 1826.

Present: Mr. Gallatin and Mr. Addington.

The American plenipotentiary delivered and annexed to the protocol the counter statement of the claims and views of the United States relative to the country west of the Rocky or Stony mountains.

Adjourned.

ALBERT GALLATIN.
H. U. ADDINGTON.

A true copy.

W. B. LAWRENCE, *Secretary of Legation.*

The American plenipotentiary has read with attention the exposition of the claims and views of Great Britain in regard to the territory west of the Rocky or Stony mountains, annexed by the British plenipotentiaries to the protocol of the last conference, and assures them that it will receive from his Government all the consideration to which it is so justly entitled.

He will not make any observations on that part of the exposition, which, as explanatory of the views of the British Government in reference to a continued joint occupancy, he can only refer to his Government. The remarks he will now offer are necessarily limited to the respective claims of the two countries, and to the proposals for a definitive arrangement which have been made by each party.

Great Britain claims no exclusive sovereignty over any portion of the territory in question. Her claim extends to the whole, but is limited to a right of joint occupancy in common with other States, leaving the right of *exclusive dominion in abeyance.* She insists that her and Spain's conflicting claims were finally adjusted by the convention of Nootka in 1790; that all the *arguments* and *pretensions,* whether resting upon priority of discovery or derived from any other consideration, were *definitively set at rest* by that convention; that, from its date, it was only in its text and stipulations that the *title,* either on her part or on that of Spain, was to be traced; and that it was agreed by that convention that all the parts of the Northwest Coast of America not previously occupied by either party should thenceforward be equally

open to the subjects of both for all purposes of commerce and settlement, *the sovereignty remaining in abeyance.*

It is then declared that, in reference either to the rights derived to the United States from Spain by virtue of the treaty of 1819, or to that supposed to be derived from the acquisition of Louisiana, which province did, in the year 1790, belong to Spain, the United States have, with these rights, necessarily succeeded to the limitations by which they were defined, and the obligations under which they were to be exercised, in conformity with the stipulations of the Nootka convention. Whence it is generally inferred that, whilst it is fully admitted that the United States possess the same rights as Great Britain over the country in question, namely, to navigate its waters, to settle in any part of it, and freely to trade with the inhabitants and occupiers of the same, beyond these rights the United States possess none, and that they cannot, therefore, claim exclusive sovereignty over any part of said territory.

It will, in the first place, be observed that, admitting that convention to be still in force, and of whatever construction it may be susceptible, this compact between Spain and Great Britain could only bind the parties to it, and can affect the claim of the United States so far only as it is derived from Spain. If, therefore, they have a claim in right of their own discoveries, explorations, and settlements, as this cannot be impaired by the Nootka convention, it becomes indispensably necessary, in order to defeat such claim, to show a better prior title on the part of Great Britain, derived from some other consideration than the stipulations of that convention. But, on examining that instrument, it will be found to be apparently merely of a commercial nature, and in no shape to affect the question of distinct jurisdiction and exclusive sovereignty.

It was agreed by that convention "that the respective subjects of the two parties should not be disturbed or molested, either in navigating or carrying on their fisheries in the Pacific Ocean or in the South Seas, or in landing on the coasts of those seas in places not already occupied for the purpose of carrying on their commerce with the natives of the country, or of making settlements there;" and further, "that, in all places, wherever the subjects of either shall have made settlements since the month of April, 1789, or shall hereafter make any, the subjects of the other shall have free access, and shall carry on their trade without any disturbance or molestation."

It is difficult, on reading those provisions, and on recollecting in what cause the convention originated, to believe that any other settlements could have been contemplated than such as were connected with the commerce to be carried on with the natives. Indeed, it is as being only of a commercial nature that the Nootka convention may be positively asserted to be now in force, the commercial treaties between Great Britain and Spain having, subsequent to the war which had intervened, been alone renewed by the treaty of July, 1814.

Admitting, however, that the word "settlement" was meant in its most unlimited sense, it is evident that the stipulations had not for object to settle the territorial claims of the parties, and had no connexion with an ultimate partition of the country for the purpose of permanent colonization.

Those stipulations permitted promiscuous and intermixed settlements everywhere and over the whole face of the country to the subjects of both parties, and even declared every such settlement, made by either party, in a degree common to the other. Such a state of things is clearly incompatible with distinct jurisdiction and sovereignty. The convention, therefore, could have had no such object in view as to fix the relations of the contracting Powers in that respect. On that subject it established or changed nothing, but left the parties where it found them, and in possession of all such rights, whether derived from discovery or from any other consideration, as belonged to each, to be urged by each whenever the question of permanent and separate possession and sovereignty came to be discussed between them.

It is, indeed, expressly admitted that the convention provided for commerce and settlements, leaving the *sovereignty in abeyance.* And Great Britain at this time claims only a right of joint occupancy in common with other nations, leaving the right of *exclusive dominion in abeyance.* It is not perceived how it can, at the same time, be asserted that the arguments and pretensions of both parties were definitively set at rest by the convention, and that it is only in its text and stipulations that the *title* on either side is now to be traced.

Commerce and settlements might, indeed, be made by either party during the joint occupancy without regard to the respective pretensions or title from whatever consideration derived. But since the sovereignty, since the right of exclusive dominion has been left in abeyance, that right over any part of the country, to whichever party belonging, has not been extinguished, but only suspended, and must revive to its full extent whenever that joint occupancy may cease.

Whenever, therefore, a final line of demarcation becomes the subject of discussion, the United States have a right, notwithstanding and in conformity with the Nootka convention, to appeal in support of their claims, not only to their own discoveries, but to all the rights derived from the acquisition of Louisiana, and from the treaty of 1819 with Spain, in the same manner as if that convention had never been made. The question to be examined is, whether those claims are supported by the laws and usages of nations?

It may be admitted, as an abstract principle, that in the origin of society first occupancy and cultivation were the foundation of the rights of private property and of national sovereignty. But that principle, on which, principally, if not exclusively, it would seem that the British Government wishes to rely, could be permitted, in either case, to operate alone and without restriction so long only as the extent of vacant territory was such, in proportion to population, that there was ample room for every individual and for every distinct community or nation without danger of collision with others. As, in every society, it had soon become necessary to make laws regulating the manner in which its members should be permitted to occupy and to acquire vacant land within its acknowledged boundaries, so also nations found it indispensable for the preservation of peace, and for the exercise of distinct jurisdiction, to adopt, particularly after the discovery of America, some general rules which should determine the important previous question, "Who had a right to occupy?"

The two rules generally, perhaps universally, recognized and consecrated by the usage of nations have flowed from the nature of the subject.

By virtue of the first, prior discovery gave a right to occupy, provided that occupancy took place within a reasonable time, and was ultimately followed by permanent settlements and by the cultivation of the soil.

In conformity with the second, the right derived from prior discovery and settlement was not confined to the spot so discovered or first settled. The extent of territory which would attach to such first discovery or settlement might not, in every case, be precisely determined. But that the first discovery, and subsequent settlement within a reasonable time, of the mouth of a river, particularly if none of its branches

had been explored prior to such discovery, gave the right of occupancy, and ultimately of sovereignty, to the whole country drained by such river and its several branches, has been generally admitted. And in a question between the United States and Great Britain her acts have, with propriety, been appealed to as showing that the principles on which they rely accord with her own.

It is, however, now contended that the British charters, extending in most cases from the Atlantic Ocean to the South Seas, must be considered as cessions of the Sovereign to certain grantees, to the exclusion only of his other subjects, and as of no validity against the subjects of other States. This construction does not appear either to have been that intended at the time by the grantors, nor to have governed the subsequent conduct of Great Britain.

By excepting from the grants, as was generally the case, such lands as were already occupied by the subjects of other civilized nations, it was clearly implied that no other exception was contemplated, and that the grants were intended to include all the unoccupied lands within their respective boundaries, to the exclusion of all other persons or nations whatsoever. In point of fact, the whole country drained by the several rivers emptying into the Atlantic Ocean, the mouths of which were within those charters, has, from Hudson's bay to Florida, and, it is believed, without exception, been occupied and held by virtue of those charters. Not only has this principle been thus fully confirmed, but it has been notoriously enforced much beyond the sources of the rivers on which the settlements were formed. The priority of the French settlements on the rivers flowing westwardly from the Alleghany mountains into the Mississippi was altogether disregarded, and the right of the Atlantic colonies to extend beyond those mountains, as growing out of the contiguity of territory, and as asserted in the ancient charters, was effectually and successfully enforced.

It is true that the two general rules which have been mentioned might often conflict with each other. Thus, in the instance just alluded to, the discovery of the main branch of the Mississippi, including the mouth of that river and the occupation of the intervening province of Louisiana by another nation, gave rise at last to a compromise of those conflicting claims, and induced Great Britain to restrain hers within narrower limits than those originally designated.

But it is the peculiar character of the claim of the United States that it is founded on both principles, which, in this case, unite both in its support, and convert it into an incontestable right. It is in vain that, in order to avert that conclusion, an attempt is made to consider the several grounds on which that right is urged as incompatible one with the other, as if the United States were obliged to select only one and to abandon the others. In different hands, the several claims would conflict one with the other; now, united in the same power, they support each other. The possessors of Louisiana might have contended, on the ground of contiguity, for the adjacent territory on the Pacific Ocean, with the discoverers of the coast and of its main rivers. The several discoveries of the Spanish and American navigators might, separately, have been considered as so many *steps in the progress of discovery*, and giving only imperfect claims to each party. All those various claims, from whatever consideration derived, are now brought united against the pretensions of any other nation.

1st. The actual possession and populous settlements of the valley of the Mississippi, including Louisiana, and now under one sovereignty, constitute a strong claim to the westwardly extension of that former province over the contiguous vacant territory, and to the occupation and sovereignty of the country as far as the Pacific Ocean. If some trading factories on the shores of Hudson's bay have been considered by Great Britain as giving an exclusive right of occupancy as far as the Rocky mountains; if the infant settlements on the more southern Atlantic shores justified a claim thence to the South Seas, and which was actually enforced to the Mississippi, that of the millions already within reach of those seas cannot consistently be resisted. For it will not be denied that the extent of contiguous territory, to which an actual settlement gives a prior right, must depend, in a considerable degree, on the magnitude and population of that settlement, and on the facility with which the vacant adjacent land may, within a short time, be occupied, settled and cultivated by such population, as compared with the probability of its being thus occupied and settled, from any other quarter.

It has been objected that, in the grant of Louisiana to Crozat by Louis XIV, that province is described as "the country drained by the waters emptying, directly or indirectly, into the Mississippi," excluding thereby, by implication, the country drained by the waters emptying into the Pacific.

Crozat's grant was not for the whole of the province of Louisiana, as it was afterwards extended by France herself, and as it is now held by the United States. It was bounded, in that grant, of 1712, by Carolina to the east, by New Mexico to the west, and on the north by the Illinois, which were then part of Canada. The most northerly branches of the Mississippi embraced in the grant were the Ohio, at that time called Wabash by the French, and the Missouri, the true course of which was not known at that time, and the sources of which were not supposed to extend north of the 42d parallel of latitude. No territory on the west of the Mississippi was intended to be included in the grant north of that parallel; and as New Mexico, which bounded it on the west, was understood to extend even further north, it was impossible that any territory should have been included west of the sources of the rivers emptying into the Mississippi.

All the territory north of the 42d parallel of latitude claimed by France was included, at that time, not in Louisiana, but in the government of New France, as Canada was then called; and, by referring to the most authentic French maps, it will be seen that New France was made to extend over the territory drained, or supposed to be drained, by rivers emptying into the South Seas. The claim to a westwardly extension of those seas was thus early asserted as a part, not of Louisiana, but of New France. The King has reserved to himself, in Crozat's grant, the right of enlarging the government of Louisiana. This was done by an ordonnance, dated in the year 1717, which annexed the Illinois to it, and from that time the province extended as far as the most northern limit of the French possessions in North America, and thereby west of Canada or New France. The settlement of that northern limit still further strengthens the claim of the United States to the territory west of the Rocky mountains.

The limits between the northerly possessions of Great Britain in North America, and those of France in the same quarter, namely, Canada and Louisiana, were determined by Commissioners appointed in pursuance of the treaty of Utrecht. From the coast of Labrador to a certain point north of Lake Superior, those limits were fixed according to certain metes and bounds, and from that point the line of demarcation was agreed to extend indefinitely due west, along the 49th parallel of north latitude. It was in conformity with that arrangement that the United States did claim that parallel as the northern boundary of Louisiana. It has been accordingly thus settled as far as the Stony mountains, by the convention of 1818, between the United States and Great Britain; and no adequate reason can be given why the same boundary should

not be continued as far as the claims of the two countries extend—that is to say, as far as the Pacific Ocean. This argument is not weakened by the fact that the British settlements west of the Stony mountains are solely due to the extension of those previously formed on the waters emptying into Hudson's bay. And it is from respect to a demarcation, considered as binding on the parties, that the United States had consented to confine their claim to the 49th parallel of latitude, namely, to a territory of the same breadth as Louisiana east of the Stony mountains, although, as founded on prior discoveries, that claim would have extended much further north.

2d. The United States have an undoubted right to claim by virtue both of the Spanish discoveries and of their own. Setting aside all those which are not supported by authentic evidence, some of the most important were made by Spanish navigators prior to Cook's voyage. In 1774, Perez, in the Spanish corvette Santiago, discovered Nootka sound, in latitude 49° 30′, and sailed to the 55th degree, discovering Sangara island and Perez (now called Dixon's) entrance, north of Queen Charlotte island. In 1775, Quadra, in the Spanish schooner Felicidad, of which Maurelle was pilot, discovered various ports between the 55th and 58th degree, and explored the coast from 42° to 54°, landing at several places, imposing names to some, and not being at any time hardly more than ten leagues from the shore.

In other Spanish voyages of a subsequent date, those of Arteaga and Quadra in 1779, and of Martinez and Haro in 1788, various other parts of the Northwest Coast of America were explored as far north as the 60th degree of north latitude.

The Straits of Fuca were discovered, or again found, in 1787, by Captain Barclay, of the Imperial Eagle, a vessel fitted out at Ostend. The entrance was, in 1788, again visited by the English captains, Meares and Duncan. In the same year, Captain Gray, of the American sloop Washington, (who arrived at Nootka in September, coming from the south, where he had landed,) penetrated fifty miles up the straits. They were explored, in 1791, by the Spanish captains, Quimper and Eliza, beyond the 50th degree of latitude. Their complete survey and the discovery of the northern outlet, in 1792, are due principally to Captain Vancouver, who sailed through them in company with the Spanish vessels Sutil and Mexicano.

The discovery, which belongs exclusively to the United States and in their own right, is that of the river Columbia.

The continuity of the coast from the 42d to the 48th degree of latitude had been ascertained by the voyage of Quadra in 1775, and confirmed by that of Captain Cook in 1778. The object of discovery thenceforth was that of a large river, which should open a communication with the interior of the country. This had escaped Quadra, who had sailed in sight of the entrance afterwards discovered. Meares failed likewise in his attempt, in the year 1788, to make the discovery. Captain Vancouver was not more fortunate. After having also sailed along the coast from south to north to the 48th degree, he recorded in his journal of 29th April, 1792, which he had too much probity afterwards to alter, his opinion that there was no large river south of 48°, but only small creeks. On the ensuing day he met, at sea, with Captain Gray, then commanding the American ship "Columbia," who informed him of the existence of the river, at the mouth of which he (Gray) had been for several days without being able to enter it.

Captain Vancouver proceeded to Fuca's straits, and Captain Gray returned to the south, where he completed his discovery, having, on the 11th of May, entered the river which bears the name of his ship, and ascended it upwards of twenty miles. He then, having also discovered Gray's harbor, went to Nootka sound, where he again met with Captain Vancouver, to whom he communicated his discoveries, and gave him a rough chart of the river. With this information, one of Captain Vancouver's officers was sent to take a survey of Gray's harbor, and another that of the Columbia river, which he ascended about eighty miles higher up than Gray. Yet, in order to found a claim derived from a share in the discovery, that of Captain Gray is called only a *step* in the progress of discovery; and it is attempted to divide its merit between him, Meares, and Captain Vancouver's officer.

It must again be repeated that the sole object of discovery was "the river," and, coming from sea, the mouth of the river. Meares only followed Quadra's track. Had he suggested or suspected the existence of a river when he was near its entrance, it would have been a step in the progress of discovery. So far from it that, in his map, he has laid the presumed mouth of the great river of the west, of the traditional Oregon, of the real Columbia, in the Straits of Fuca. The very names which he imposed—Cape Disappointment and Deception bay—attest his failure.

Captain Vancouver having completed his survey of that part of the coast, with a conviction that no large river emptied there into the ocean, would not have explored it again had he not received the information from Captain Gray of his discoveries; and, in fact, in his second visit to that quarter, he surveyed or caused to be surveyed only the harbor and the river which had been indicated to him. The lieutenant sent to the Columbia, and who never would have been there had it not been for Captain Gray's information, performed, no doubt with fidelity, the mechanical duty of taking the soundings one hundred miles up its course. In that consists his sole merit; in the discovery he had not the slightest share. The important services rendered to navigation and to science by that officer and by Captain Vancouver are fully acknowledged; and their well-earned reputation cannot be increased by ascribing to them what belongs exclusively to another.

Louisiana having been acquired by the United States in 1803, an expedition was immediately ordered by Government to examine its western districts. In the course of this, Captains Lewis and Clark ascended the Missouri to its source, crossed the Rocky mountains, and explored the course of the Columbia from its most eastern sources to its mouth, where they arrived on the 6th of November, 1805. There they erected the works called Fort Clatsop, and wintered in 1805 and 1806. And thus was the discovery of the river commenced and completed by the United States before, as it is firmly believed, any settlement had been made on it, or any of its branches been explored by any other nation.

This is corroborated by the statement of the British plenipotentiaries. After having given, as the date of Lewis and Clark's exploration, not the year 1805, but the years 1805–'6, they assert that, if not before, at least *in the same and subsequent years*, Mr. Thompson had already established a post on the headwaters of the northern or main branch of the Columbia. Had that post been established in 1805, before Lewis and Clark's exploration, another and more distinct mode of expression would have been adopted. But it cannot be seriously contended that, if Mr. Thompson had in that year reached one of the sources of the Columbia north of the fiftieth degree of latitude, this, compared with the complete American exploration, would give to Great Britain "a title to parity at least, if not priority of discovery, as opposed to the United States."

In the year 1810 Mr. Astor, a citizen of the United States, fitted out two expeditions for the mouth

of the Columbia—one by sea and the other by land, from the Missouri. In March, 1811, the establishment of Astoria was accordingly commenced near the mouth of the river before any British settlement had been made south of the forty-ninth parallel. From that principal post several other settlements were formed—one of them, contrary to the opinion entertained by the British plenipotentiaries, at the mouth of the Wanahata, several hundred miles up and on the right bank of the Columbia.

These establishments fell into the hands of the British during the war; and that of Astoria has since been formally restored, in conformity with the treaty of Ghent. On the circumstances of that restitution it is sufficient to observe, that with the various despatches from and to the officers of the British Government the United States have no concern; that it is not stated how the verbal communications of the British minister at Washington were received, nor whether the American Government consented to accept the restitution with the reservation as expressed in the despatches to that minister from his Government; and that the only written document affecting the restoration, known to be in possession of that of the United States, is the act of restoration itself, which contains no exception, reservation, or protest, whatever.

It has thus been established that the Columbia river was first discovered by the United States; that that first discovery was attended by a complete exploration of the river from its most easterly source to the mouth, before any such exploration had been made by any other nation, by a simultaneous actual occupation and possession, and by subsequent establishments and settlements made within a reasonable time, and which have been interrupted only by the casualties of war.

This, it is contended, gives, according to the acknowledged law and usages of nations, a right to the whole country drained by that river and by its tributary streams, which could have been opposed only by the conflicting claim derived from the possession of Louisiana. Both united, and strengthened by the other Spanish and American discoveries along the coast, (and without reference to the cession of the pretensions of Spain derived from other considerations,) establish, it is firmly believed, a stronger title to the country above described, and along the coast as far north at least as the forty-ninth parallel of latitude, than has ever at any former time been asserted by any nation to vacant territory.

Before the subject is dismissed, it may be proper to observe that the United States had no motive, in the year 1790, to protest against the Nootka convention, since their exclusive right to the territory on the Pacific originated in Gray's discovery, which took place only in 1792. The acquisition of Louisiana and their last treaty with Spain are still posterior.

On the formality called "taking possession," though no actual possession of the country is taken, and on the validity of sales of land and surrender of sovereignty by Indians, who are for the first time brought into contact with civilized men; who have no notion of what they mean by either sovereignty or property in land; who do not even know what cultivation is; with whom it is difficult to communicate even upon visible objects, the American plenipotentiary thinks that he may abstain from making any remarks.

Whilst supporting their claim by arguments, which they think conclusive, the United States have not been inattentive to the counter claims of Great Britain.

They, indeed, deny that the trading posts of the Northwest Company give any title to the territory claimed by America, not only because no such post was established within the limits claimed, when the first American settlement was made, but because the title of the United States is considered as having been complete before any of those traders had appeared on the waters of the Columbia. It is also believed that mere factories, established solely for the purpose of trafficking with the natives and without any view to cultivation and permanent settlement, cannot, of themselves, and unsupported by any other consideration, give any better title to dominion and absolute sovereignty than similar establishments made in a civilized country.

But the United States have paid due regard to the discoveries by which the British navigators have so eminently distinguished themselves, to those perhaps not less remarkable made by land from the upper lakes to the Pacific, and to the contiguity of the possessions of Great Britain on the waters of Hudson's bay to the territory bordering on that ocean. Above all, they have been earnestly desirous to preserve and cherish not only the peaceful but the friendly relations which happily subsist between the two countries. And, with that object in view, their offer of a permanent line of demarcation has been made, under a perfect conviction that it was attended with the sacrifice of a portion of what they might justly claim.

Viewed as a matter of mutual convenience, and with equal desire on both sides to avert, by a definitive line of delimitation, any possible cause of collision in that quarter, every consideration connected with the subject may be allowed its due weight.

If the present state of occupancy is urged on the part of Great Britain, the probability of the manner in which the territory west of the Rocky mountains must be settled belongs also essentially to the subject. Under whatever nominal sovereignty that country may be placed, and whatever its ultimate destinies may be, it is nearly reduced to a certainty that it will be almost exclusively peopled by the surplus population of the United States. The distance from Great Britain, and the expense incident to emigration, forbid the expectation of any being practicable from that quarter but on a comparatively small scale. Allowing the rate of increase to be the same in the United States and in the North American British possessions, the difference in the actual population of both is such that the progressive rate which would, within forty years, add three millions to these, would, within the same time, give a positive increase of more than twenty millions to the United States. And if circumstances, arising from localities and habits, have given superior facilities to British subjects of extending their commerce with the natives, and to that expansion which has the appearance and the appearance only of occupancy; the slower but sure progress and extension of an agricultural population will be regulated by distance, by natural obstacles, and by its own amount. The primitive right of acquiring property and sovereignty by occupancy alone, admitting it to be unlimited in theory, cannot extend beyond the capacity of occupying and cultivating the soil.

It may also be observed that, in reality, there were but three nations which had both the right and the power to colonize the territory in question—Great Britain, the United States, and Spain, or now the new American States. These are now excluded in consequence of the treaty of 1819. The United States, who have purchased their right for a valuable consideration, stand now in their place, and on that ground, in the view entertained of the subject by the British Government, are, on a final partition of the country, fairly entitled to two shares.

Under all the circumstances of the case, as stated on both sides, the United States offer a line which leaves to Great Britain by far the best portion of the fur trade, the only object at this time of the pursuit

of her subjects in that quarter, and a much greater than her proportionate share of the country with a view to permanent settlement, if the relative geographical situation and means of colonizing of both parties are taken into consideration. From the 42° of north latitude to the Observatory inlet, in about 55° 30′, there is a front on the Pacific of almost fourteen degrees of latitude, which the forty-ninth parallel divides into two nearly equal parts. The mouth of the Columbia river, if accepted as a boundary, would leave less than one-third to the United States.

The offer of the free navigation of that river, when the whole territory drained by all its tributary streams, including the northernmost branches, might have been justly claimed, would have also given to Great Britain, in time of peace, all the commercial advantages which it can afford to the Americans.

In the case of a war, (which God forbid,) whatever might be the result on shore, the line proposed by Great Britain, even with the addition of the detached and defenceless territory she offered, would leave the sea border at her mercy, and the United States without a single port; whilst the boundary proposed by them might, during that period, deprive Great Britain only of the use of the port at the mouth of the Columbia, and would leave her in the secure possession of numerous seaports, perhaps less convenient, but still affording ample means of communication with the interior. That line, indeed, with such slight reciprocal modifications as the topography of the country may indicate, would establish the most natural and mutually defensible boundary that can be found, and for that reason the least liable to collision, and the best calculated to perpetuate peace and harmony between the two Powers.

Mr. Gallatin to Mr. Clay.

No. 41.] LONDON, *December* 21, 1826.

SIR: You will find by the protocol of the fifth conference that there was some conversation on the subject of the northeast boundary, and there was also some on the renewal of the convention of 1815, though not mentioned in the protocol.

I think it probable that the convention will ultimately be renewed without alteration. The distress of the country is by many, though erroneously, in my opinion, ascribed to the removal of restrictions in the navigation laws, which Mr. Huskisson has already effected, and he is apprehensive that this is not the proper time to carry on further the system of enlargement. Much difficulty will also be experienced in agreeing on explanatory provisions, yet it is proper to be prepared for every contingency; and, although he was not yet ready to propose what he wished in an official form, I can state his views, so, I hope, as to enable the President to form his opinion, and to give me definitive instructions on that subject.

The alterations may consist of mere explanatory clauses, or embrace new provisions.

The British complain of two enactments, on account of which explanatory additional articles in the convention were desired. The first is that of South Carolina relative to seamen of color. I have observed that that law did not place British vessels on a worse footing than those of other nations or of the United States. They insist that, still, by the convention, British vessels navigated according to law, and having the requisite number of seamen, British subjects, are entitled to admission into our ports, although some may be either of color, (and if British subjects, no matter how many,) or subjects of another country. They feel, however, that this is a delicate and difficult subject, and do not seem disposed to insist.

The second is the law of Congress which imposes a different rate of duty on rolled than on hammered bar iron. I said that the distinction not applying to the country where, but to the manner in which manufactured, was not in opposition to the provisions of the convention. They insist that this is evasive, since the rolled iron is, it may be said exclusively, a British manufacture; and they say that they might retaliate on the article of cotton. If a difference of duties can be made on account of the different manner in which the article is manufactured or prepared for market, Great Britain may justly lay a higher duty on our *clean* upland cotton than on the *unclean* which comes from the Levant, from Egypt, or from India. These are precisely of the same species with the American upland, differing only in the kind of machinery or degree of attention with which they are cleaned or prepared for market. It is added that an extra duty would be much more justifiable in this than in the case of rolled iron, which is really worth less than the hammered, whilst the American upland cotton is, on account of the manner in which it is prepared, always worth more, and does sell for more than the corresponding species of India or the Levant.

The question, therefore, is, whether a clause will be admissible providing that the same articles shall not be liable to a higher rate of duty on account of a difference in the manner in which they may have been manufactured or prepared for market.

We have, on the other hand, some reason to complain of certain duties laid in London on foreigners, exclusively, under the name of scavage. It is a kind of exclusive privilege of packing goods vested in the city by some act of Edward III. In the cases of American produce imported in American vessels and some others, the Treasury pays the duties to the city which might be demanded from American owners. In other cases, not coming precisely within the words of the convention, the duty is demanded. I do not ask instructions on that point, as it is somewhat complex, and I will of course endeavor to obtain an explanatory or additional article, if it is not concluded to continue it without any alteration.

As to any new provisions, I proposed, though not in a formal way, that of a general admission without exception either as to the place of which the article was the produce, or as to that from which imported, or to which intended to be exported. Mr. Huskisson immediately said that we had a similar article in our treaty with Guatemala; and that, whatever might be his abstract opinions, he could by no means agree to such a condition. Colonies, and whatever was embraced by the East India Company monopoly, must be excluded. Nor would he extend the privilege to vessels other than those coming directly from the United States to Great Britain, and *vice versa*. The proposition he might make in its utmost latitude would be, that vessels of the United States coming from the United States should be permitted to bring into Great Britain, on the same terms with British vessels, articles not the produce or manufacture of the United States, excepting always the produce and manufacture of the British colonies and *possessions* abroad, (East Indies, &c.,) of China, and perhaps of all countries beyond the Cape of Good Hope. It is therefore on that proposal that you must decide. You will of course understand that precisely the same privileges are to be allowed, and precisely with the same exceptions to British vessels

in the United States. Whatever may be the restrictions, provided they are precisely the same, I have not the least doubt that a provision to that effect will be comparatively more advantageous to our navigation than to that of Great Britain, and that nearly in the same proportion, as from experience has been found to be the case, with respect to the articles embraced by the existing convention.

We had also some conversation on the subject of the miscellaneous articles that in 1824 had been proposed by the British plenipotentiaries. On my asking whether they thought it peferable to add them to the convention of 1815, or to make them the subject of a distinct one, the answer was immediately given in favor of the latter mode. From what fell in conversation, I had an opportunity to state what I was instructed to ask respecting the surrender of runaway slaves. That they were no acquisition to Canada was acknowledged, and no objection was made to the principle; but several were suggested by Mr. Huskisson arising from the difficulties thrown in the way of everything of that kind by the courts and by the abolition British associations.

I fear that there will not be time to write you by this packet on what has passed concerning the northeast boundary.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State, Washington.*

Mr. Gallatin to Mr. Clay.

No. 47.] LONDON, *December* 30, 1826.

SIR: An agreement with this Government on the preliminary arrangements and mode of proceedings in the reference to an umpire of the discordant reports of the Commissioners appointed under the fifth article of the treaty of Ghent must embrace two objects—evidence and argument. Although I have not matured my own views of the subject, I proposed verbally to the British Commissioners the following outlines:

Evidence.

1. All the surveys, maps, reports, and documents ordered by the late commission to be filed, and all the documents recited by either of the two agents in their arguments, the authenticity and correctness of which were not questioned by the other agent, to be admitted and laid before the arbiter as undisputed evidence.

2. All the surveys and maps offered by either party to the late board, and all such additional documents as either party may wish to be given in evidence, to be examined within ——— by both Governments, and such as may be agreed on by both to be added to the admitted list.

3. All such said surveys, maps, and documents as may be objected to by either party to be likewise laid before the umpire, together with the written objections of the other party, leaving the umpire to make whatever use of the same he shall think proper, and without any further discussion by either party thereon unless called for by the umpire.

4. Each party to give authentic copies of such documents as have issued from his authority, or are exclusively in his possession, to the other party, whenever applied for, within ——— months.

Argument.

1. The two parties to communicate, one to the other, simultaneously their statement of the case. This to be done within ———; and within ——— thereafter each party shall substitute to his first statement another, containing no new matter save what is necessary to refute the argument of the other party.

2. These two last mutually-communicated statements shall be laid before the umpire either as the opening or as definitive arguments on both sides, as the two Powers may agree after such mutual communication, but in either case as a substitute to the reports of the late Commissioners, and to the arguments of the late agents.

3. If either Power disagree to the said statements being considered as definitive, each shall be at liberty to adduce new arguments, replies, &c., before the umpire, but not to adduce new evidence unless called for by said umpire.

4. If both Powers shall agree that the said statements be considered as definitive, no further discussion or argument shall take place; and the umpire shall decide on the evidence and statements as above stated, unless he should call for further explanations on any point.

5. In this last case the application of the umpire shall be communicated to both parties, who may, on such point, furnish evidence, reply and argue, in the manner that shall be prescribed by the umpire.

This first sketch will perhaps induce you to communicate your views on the subject. Special instructions in that complex business may not find their application; but I hope not to want any. For you will perceive that this projet of convention embraces only preliminary arrangements, leaving to each Government the power to offer and object to new evidence, to prepare the statements of the case, to correct them, and to agree or not whether they shall be definitive, which, in fact, embraces all that is essential.

There is no disposition on the part of the British plenipotentiaries either to attempt a compromise or to transfer the negotiation to Washington, but I will persevere in my efforts to obtain this object.

I have the honor to be, respectfully, sir, your obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State.*

Mr. Gallatin to Mr. Clay.

No. 79.] LONDON, *May* 29, 1827.

SIR: Our eighth conference took place on the 24th instant. The protocol is not yet agreed on.

I made the declaration reserving to my Government the right of contending for the full extent of the claims of the United States to the territory west of the Stony mountains, on which Mr. Huskisson said that they would, on their part, enter on the record a protest against those claims.

I then stated that the President could not agree to the provisions of the second article of the projet of convention for a joint occupancy of the territories in question, and that, after a deliberate examination of the subject, he was still of opinion that a simple renewal of the former agreement for a limited term of years was sufficient, and the most eligible course to be adopted for the present; it being of course understood that during that period the two Governments would, according to the former suggestion of the British plenipotentiaries, unite their endeavors to adjust their differences by the establishment of a permanent boundary in that quarter. This was taken ad referendum, Mr. Huskisson saying that he must consult his colleagues on that subject.

We had afterwards a long discussion on the contemplated agreement on the subject of the northeastern boundary, and which, as you are already informed, relates only to the manner of bringing fairly the case before an arbiter for his decision. As we came to no result on any one point, I will wait to give you a statement of the proceedings till something more definitive shall have taken place.

As we were going to adjourn, Mr. Huskisson having mentioned that he had yet some persons to consult before he could make any specific proposition on the subject of the renewal of the commercial convention, an informal conversation ensued, in the course of which I told him that we could not agree to his intended clause respecting rolled iron. He expressed himself very warmly on that point, and said that if we objected to this, the intercourse between the two countries might be left, like that with the colonies, to be regulated by mutual legislation. I told him the result, in that case, might eventually prove the same, and be prejudicial to both countries. As it was asserted on their part, as I understood them, that the Executive of the United States had actually acknowledged that the higher duty on rolled than on forged iron was inconsistent with the convention, I said that a discussion on this point not having been anticipated, I was not in possession of what they alluded to, and requested Mr. Addington, who must be acquainted with the circumstances, to communicate, in an unofficial way, the papers which might have passed on the occasion. He has accordingly sent me some memoranda and references, with which, and the eleventh volume of the State Papers and Niles' Register, I have the President's messages of 12th February, 1818, and 1st May, 1822, and letters from Messrs. Bagot, Antrobus, and G. Canning. But there may be other messages, and I have not been able to find either of Mr. Adams' letters alluded to in the correspondence, nor of the reports of the committees to whom the subject was referred, so that I am in possession of their argument and not of ours. In your despatch you only say, in reference to the past, that the complaint had been heretofore examined and shown to have no foundation. I will, when the subject is regularly taken up, avail myself of your subsequent observations on the merits of the case, and avoid any altercation on questions of fact.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State.*

P. S.—I did not omit, in respect to the western territory, to remind the British plenipotentiaries of the act of Parliament by which Great Britain had actually extended her jurisdiction over it, and to say that it was a matter of surprise that any objection could have been made to the supposed intention of the United States to pursue the same course. All that could be said in answer by Mr. Huskisson was, that it was to the intention of establishing a custom-house and exacting duties that he had objected as contrary to the third article of the convention of 1818. So far he may be right.

A. G.

Mr. Gallatin to Mr. Clay.

No. 82.] LONDON, *June* 5, 1827.

SIR: We have had no conference since that of the 24th ultimo, the protocol of which is not yet agreed on.

I found that our long discussion on the northeast boundary was, from the numerous points to be arranged, extremely desultory. There were, on the other hand, some principles which it would have been very desirable to settle before it was attempted to reduce the projet of convention to the form of articles, as the whole complexion would vary according as those principles might be settled. Finding it, however, necessary to bring the questions to some issue, I have pursued the mode of which the British plenipotentiaries had given the example, and I enclose the copy of a non-official projet which I sent to them as an informal paper, intended only to bring before us in a more definite shape all the points which had been the subject of verbal discussion. I stated in the private note accompanying the projet that it was not offered as definitive, not being in every respect satisfactory to myself, and, what is strictly true, that it had been my study to draw it in such manner that its operation might be perfectly equal on both parties.

The general maps alluded to are not yet agreed on, as I am obliged to dispute every inch of the ground to prevent any undue advantage being taken. It would be premature to attempt to give you the necessary explanations of some of the provisions of the projet.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State.*

[Enclosed in No. 82.]

NOT OFFICIAL.

Projet of convention for the settlement of the 5th article of the Treaty of Ghent.

Whereas it is stipulated in the 5th article of the treaty of Ghent that, in case the Commissioners appointed under that article for the settlement of the boundary line therein described should not be able to agree upon such boundary line, a reference should be made of the point or points on which the said Commissioners differed to the decision of some friendly Sovereign or State, which decision should be considered by the contracting parties as final and conclusive: that case having now occurred, and it having, therefore, become expedient to proceed to and regulate the said reference, the President of the United States, &c., &c.

ART. 1. It is agreed that the points of difference which have arisen in the settlement of the boundary between the American and British dominions, as described in the 5th article of the treaty of Ghent, shall be referred, as therein provided, to some friendly Sovereign or State, who shall be invited to investigate and make a decision upon such points of difference. The two contracting Powers engage to proceed in concert to the choice of such friendly Sovereign or State as soon as the ratifications of this convention shall have been exchanged, and to pray the arbiter thus chosen to give his (or "use their best endeavors to obtain a") decision, if practicable, within two years after he (or the arbiter) shall have signified his consent to act as such.

ART. 2. In order to establish in what the points of difference do consist, it is hereby declared, on the part of the United States, that they contend: 1st. That the northwest angle of Nova Scotia, mentioned in the treaty of 1783, is to be found at a point of the highlands lying due north, and about —— miles from the source of the river St. Croix, which divides a certain river that empties itself into the river St. Lawrence, and designated in the surveys executed under the late commission by the name of river Beaver, from the tributary streams of the river Restigouche, which last river falls into the Bay des Chaleurs, an arm of the Gulf St. Lawrence, which said Gulf, as the United States contend, is part of the Atlantic Ocean. 2dly. That the boundary line between the dominions of the two Powers, as described and intended by the treaty of 1783, extends due north from the source of the river St. Croix to the above described point, which, as the United States contend, is the northwest angle of Nova Scotia, and thence along the highlands which divide the rivers that empty themselves into the river St. Lawrence, from either the tributary streams of the river Restigouche and of the river St. John's, (which last river falls into Bay Fundy, and which bay, as the United States contend, is part of the Atlantic Ocean,) or the other rivers which fall into the Atlantic Ocean, to the northwesternmost head of the Connecticut river, so that the said line shall, through its whole extent, from the northwest angle of Nova Scotia, as above described, pass between the sources of the said rivers, leaving on the right hand, and within the dominions of Great Britain, the sources of all the rivers that empty themselves into the river St. Lawrence, and on the left hand, and within the dominions of the United States, the sources of the tributary streams of the rivers Restigouche and St. John's, as well as of all the other rivers which fall into the Atlantic Ocean. 3dly. That the northwesternmost source of the branch of Connecticut river, now known by the name of ——— stream, is the northwesternmost head of Connecticut river, described by the treaty of 1783, to which the boundary line aforesaid must extend, and thence proceed down the said branch to its junction with other branches of the said river, and down the said united branches, which, together, form the Connecticut river, to the place where it meets a line surveyed prior to the year 1776, under the authority of the then provinces or colonies of New York and Quebec, as being in the latitude of 45 degrees, and as the boundary line between the said provinces or colonies. 4thly. That so much of the last mentioned boundary line as had been actually thus surveyed prior to the year 1776, under the authority of the said provinces or colonies, was not by the treaty of Ghent intended to be again surveyed, but is and ought to remain, as heretofore, the boundary line between the dominions of the two Powers. And it is hereby declared, on the part of his Britannic Majesty, that—

ART. 3. The extracts of the reports of the late Commissioners which are annexed to this convention; two general maps of the surveys executed by direction of the said Commissioners, which maps have been signed by the plenipotentiaries at the same time with this convention, and are substituted to two conflicting general maps of the said surveys which had been laid before the said Commissioners; and the original map, published in the year 1755, called Mitchell's map, by which the framers of the treaty of 1783 are admitted to have regulated their proceedings, though other maps were consulted by them separately, shall be delivered to the minister or agent of the arbiter. But the boundary lines contended for by the two parties, respectively, and which are delineated in the two general maps of surveys aforesaid, so far as the maps extend, shall be taken and understood as described in the next preceding article, (or, if Art. 2 is omitted, "by each party, respectively, in the statements mentioned in the 5th article of this convention,") though the said lines and the several water courses should prove not to have been in every respect correctly set down in the said general maps.

ART. 4. Each of the contracting parties shall, within six months after the exchange of the ratifications of this convention, communicate to the other all the evidence intended to be brought in support of its claims, whether the same consists of public documents, books, maps, surveys, reports of surveyors, or is of any other nature, and whether it does or does not make part of the evidence which had been laid before the Commissioners aforesaid; which communication shall be made by the United States to his Britannic Majesty's minister or chargé at Washington, and by Great Britain to the minister or chargé of the United States at London.

Although such evidence may thereafter be contested as irrelevant, its authenticity shall not be questioned, such parts thereof only excepted as being offered only by one party shall be objected to by the other party, and the objections thereto delivered in writing by each Government, respectively, to the minister or chargé of the other party within twelve months after the exchange of the ratifications of this convention.

No other evidence (unless as provided by the 7th article of this convention) shall be laid before the arbiter but such as may be deemed necessary by either party to rebut that produced by the other, and as shall likewise be communicated within twelve months after the exchange of the ratifications of this convention; and such additional evidence shall also be deemed authentic unless objected to, and the objec-

tions communicated in writing, in same manner as aforesaid, within four months after such evidence shall have been communicated.

Each of the contracting parties shall be bound, on the application of the other party, to give authentic copies of such acts of a public nature, intended to be laid as evidence before the arbiter, as have been issued under his authority or are in his exclusive possession.

ART. 5. Each of the contracting parties shall, respectively, draw up a statement of his own case in such terms as he shall think expedient. These statements shall be mutually communicated to each other within six months after the exchange of the ratifications of this convention; that is to say, the statement of the United States to his Britannic Majesty's minister or chargé at Washington, and that of Great Britain to the minister or chargé of the United States at London; and they shall be considered as a substitute to all the arguments of the agents of the two Powers under the late commission, and to such parts of the reports of the Commissioners as are not contained in the aforesaid extracts annexed to this convention.

ART. 6. All the documents, evidence, and statements above mentioned, as well as any additional statements which either of the contracting parties may deem necessary to lay before the arbiter on account of any new evidence produced, or of any new matter contained in the first statement of the other party, (such additional statements being likewise communicated to the other party,) shall be laid before the arbiter within twenty-four months after the exchange of the ratifications of this convention, unless the arbiter should not have within that time consented to act as such; in which case all the said documents, evidence, and statements shall be laid before him within six months after the time when he shall have consented to act, and shall in either case be considered thenceforward as definitive. But the contracting parties may, by mutual consent, previously agree to withdraw the first statements above mentioned, and to substitute others which shall be laid before the arbiter in lieu thereof, and shall, in the same manner, be considered, thenceforward, as definitive, and shall not undergo any alteration or amendment whatever.

ART. 7. In order, however, to facilitate the attainment of a just and equitable decision in the case so referred to the arbitrating Sovereign or State, it is agreed that, in the event of such Sovereign or State desiring further elucidation or explanation of any specific point contained in either of the said statements so submitted to him, the requisition for such elucidation shall be simultaneous to both parties, who shall, thereupon, be permitted to make each a written reply to the specific questions submitted by the said arbiter, but no further; and such replies shall be immediately communicated by each party to the other.

ART. 8. The decision of the arbiter shall be considered final and conclusive, and shall be carried into immediate effect by Commissioners appointed by the contracting Powers for that purpose.

Mr. Gallatin to Mr. Clay.

No. 87.] LONDON, *June* 20, 1827.

SIR: Cabinet councils having been held on Saturday and Monday last, our conference did not take place till yesterday. The British plenipotentiaries expressed their assent to a renewal for ten years of the third article of the convention of 1818, but with a declaration, on the part of Great Britain, to be entered in the protocol, that, according to her understanding of the article, neither party could exercise exclusive jurisdiction in the territory in question. They further stated that they were willing to renew the commercial convention of 1815 for an indefinite time, but with a proviso that it might be annulled at any time on either party giving one year's notice, and with an additional article intended to prevent the laying a higher duty on rolled than on forged iron. In order that I might fully understand their intentions, they put in my hands (as non-official papers) the draughts of two conventions and of the intended declaration, copies of which are enclosed.

I replied, with respect to the declaration, that if entered in the protocol without a counter declaration on my part, it would be tantamount to an express article to the same effect, which I had explicitly stated could not be agreed to by the United States; and that, supposing I could frame such a counter declaration satisfactory to myself, it appeared to me that an agreement, accompanied by two such contradictory assertions of its true meaning and intention, would be nugatory and useless.

On the subject of the renewal of the commercial convention, I made some objections to the proposed mode of doing it, and said that, without discussing the interpretation heretofore put on the words "like articles" by either Government, we would now declare that that heretofore urged by Great Britain could not be acceded to without material injury to our domestic establishments, and that the United States could not, therefore, agree to the proposed additional article. I added, however, that I would take the papers into serious consideration, and not give my final answer till at the next conference. This answer cannot, indeed, materially differ from that I made verbally. But I wish for one opportunity more of discussing amicably both subjects, and that if, as according to present appearances, the negotiation should fail in both respects, no blame should attach to us for precipitancy or want of every endeavor to obtain a more favorable result.

With the same object in view, and to show the disposition of the United States to entertain favorably proposals that came from the British Government, I thought this to be the proper time to say that I was authorized to take into consideration the substance of the nine articles, which had been offered by the British plenipotentiaries at the 22d conference, of the negotiations of the year 1824. And pursuing the same course, of which Mr. Huskisson and Mr. Addington had given the example, I put in their hands, in the same manner, for their consideration, the paper C, of which copy is enclosed. Our next conference is appointed for Friday, 22d instant.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State.*

The protocol of the eighth conference is enclosed in this despatch.

W. B. LAWRENCE, *Secretary of Legation.*

[Enclosed in No. 87.]

Protocol of the eighth conference between the American and British Plenipotentiaries, held at the Board of Trade on the 24th of May, 1824.

Present: Mr. Gallatin, Mr. Huskisson, and Mr. Addington.

The American plenipotentiary stated that, having submitted to his Government the protocols of the preceding conferences on the subject of the country west of the Stony mountains, he was instructed to express the regret of the President of the United States that the proposal of the boundary line in that quarter, which had been offered on their part, should have been declined, and, at the same time, to repeat, in the name of his Government, the declaration which he had already made, in substance, that the American Government does not hold itself bound hereafter, in consequence of any proposal which it has heretofore made, to agree to the line which has been so proposed and rejected, but will consider itself at liberty to contend for the full extent of the claims of the United States.

The American plenipotentiary further stated that the projet of convention for the renewal for a fresh term of years of the provision relative to the said country contained in the convention of 1818, which had been offered at the sixth conference by the British plenipotentiaries, had been taken into serious consideration by his Government; that, though animated by the same motives which had suggested the offer, they could not agree to the provisions of the second article of the projet; and that, after a deliberate examination of the subject, unable to propose any satisfactory modification, and persuaded that both Governments might confidently rely on the faithful execution of the former agreement, they still believed that, upon the whole, a simple renewal of the third article of the convention of 1818, for a limited term of years, as stated by the American plenipotentiary at the fourth conference, was, for the present, the most eligible measure that could be adopted. This renewed agreement would, as intimated by the British plenipotentiaries at the close of the fourth conference, be subject to the understanding that the two Governments should unite their endeavors, within the period assigned for its duration, to make a definitive settlement of the boundary to be drawn between them in the territories in question.

The British plenipotentiaries took the communication of the American plenipotentiary for reference to their Government; but declared that since the American plenipotentiary had reasserted, in the name of his Government, claims of an undefined extent to the territory on the Northwest Coast of America, they, equally on the part of Great Britain, hereby renewed the protest relative to the claims of Great Britain over that same territory which they had inserted in the protocol of their third conference.

The question of boundary under the 5th article of the treaty of Ghent was then entered upon, and, after some general conversation, postponed for further consideration to a future conference.

Adjourned.

ALBERT GALLATIN.
W. HUSKISSON.
H. U. ADDINGTON.

True copy.

W. B. LAWRENCE, *Secretary of Legation.*

CONVENTION RESPECTING THE NORTHWEST BOUNDARY.

His Britannic Majesty and the United States, being desirous of preventing the inconveniencies which might arise from the expiration of certain provisions in the convention between their respective countries, concluded at London on the 20th of October, 1818, which had for their object to regulate the relations between the two countries in respect to the territory of the western coast of North America, westward of the Rocky mountains, have, respectively, named plenipotentiaries, and given them full powers to treat concerning the same, namely: his Britannic Majesty, the Right Honorable William Huskisson, &c., &c., &c., and Henry Unwin Addington, Esq., &c., &c., &c.; and the United States, Albert Gallatin, &c., &c., &c., who, having exchanged their respective full powers, found in due and proper form, have agreed to and concluded the following articles:

ARTICLE 1. All the provisions of the third article of the convention between his Britannic Majesty and the United States of North America, concluded at London on the 20th October, 1818, are hereby further extended and continued, in full force and effect, for the term of ten years from the date of the exchange of the ratifications of the present convention, in the same manner as if the said article was herein recited word for word.

ARTICLE 2. The present convention shall be duly ratified, and the ratifications exchanged in six months from this time, or sooner, if possible. In witness whereof, &c., &c., &c.

C.

Answer of the American Plenipotentiary to certain proposals communicated by the British Plenipotentiaries in the course of the conferences with Mr. Rush of the year 1824, and concerning which they annexed the substance of nine articles to the protocol of the twenty-second conference.

ARTICLE 1. Agreed to in cases of murder and forgery only, and excepting the citizens or subjects natural born or naturalized of the party within whose dominions the criminals shall have taken refuge.

It is further proposed to extend the provisions of a mutual surrender: 1. To deserters from the military, naval, or merchant service of either party, with the same exception as aforesaid in respect of citizens or subjects of either. 2. To persons held to service or labor under the laws of either party taking refuge in any part of America within the dominions of the other.

ARTICLE 2. The courts are open, in respect of all claims, to all persons not lying under legal disabilities;

but the United States cannot agree to afford any greater facilities for the settlement of the claims in question than are allowed by the laws of the land.

ARTICLE 3. The exemption from confiscation or sequestration in case of war or differences agreed to, provided that it shall be extended to every other species of private property (including vessels and cargoes, though yet on board) which may be within the dominions or jurisdiction of either party at the time when such war or differences shall take place or become known.

The same facilities for the recovery of debts being afforded by the laws of both countries to the citizens or subjects of either, the latter provision of the article appears unnecessary.

ARTICLE 4. Agreed to.

ARTICLE 5. Agreed to, provided such merchants may, nevertheless, be removed from their places of residence to the interior, if the party in whose dominions they are shall think it necessary.

ARTICLE 6. Agreed to.

ARTICLE 7. Agreed to.

ARTICLE 8. Agreed to.

This and the preceding articles, appearing mutually advantageous, will be agreed to, although it would have been more agreeable to the Government of the United States to have comprised in the same instrument an arrangement of all the subjects connected with belligerent and neutral rights, which, in their opinion, it is desirable to adjust by treaty; and though they therefore regret that some of those subjects were not favorably entertained by the British plenipotentiaries when brought forward by Mr. Rush in the course of the negotiations of the year 1824.

ARTICLE 9. Agreed to, as to the exemption from personal service, but not as to exemption from direct taxes.

It is further proposed that the exequatur should always be granted without charge or payment of any fee.

Project of Convention of Commerce between Great Britain and the United States.

The term for which the existing commercial convention between Great Britain and the United States was concluded being now about to expire, his Britannic Majesty and the United States, being desirous further to regulate the commerce and navigation between their respective countries in such a manner as to render the same reciprocally beneficial and satisfactory, have, respectively, named their plenipotentiaries, and given them full powers to treat concerning the same, namely: his Britannic Majesty, the Right Honorable William Huskisson, &c., &c., &c., and Henry Unwin Addington, Esq., &c., &c., &c.; and the United States, Albert Gallatin, &c., &c., &c., who, having exchanged their respective full powers, found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE 1. All the provisions of the convention of commerce and navigation between his Britannic Majesty and the United States of North America, concluded at London on the 3d day of July, 1815, (with the exception of the clause limiting its duration to five years, and excepting also, so far as the same was affected by the declaration of his Majesty respecting the island of St. Helena,) are hereby further indefinitely extended and continued, in full force, from the date of the signature of the present convention, in the same manner as if all the provisions of the said convention of the 3d July, 1815, were herein specifically recited.

ARTICLE 2. It is agreed, however, that it shall be competent to either of the contracting parties, in case he should think fit, at any time after the exchange of the ratifications of the present convention, on giving due notice of twelve months to the other contracting party, entirely to annul and abrogate the same; and it shall accordingly, after the expiration of the said term of notice, be entirely annulled and abrogated.

ARTICLE 3. For the better prevention of all future misunderstanding with respect to the sense and import of the term "*like articles*," as used in the convention of the 3d July, 1815, hereby renewed, it is agreed that, in respect to all manufactured articles, that term shall henceforward be construed and applied on both sides, without reference or respect being had to the peculiar process of manufacture of articles so designated.

ARTICLE 4. The present convention shall be duly ratified, and the ratifications shall be exchanged in six months from this time, or sooner, if possible. In witness whereof, the respective plenipotentiaries, &c., &c., &c.

Declaration to be annexed to the renewal of the convention respecting the Northwest Boundary.

In renewing the third article of the convention of 1818, relative to the territory on the Northwest Coast of America, westward of the Rocky mountains, his Britannic Majesty hereby declares, that as his Majesty considers himself precluded by the provisions of that article, now renewed, from exercising, or assuming to himself the right to exercise, any exclusive sovereignty or jurisdiction over the territory mentioned in that article, so his Majesty, in like manner, holds that the United States are equally bound, on their part, also, to abstain from exercising, or assuming to themselves the right to exercise, any exclusive sovereignty or jurisdiction over the said territory during the continuance in force of the present convention.

Mr. Gallatin to Mr. Clay.

No. 88.] LONDON, *June* 23, 1827.

SIR: I received from Mr. Addington on the 21st instant the draught of protocol of our next preceding conference, of which copy is enclosed. The mention made in it of the intended British declaration to be annexed to the renewal of the third article of the convention of 1818 would have had the same effect as the declaration itself. I said as much at our conference of yesterday, and that if the British plenipoten-

tiaries insisted on having the protocol expressed in that manner I would decline altogether agreeing to the renewal. They agreed that the drawing of the protocol should be suspended until we had disposed of the subject.

I then stated at large my objections both to the declaration and to the proposed additional article of the commercial convention. And, in order that these might be duly considered and correctly communicated by Mr. Huskisson to his colleagues, I put in the hands of the plenipotentiaries two papers containing the substance of those objections, of which copies are also enclosed. They have taken these for consideration, and apparently with the intention of giving a definitive answer on both subjects at our next conference, which is to take place on Tuesday next, 26th instant.

We afterwards took up the subject of the northeast boundary and made some progress.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State.*

I have just received your despatches of May 12 and 15, Nos. 28 and 29. The No. 24 is still missing.

A. G.

[Enclosed in No. 88.]

DRAUGHT OF PROTOCOL OF NINTH CONFERENCE, AS FIRST PROPOSED BY THE BRITISH PLENIPOTENTIARIES.

Protocol of the ninth conference, held at the Board of Trade, June 19, 1827.

The protocol of the preceding conference was read over and signed.

The British plenipotentiaries informed the American plenipotentiary that they had taken into consideration the proposition made by him at the preceding conference for the simple renewal, during a further term of ten years, of the third article of the convention of 1818, including the additional article submitted by the British plenipotentiaries at the sixth conference, to the admission of which the American plenipotentiary had declared that his Government objected.

The British plenipotentiaries stated that they were willing to desist from pressing for the insertion of that article in the convention which it was now proposed to renew, and that they would consent to a simple renewal of the third article of the convention of 1818. In so doing, however, they would find it expedient to enter on the protocol a declaration explanatory of what they considered to be the true intent of that article, namely, that both parties were thereby restricted, during its continuance in force, from exercising, or assuming to themselves the right to exercise, any exclusive sovereignty or jurisdiction over the territory mentioned in that article.

The British plenipotentiaries intimated that at an early opportunity they would put formally into the hands of the American plenipotentiary a project of convention drawn up in the above sense, as well as of a declaration of the nature above described.

The subject of the further renewal of the commercial convention of 1815 between Great Britain and the United States was then taken up.

The British plenipotentiaries intimated their disposition to agree to the renewal, for an indefinite term, of the provisions of that convention; but that they would find it necessary to propose the addition to those provisions of two stipulations, the first having for its object to empower either party to renounce that convention whenever he might think fit, on giving due notice of twelve months to the other party; the second purporting to explain the sense and import of the term "*like articles*," as used in the convention of 1815, by which term they conceived to be understood in manufactures all articles of like substance, form, and general denomination, without reference to their peculiar process of manufacture.

The British plenipotentiaries declared that they would be prepared at an early opportunity also to submit to the American plenipotentiary a project of convention of the above description.

Observations on the projet of declaration to be annexed to the renewal of the convention respecting the territory west of the Stony mountains.

The American plenipotentiary explicitly stated at the eighth conference that his Government had taken into serious consideration the projet of convention which had been offered at the sixth conference by the British plenipotentiaries, and that they could not agree to the provisions of the second article of that projet.

One of those provisions was, that neither of the contracting parties should, during the term agreed on for the continuance of the former agreement, assume or exercise any right of exclusive sovereignty or dominion over any part of the country west of the Stony mountains.

By the proposed declaration his Britannic Majesty would declare that his Majesty considers himself, and in like manner holds that the United States are equally precluded by the provisions of the third article of the convention of 1818, now intended to be renewed, from exercising, or assuming to exercise, any exclusive sovereignty or jurisdiction over the territory in question.

To acquiesce in such declaration, whether annexed to the convention or inserted in the protocol, would be tantamount to the insertion in the convention of the same provision, to which, as part of the second article of the projet offered at the sixth conference, the United States have already declared their inability to accede.

The American plenipotentiary is not prepared to annex to the renewal a declaration on the part of the United States; and, indeed, with two such contradictory instruments, it would seem preposterous to make any agreement whatever.

He must therefore declare his inability to agree to a renewal of the third article of the convention of 1818, if accompanied with a declaration such as has been proposed, or such as is inserted in the draught of protocol for the last conference.

Any act of either party that would impede or impair the rights secured by the said third article to the vessels, citizens, and subjects of the two Powers would be in contravention of the article. In other respects it is silent on the subject of sovereignty and jurisdiction; and the inconveniences against which it may have been the object of the proposed declaration to provide are only apprehended, but have not been experienced.

By the act of Parliament of July 2, 1821, (1 and 2 Geo. IV, cap. 66,) entitled "An act for regulating the fur trade and establishing a criminal and civil jurisdiction within certain parts of North America," Great Britain has assumed such jurisdiction as suited her own purposes, leaving to a powerful company the general government of the country.

That act, taken literally and in the abstract, may be liable to objections on the part of the United States. It has not been critically examined with that view, because no practicable inconvenience has been felt from it, and in full confidence that it was not intended and would not be executed so as to contravene the compact between the two countries.

The United States, on their part, have not assumed or exercised any sovereignty or jurisdiction over the country. Whenever this may become necessary, they have the same right to do it in the manner most suitable to their institutions and to the pursuits of their subjects. The same reliance may be placed on their violating no existing agreement. It is also their wish to avoid, as far as practicable, any measures that might produce collisions.

That, so long as no permanent boundary shall have been agreed on, the subject will be attended with difficulties cannot be concealed. The United States have not believed that these would be removed by provisions expressed in such general terms as that proposed by Great Britain. Neither Government appears at this moment to be prepared for more specific conditions. It is submitted whether, as preparatory to a more definite arrangement, and in order to obviate the objections to which the renewal for as long a term as had been contemplated may be liable, the best course might not be to renew the former agreement for only four years, and thenceforth until one party shall give the other one year's notice of his desire to put an end to it.

Observations on the projet of Commercial Convention.

The third article would not, it is believed, prevent the misunderstanding as intended, as there would still be the same difficulty, whether certain articles were or were not alike. Thus the United States would still contend that rolled bar iron was in reality a different article from forged bar iron, in same manner as cut nails are a different article from forged nails, &c. And in such instances the distinction cannot be otherwise or better defined than by reference to the process of manufacture.

Without entering into the discussion of the interpretation of the existing provision, it may be stated, with reference to a renewal of the convention, that the United States cannot assent to a condition which would destroy or materially affect numerous domestic establishments.

The particular object in view, when compared with the amount of the whole trade between the two countries, is quite insignificant. There are at present three or four thousand tons of rolled bar iron imported from Great Britain into the United States. Supposing the amount should be twice as great, in consequence of an equalization of duty with that on forged bar iron, the value of the increase would be but thirty or forty thousand pounds.

In point of fact, although there is a difference of fifteen dollars a ton in the duty, rolled bar iron is still sold in the United States ten dollars cheaper per ton than forged bar iron. The quantity consumed does not appear to have been materially affected by the duty, and it is increasing. The average of the years 1818, 1819, was 2,650 tons; the year 1825 was 4,190 tons.

Considering the magnitude of the trade between the two countries, and that the convention has been in force for twelve years, it has caused as few and unimportant difficulties as could have been expected; and there does not appear sufficient cause for making any alteration.

Independent of the gross amount of that trade, it is important to observe that it is increasing.

According to the accounts laid before Parliament, the average of the official value of the exports from Great Britain and Ireland to the United States is, for the five years, 1816–1820, £6,410,000; and for the five years, 1821–1825, £7,167,000.

The imports from the United States into Great Britain and Ireland for the five years, 1816–1820, are stated at £3,290,000; and for the five years, 1821–1825, £4,740,000.

About one-fifth should be deducted from the official value of the exports, (on account of the overvaluation of cotton manufactures,) which would make their real value about five millions for the average of the first five years, and more than five millions and a half for the average of the last five years. Almost the whole of this consists of British manufactures, the value of foreign and colonial articles being but about £180,000 a year.

Thus the United States consume about one-sixth part of the exported manufactures of the United Kingdom, and Great Britain becomes the *entrepôt* for more than one-half of the exported produce of the United States. The commerce of the United States with the United Kingdom is nearly equal to their commerce with all the other parts of the world. The commerce of the United Kingdom with the United States is greater than its commerce with any other foreign nation.

As yet it is principally owing to the policy of Great Britain that this trade is not still greater. Her corn laws, with the exception of years of great scarcity, are tantamount to a prohibition. Salted provisions have heretofore been always prohibited. On other articles, rice and tobacco, the duties lessen materially the consumption. The United States consume as great a quantity of British merchandise as they can pay for; and they would of course consume more if their means of payment were not lessened by those restrictions. Of this no complaint is made: the fact is only stated.

As to the manner of renewing the convention, the American plenipotentiary, after maturely considering the subject, cannot but think it would be preferable to renew it for a certain, though, perhaps, shorter period than had been contemplated by his Government, and thenceforth until one year's notice shall have been given by either party of his desire to put an end to it.

Mr. Gallatin to Mr. Clay.

No. 90.] LONDON, *June* 27, 1827.

SIR: We were employed at yesterday's conference in discussing the same subjects which had occupied us on the 22d, but without coming to any conclusion.

Mr. Huskisson suggested that an article might be framed respecting the meaning of the words "like articles" in the commercial convention which would not be inconsistent with the view I had taken of the subject. I said that I could not give any definitive answer until I had seen the proposal, but that I apprehended that none could be so expressed as to permit me to agree to it I added that if it was really believed that our discriminating duty between rolled and hammered iron was an infraction of the convention, it was extraordinary that the importers had never brought the case before the courts, which, as every body knew, they might have done at any time by refusing to pay the bonds given for securing the duty.

A new suggestion was also made respecting the renewal of the agreement for the joint occupancy of the territory west of the Stony mountains. The British plenipotentiaries had it in contemplation to insert in the protocol a declaration purporting either that, according to their understanding of the agreement, neither party had a right to take military possession of the country; or that if the United States did establish any military posts in the country Great Britain would do the same. They preferred the first mode, as the other might be construed by the United States as having the appearance of a threat. Great Britain, they said, had no wish to establish such posts, and would do it only in self-defence. But she could not acquiesce in acts on the part of the United States which would give sanction to their claim of absolute and exclusive sovereignty, and calculated also to produce collisions having a national character. Occasional disturbances between the traders of the two countries might be overlooked; but any question connected with the flag of either Power would be of a serious nature, and might commit them in a most inconvenient and dangerous manner.

I replied that I could not agree to the renewal of the agreement if accompanied with the insertion in the protocol of any declaration purporting to attach any construction or interpretation whatever to the agreement. As to a declaration not pretending to give such construction, but stating what the British Government intended to do in the event of a certain contingency, I would take it into consideration when made, and see whether it should or should not preclude me from agreeing to the renewal. But I would observe that the proper place of a declaration of this nature was not in the protocol. If it was the intention of the British Government to signify their determination of establishing military posts in that country in case it was done by the United States, such communication was equally necessary whether there was or was not a renewal of the agreement. And the most proper mode of making it was through the ordinary channels of diplomatic communications, through the British minister at Washington ; or, if done here, by a note from the British Secretary of State to the American minister. It did not appear to me to have any thing to do with our negotiations for a renewal of the agreement.

The contemplated renewal itself would be attended with no peculiar advantages to the United States. It was altogether a matter of mutual concern. There was no other object for it than that of preserving peace until a permanent boundary could be agreed on. As it now stood it provided only for one thing—that the traders of either party should not impede those of the other party. There was but one condition in the agreement, and that related exclusively to a free trade. Other conditions might be found necessary for the preservation of harmony. The Government of the United States was not at this time prepared to make a new agreement embracing such additional stipulations. The same observation seemed to apply to the British Government, since they had not been able to propose anything more than a clause expressed in such general terms as not at all to prevent collisions on the subject. From the exposition which Great Britain had now made of her claim, I was personally inclined to think that a more specific agreement, calculated to preserve peace in every respect, was not impracticable, and would be rather advantageous to the United States.

It appeared from that exposition that Great Britain denied, indeed, their exclusive right to any part of the territory in question, but made no exclusive claim herself, and considered it as open to the first occupant. Although the United States asserted and would not abandon their exclusive right, yet, in fact, the country must necessarily become ultimately theirs, even according to the British doctrine. In that view of the subject, all that the United States might want was the very object which Great Britain declared to be hers, viz., the preservation of peace until (if no arrangement for a permanent boundary should previously take place) the whole country was occupied ; and I had myself no doubt that it would be entirely occupied and settled by the citizens of the United States.

Difficulties would certainly occur in adjusting the stipulations necessary to preserve peace. I had already, in a former discussion, mentioned one relating to military occupancy. This was not wanted by Great Britain. The servants of her great Fur Company were numerous enough and so organized as to afford sufficient protection to persons and property against Indian aggressions, and at the same time under such restraints as prevented them from provoking such aggressions. It was otherwise with the United States; and experience had shown that a military force was necessary and sufficient to preserve peace with the Indians.

But however difficult in its details, and though not prepared at this moment to discuss them, the object in view was certainly of great importance to both parties. I was inclined to think that a simple renewal of the agreement, and nothing more, was practicable at present; was best calculated to keep the two Powers in a situation favorable to the success of a negotiation for that purpose. With the same object in view, if Great Britain thought it more eligible to have in the meanwhile no agreement whatever on that subject, it was left entirely at her option so to decide.

The British plenipotentiaries said that there was such an avowed intention on the part of the United States to establish a military post, that they thought they could not agree to a renewal of the former agreement without making at the same time some declaration on that point, but that they would again consider the subject before they came to a definitive determination.

We had afterwards a long conversation on the subject of the general map of the surveys of the northeastern boundary. But we have not yet begun to discuss any of the other topics embraced by the informal projet of convention. I only understand that they have prepared a counter projet.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State.*

Extract of a letter from Mr. Gallatin to Mr. Clay.

No. 97.] "LONDON, *July* 20, 1827.

"SIR: I had enclosed in my despatch No. 88 the copy of the first draught by the British plenipotentiaries of the protocol of our ninth conference. This was withdrawn on my suggestion, my wish being that no premature commitment on their part should prevent them from abandoning the ground they intended to take. The consequence has been that the protocols of the 9th, 10th, and 11th conferences have not yet been adjusted and signed. Expecting that this would certainly be done at the 12th conference, I did not send you copies of the draughts since proposed and discussed. But this conference not having yet taken place, and Mr. Huskisson having left England, I now enclose them in order that the situation in which he left the negotiation may be fully understood.

"Mr. Addington wrote me on the 30th of June a private note, transmitting the draughts Nos. 1, 2, and 3, for my consideration. These consisted, in fact, only of the portions containing the statements of the British plenipotentiaries, blanks being left for my portion.

"In return I sent him the papers Nos. 4, 5, and 6; the first and last being notes on the protocols of the 9th and 11th conferences, and No. 6 being my draught of the protocol of the 10th conference, as ultimately delivered, having made some verbal corrections in my first draught I had sent to Mr. Addington.

"The verbal alteration I had proposed in the protocol of the 9th conference was agreed to. But Mr. Addington, in a private note of the 2d of July, stated that 'as it would be necessary that they should shape the protocol of the 11th conference entirely afresh, in consequence of the detailed observations respecting iron and other matters which I had inserted in my draught, to which they should of course find it expedient to throw in their counter observations at some length, he had not thought it necessary to alter that protocol as yet, according to my suggestions.'"

[Received with Mr. Gallatin's No. 97.]

No. 1.

DRAUGHT OF PROTOCOL OF THE NINTH CONFERENCE, AS PROPOSED BY MR. ADDINGTON.

Protocol of the ninth conference between the British and American Plenipotentiaries, held at the Board of Trade on the 19th of June, 1827.

The protocol of the preceding conference was read over and signed.

The British plenipotentiaries, in expressing their regret at the communication made to them by the American plenipotentiary at the preceding conference, that his Government had declined acceding to the additional article of the project of convention presented by them at the sixth conference for the settlement of the conflicting claims to the territory west of the Rocky mountains, declared themselves disposed to withdraw that project, and to acquiesce in the proposition submitted by the American plenipotentiary for the simple renewal of the third article of the convention of 1818.

In so doing, however, the British plenipotentiaries intimated that they would find it expedient to insert in the protocol a declaration explanatory of what they considered to be the true intent of that article, namely, that both parties were thereby equally restricted, during its continuance in force, from exercising, or assuming the right to exercise, any exclusive sovereignty or jurisdiction over the territory in question.

The British plenipotentiaries added that at an early opportunity they would be prepared to submit a project of convention and declaration drawn up in the above sense.

The American plenipotentiary expressed himself ready to pay every attention to any proposition which might come from the British plenipotentiaries, but doubted whether he would be able to sign any convention if accompanied by a declaration of the nature above mentioned.

The subject of the further renewal of the commercial convention of 1815, between Great Britain and the United States, was then taken up.

The British plenipotentiaries intimated their disposition to agree to the renewal of the provisions of that convention for a further indefinite term, liable, however, to abrogation at the will of either party on notice of twelve months being given by that party to the other.

Since great inconveniences, however, had occasionally arisen from what the British plenipotentiaries considered to be an erroneous interpretation on the part of the United States of the term "*like articles*," as employed in the convention of 1815, which term "*like*," when applied to manufactured articles, the British plenipotentiaries considered to refer to the similarity in substance, form, and general designation alone of such articles, be their peculiar process of manufacture what it might, they believed that they would deem it expedient to propose the introduction into the convention, if renewed, of an additional article giving a closer definition to the above-mentioned term "*like articles*" in the sense in which they, as they conceived, correctly interpreted it.

This point, however, they reserved for further consideration, and would, at a future opportunity, come prepared with a project of convention for the settlement of the matter.

No. 2.

DRAUGHT OF PROTOCOL OF TENTH CONFERENCE, AS PROPOSED BY MR. ADDINGTON.

Protocol of the tenth conference between the British and American Plenipotentiaries, at the Board of Trade on the 22d of June, 1827.

The protocol of the preceding conference was read over and signed.

In reference to the intimation made at the preceding conference by the British plenipotentiaries

respecting the declaration which they expressed their intention to insert on the protocol, in renewing the third article of the convention of 1818, relative to the territory west of the Rocky mountains, the American plenipotentiary opened the conference by stating * * * * * * *

With respect to the intimation also made by the British plenipotentiaries of their having it in contemplation to propose the introduction of an additional article into the convention of commerce of 1815, if renewed, having for its object to give a closer definition to the term "*like articles*," as employed in that convention, the American plenipotentiary observed * * * * * * *

In consequence of the above declarations of the American plenipotentiary, the British plenipotentiaries took both the subjects in question for further consideration.

No. 3.

DRAUGHT OF THE PROTOCOL OF THE ELEVENTH CONFERENCE, BOARD OF TRADE, JUNE 26, 1827, AS PROPOSED BY MR. ADDINGTON.

Protocol of the eleventh conference between the British and American Plenipotentiaries, held at the Board of Trade on the 26th of June, 1827.

The protocol of the preceding conference was read over and signed.

Some further general discussion took place between the plenipotentiaries on the subject of the convention for settling the claims to the territory west of the Rocky mountains, as well as on that for regulating the future commercial intercourse between Great Britain and the United States; but the views of the parties being found still to differ as to the mode of adjustment of both these questions, the further consideration of each of them was postponed to a future opportunity.

Some general conversation was held also on the subject of a map, which it would be expedient to annex to a convention for regulating the statement or statements of claims relative to the boundary line between the British provinces in North America and the United States, which the British might hereafter agree upon, in case it should be found expedient to refer those claims to arbitration, as provided by the fifth article of the treaty of Ghent.

The views of the plenipotentiaries on this subject not having yet been sufficiently matured, it was agreed to reserve all further discussion on it for their next meeting.

No. 4.

Notes on the draught of the protocol of the ninth conference, &c.

In first page, the projet of convention presented at the sixth conference is called "for the settlement of the conflicting claims to the territory west of the Rocky mountains."

This designation does not express the purport of the projet, which, at the sixth conference, was called a projet of convention "for the renewal for a fresh term, &c., of the provision, &c., which was contained in the convention of London of 1818."

This title may be abridged, but the substance should be retained.

At end of protocol, the blank may be filled as follows: "The American plenipotentiary said that he would take also that subject for consideration."

No. 5.

Protocol of the tenth conference between the American and British Plenipotentiaries, held at the Board of Trade on the 22d of June, 1827.

Present: Mr. Gallatin, Mr. Huskisson, and Mr. Addington.

The protocol of the preceding conference was read and signed.

In reference to the intimation made at the preceding conference by the British plenipotentiaries respecting the declaration which they expressed their intention to insert in the protocol, on renewing the third article of the convention of 1818 relative to the territory west of the Rocky mountains, the American plenipotentiary observed that the said article having only provided that the territory in question should be free and open to the vessels, citizens, and subjects of the two Powers, he could not admit that, according to its true meaning and intent, any other act of either party was thereby forbidden but such as, in contravention of the article, would impede or impair the rights secured by it.

To acquiesce in the declaration which the British plenipotentiaries had expressed their intention to insert in the protocol appeared to him tantamount to the insertion in the convention of the same provision to which, as part of the second article of the projet offered at the sixth conference, the United States had already declared that they could not accede.

He must therefore declare his inability to agree to a renewal of the third article of the convention of 1818, if accompanied by a declaration such as had been intimated, or purporting to explain the meaning or intent of the article.

The American plenipotentiary further observed that, although the claim of the United States was avowed by one of exclusive sovereignty over a considerable portion of the territory, and however their intentions on that subject might have been manifested, yet they had not, to this day, exercised or assumed any sovereignty or jurisdiction over the country; whilst Great Britain had, in the meanwhile, assumed, by the act of Parliament of July 2, 1821, entitled "An act for regulating the fur trade and establishing a

criminal and civil jurisdiction within certain parts of North America," jurisdiction to the extent which suited her purpose. That act, if construed and executed literally, might be liable to strong objections on the part of the United States. And they had at least an equal right, whenever it became necessary for them to exercise any sovereignty or jurisdiction over the country, to do it in the manner most suitable to their institutions and to the pursuits of their citizens.

It was indeed to be apprehended that, so long as no permanent boundary was agreed on, the joint occupancy of the territory might be attended with serious difficulties. It was not believed that these would be removed by provisions expressed in general terms; and it might be desirable to add to the former agreement some specific conditions calculated to prevent collisions. For this the United States were not at this moment prepared. The American plenipotentiary would submit whether, as preparatory to a more definite arrangement; as providing, in the meanwhile, against the interruption of the pursuits of the citizens and subjects of either Power by those of the other, and as having, on the whole, a tendency to preserve harmony, it would not be more eligible to renew the former agreement for a short period rather than to suffer it to expire altogether.

With respect to the intimation also made by the British plenipotentiaries of their having it in contemplation to propose the introduction of an additional article into the convention of commerce of 1815, if renewed, having for its object to give a closer definition to the term "*like articles*," as employed in that convention, the American plenipotentiary observed that he did not perceive how the substitution of the words "similar in substance," or of any other such expressions, to the word "*like*," could better prevent occasional differences of opinion on what were or were not "*like articles*." The same difficulty would arise as to whether any two certain articles were similar in substance or not. And it might often happen that a real difference could not be otherwise or better defined than by reference to the process of manufacture.

As it was well understood that the different duty laid in the United States on rolled and hammered bar iron was the case alluded to, and which had been complained of, the American plenipotentiary must add that he could not agree to any article that would exclude the interpretation that had been put in that case on the words of the convention by the United States.

That interpretation was founded on the fact that rolled bar iron, though of the same genus, essentially differed from hammered bar iron. It was because considered as such, and not as being of British manufacture, that a different duty had been laid on it. This duty applied generally to rolled iron wherever manufactured; the process by which it was made could be adopted anywhere, and had already been introduced in several other countries besides Great Britain. In this case, as in many others, (such as between cut and forged nails, the several species of steel, &c.,) the difference in the article proceeded from that in the process of manufacture, and where no distinctive technical name had been adopted, must be designated by reference to that process.

The American plenipotentiary also observed that the value of that article of British export (even allowing the increase of which, under a similar duty with hammered iron, it might be suspectible) was unimportant when compared with the amount of the trade between the two countries; that, considering the magnitude of that commerce, and that the convention had been in force twelve years, the difficulties or questions arising out of it had been fewer in number and importance than could have been expected; and that, under such circumstances, there did not appear to him any sufficient cause for making any alteration in that agreement.

As to the manner of renewing the convention, the American plenipotentiary said that it appeared to him preferable to renew it for a certain period; and after the expiration of that term until one year's notice should have been given by either party of his desire to put an end to it.

In consequence of the above declarations of the American plenipotentiary, the British plenipotentiaries took both the subjects in question for further consideration.

No. 6.

Notes on the draught of the protocol of the eleventh conference, &c.

It is proposed to substitute in first page, to the words from *convention* to *United States*, the following: "Renewal of the third article of the convention of London of 1818, and on that of the renewal of the commercial convention." And in second page, to the words from *the statement* to *Ghent*, the following: "The manner of referring to arbitration, as provided by the fifth article of the treaty of Ghent, the claims relative to the boundary line between the United States and the British provinces in North America, in case it should be found practicable to conclude such convention."

It is also proposed to add at the end of the protocol the following words: "The American plenipotentiary submitted and annexed to the protocol the paper C, containing the substance of the answer of his government to certain proposals communicated by the British plenipotentiaries in the course of the conferences with Mr. Rush of the year 1824, and concerning which they annexed the substance of nine articles to the protocol of the twenty-second conference."

Mr. Gallatin to Mr. Clay.

No. 100.] LONDON, *July* 29, 1827.

SIR: I have the honor to enclose the protocols of the ninth, tenth, eleventh, twelfth, thirteenth, and fourteenth conferences as finally adjusted, together with the papers thereto annexed, viz: the answer to the nine articles proposed in 1824 by the British plenipotentiaries, annexed to the eleventh protocol, and the projets of convention for the renewal of the fourth and third articles of the convention of 1818, respectively annexed to the twelfth and thirteenth protocols. These two projets, having, in fact, been discussed and agreed on before they were officially presented, are verbatim the same as definitively concluded. We had intended to sign the conventions yesterday; but the British plenipotentiaries found that it was an invariable rule at the Foreign Office to submit every convention or treaty to the King's advocate before it was signed. That officer being out of town, a delay of two or three days will ensue,

and the conventions cannot be sent by the packet of 1st of August. Each will be accompanied by a letter, which, with the protocols, may be sufficient to explain the negotiation without reference to former despatches informing you of its progress. I will now only observe that, although the mode of renewing the commercial convention is not without its advantages, I would have preferred a renewal for a fixed term of years, but that, on the whole, the mode adopted appears to me preferable as relates to the agreement respecting the western territory.

The nine articles, so called, will soon be disposed of one way or another; and we will now enter seriously on the discussion of a convention having for object to prepare for trial the reference to a foreign State of the contested northeastern boundary. This has already been the subject of numerous informal conversations, some in conference, but principally with Mr. Addington alone. The subject is somewhat complex; and I have found him extremely difficult on all topics generally, and far more on this than on any other. Mr. Grant is very intelligent, and appears candid. His substitution for Mr. Huskisson is not to be regretted.

I omitted in my very hasty letter of yesterday to say that I had also conversed with Mr. Canning on the subject of the northeastern boundary. He appears sincerely desirous that the proceedings may be simplified, so as to have a chance to find a Sovereign who will consent to decide the question. He asked whether we could not so manage as to dispense with further surveys, as it appeared to him that, although the arbiter could decide on questions purely of law, and what was the true construction of certain expressions in a treaty, it was too much to expect that he should give an opinion on the contested topography of the country. To this suggestion I acquiesced the more cheerfully as it has been my constant object to come to that result; but I fear that Mr. Addington will render an agreement as to that point impracticable. Mr. Canning also suggested the propriety of abstaining on both sides, pending the suit, of any act of sovereignty over the contested territory. This, as the British are in possession, would be in our favor; but I apprehend that, if neither party should have jurisdiction, there would be no means to prevent the cutting and destruction of timber.

Mr. Canning is decidedly of opinion that the choice of an arbiter ought to be postponed till after the ratification of the proposed preliminary convention, and when both parties are ready for trial. This coincides with my view of the subject, and in one respect relieves me. If obliged to come to a choice at this time, I would have felt much embarrassed between my instructions and the present dubious state of the Republic of Colombia.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State.*

Protocol of the ninth conference between the American and British Plenipotentiaries, held at the Board of Trade on the 19th of June, 1827.

Present: Mr. Gallatin, Mr. Huskisson, and Mr. Addington.

The protocol of the preceding conference was read over and signed.

The British plenipotentiaries, in expressing their regret at the communication made to them by the American plenipotentiary at the preceding conference, that his Government had declined acceding to the additional article of the project of convention presented by them at the sixth conference for the renewal, for a fresh term of years, of the provisions respecting the territory on the Northwest Coast of America, west of the Rocky mountains, which was contained in the convention of the 20th of October, 1818, declared themselves disposed to withdraw that project, and to acquiesce in the proposition submitted by the American plenipotentiary for the simple renewal of the third article of the convention of 1818.

In so doing, however, the British plenipotentiaries intimated that they would find it expedient to insert in the protocol a declaration explanatory of what they considerd to be the true intent of that article, namely, that both parties were thereby equally restricted, during its continuance in force, from exercising, or assuming the right to exercise, any exclusive sovereignty or jurisdiction over the territory in question.

The British plenipotentiaries added that at an early opportunity they would be prepared to submit a project of convention and declaration drawn up in the above sense.

The American plenipotentiary expressed himself ready to pay every attention to any proposition which might come from the British plenipotentiaries, but doubted whether he would be able to sign any convention if accompanied by a declaration of the nature above mentioned.

The subject of the further renewal of the commercial convention of 1815, between Great Britain and the United States, was then taken up.

The British plenipotentiaries intimated their disposition to agree to the renewal of the provisions of that convention for a further indefinite term; liable, however, to abrogation, at the will of either party, on notice of twelve months being given by that party to the other.

Since great inconveniences, however, had occasionally arisen from what the British plenipotentiaries considered to be an erroneous interpretation on the part of the United States of the term "*like articles,*" as employed in the convention of 1815, which term "*like,*" when applied to manufactured articles, the British plenipotentiaries considered to refer to the similarity in substance, form, and general designation alone of such articles, be their peculiar process of manufacture what it might, they believed that they would deem it expedient to propose the introduction into the convention, if renewed, of an additional article, giving a closer definition of the above-mentioned term "like articles" in the sense in which they, as they conceived, correctly interpreted it.

This point, however, they reserved for further consideration, and would, at a future opportunity, come prepared with a project of convention for the settlement of the matter. The American plenipotentiary said that he would take also that subject for consideration.

ALBERT GALLATIN.
W. HUSKISSON.
H. U. ADDINGTON.

True copy.

W. B. LAWRENCE, *Secretary of Legation.*

Protocol of the tenth conference between the American and British Plenipotentiaries, held at the Board of Trade on the 22d of June, 1827.

Present: Mr. Gallatin, Mr. Huskisson, and Mr. Addington.

The protocol of the preceding conference was read over and signed.

In reference to the intimation, at the preceding conference, by the British plenipotentiaries, of the declaration which they expressed their intention to insert in the protocol, on renewing the 3d article of the convention of 1818, relative to the territory west of the Rocky mountains, the American plenipotentiary observed that the said article having only provided that the territory in question should be free and open to the vessels, citizens, and subjects of the two Powers, he could not admit that, according to its true meaning and intent, any other act of either party was thereby forbidden but such as, in contravention of the article, would impede or impair the rights secured by it.

To acquiesce in the declaration which the British plenipotentiaries had expressed their intention to insert in the protocol appeared to him tantamount to the insertion in the convention of the same provision, to which, as part of the 2d article of the projet offered at the sixth conference, the United States had already declared that they could not accede. He must therefore declare his inability to agree to a renewal of the convention of 1818, if accompanied by a declaration such as had been intimated, or purporting to explain the meaning or intent of the article.

With respect to the intimation also given by the British plenipotentiaries, that they believed that they would deem it expedient to propose the introduction into the commercial convention of 1815, if renewed, of an additional article giving a closer definition of the term "*like articles*," as employed in that convention, the American plenipotentiary stated that he could not agree to any article that would exclude the interpretation that had been put by the United States, and as they conceived correctly, on those words.

He further observed that he did not perceive how the substitution of the words "*similar in substance*," or of any other such expressions, for the word "*like*," would better prevent occasional differences of opinion on what were or were not "*like articles*," since the same difficulty would arise as to whether two certain articles were "*similar in substance*" or not. And it might often happen that, where no distinctive technical name had been adopted, a real difference could not be otherwise or better defined than by reference to the process of manufacture.

He thought, upon the whole, that, considering the magnitude of the trade carried on between the two countries, and that the convention had been in force twelve years, the differences of opinion arising out of it had been fewer and of less importance than might have been expected; and under such circumstances there did not appear to him sufficient cause for making any alteration in that compact.

As to the manner of renewing the convention, the American plenipotentiary said that it appeared to him preferable to renew it for a certain period, and, after the expiration of that term, until one year's notice should have been given by either party of his desire to put an end to it.

In consequence of the above declarations of the American plenipotentiary, the British plenipotentiaries took both the subjects in question for further consideration.

ALBERT GALLATIN.
H. U. ADDINGTON.

True copy.

W. B. LAWRENCE, *Secretary of Legation.*

Protocol of the eleventh conference between the American and British Plenipotentiaries, held at the Board of Trade on the 26th of June, 1827.

Present: Mr. Gallatin, Mr. Huskisson, and Mr. Addington.

The British plenipotentiaries not being yet prepared with a definitive reply to the observations and propositions of the American plenipotentiary, inserted in the tenth protocol, the further consideration of the subjects to which those observations referred was reserved for a future opportunity.

The American plenipotentiary submitted and annexed to the protocol the paper (C) containing the answers of his Government to certain proposals communicated to Mr. Rush by the British plenipotentiaries in 1824, and by them annexed in the form of nine articles to the protocol of the twenty-second conference.

ALBERT GALLATIN.
H. U. ADDINGTON.

True copy.

W. B. LAWRENCE, *Secretary of Legation.*

C.

Substance of nine articles annexed by the British Plenipotentiaries to the protocol of the twenty-second conference, held on the 9th of July, 1824.	*Answer of the American Plenipotentiary to certain proposals communicated by the British Plenipotentiaries in the course of the conferences with Mr. Rush of the year 1824, and concerning which they annexed the substance of nine articles to the protocol of the twenty-second conference.*
1. Mutual delivery of criminals, the subjects or citizens of either party, taking refuge within the dominions of the other.	ART. 1. Agreed to in cases of murder and forgery only, and excepting the citizens or subjects, natural born or naturalized, of the party within whose dominions the criminals shall have taken refuge. It is further proposed to extend the provision of a mutual surrender—

1st. To deserters from the military, naval, or merchant service of either party, with the same exception as aforesaid, in respect of citizens or subjects of either.

2d. To persons held to service or labor, under the laws of either party, taking refuge in any part of America, within the dominions of the other.

2. Arrangement for the adoption of measures to facilitate and complete, in an equitable and satisfactory manner, the settlement of claims made by the subjects or citizens of either of the two parties to lands situated within the territories of the other in America, and arising out of grants heretofore made by authorities competent at the time to make such grants.

ART. 2. The courts are open, in respect of all claims, to all persons not lying under legal disabilities; but the United States cannot agree to afford any greater facilities for the settlement of the claims in question than are allowed by the laws of the land.

3. Agreement that on neither side shall debts due from individuals of the one nation to those of the other, or moneys which they may have in the public funds, or in public or private banks, ever be confiscated or sequestered, in case of war or differences between the two countries; and also, that every facility be mutually afforded for the recovery of debts.

ART. 3. The exemption from confiscation or sequestration, in case of war or differences, agreed to, provided that it shall be extended to every other species of private property (including vessels and cargoes, though yet on board,) which may be within the dominions or jurisdiction of either party at the time when such war or differences shall take place or become known.

The same facilities for the recovery of debts being afforded, by the laws of both countries, to the citizens or subjects or either, the latter provision of the article appears unnecessary.

4. Further, that no act of reprisal shall be ordered by the one party against the other, on complaint of injuries or damages, till after a statement of grievances shall have been given in, and the redress demanded either refused or unreasonably delayed.

ART. 4. Agreed to.

5. Further, that in case of rupture at any time between the two nations, the merchants of either party shall be allowed to remain and carry on the trade within the dominions of the other, so long as they behave peaceably and lawfully; and in case of their being sent away for misconduct, they shall have a reasonable time allowed before removal for the settlement of their affairs and necessary preparations.

ART. 5. Agreed to, provided that such merchants may, nevertheless, be removed from their places of residence to the interior, if the party in whose dominions they are shall think it necessary.

6. Further, that in case of any vessel belonging to the Government or individuals of one nation being wrecked on the coasts of the other, any property belonging to them recovered therefrom shall be restored, all practicable assistance rendered, and no more salvage claimed than in like cases from natives.

ART. 6. Agreed to.

7. Further, that vessels of either party, forced by distress into any port of the other, not being an open port, shall, nevertheless, be hospitably received, and allowed, if necessary, to victual, repair, unlade its cargo, and dispose of a part thereof under proper regulations.

ART. 7. Agreed to.

8. Further, that ships and merchandise belonging to either party, when rescued from pirates by the other, shall be restored to the original owners on the payment of salvage no higher than would be claimed in like case from the subjects or citizens of the rescuing party.

ART. 8. Agreed to.

This and the preceding articles appearing mutually advantageous, will be agreed to, although it would have been more agreeable to the Government of the United States to have comprised in the same instrument an arrangement of all the subjects connected with belligerent and neutral rights which, in their opinion, it is desirable to adjust by treaty; and though they therefore regret that some of those subjects were not favorably entertained by the British plenipotentiaries when brought forward by Mr. Rush in the course of the negotiations of the year 1824.

9. Finally, that the consuls and vice consuls of either party, having an exequatur in due form, shall be exempt from the payment of direct taxes, and from personal service of every kind, respectively, within the territories of the other.

ART. 9. Agreed to, as to the exemption from personal service, but not as to exemption from direct taxes.

It is further proposed that the exequatur should always be granted without charge or payment of any fee.

Protocol of the twelfth conference between the American and British Plenipotentiaries, held at the Board of Trade on the 21st July, 1827.

Present: Mr. Gallatin, Mr. Grant, and Mr. Addington.

The protocols of the two preceding conferences were read over and signed.

In consequence of the retirement from the commission of one of the former British plenipotentiaries, and the appointment of a successor in his place, the plenipotentiaries again examined and exchanged their full powers.

In reference to the observations and declaration made at the 10th conference by the American plenipotentiary, with respect to the renewal of the third article of the convention of 1818, if accompanied by the declaration proposed at the 9th conference by the British plenipotentiaries, the latter stated that they conceived that the main benefit resulting from that article was, that it kept in abeyance, during the term of its existence, all conflicting rights to the territory to which it related. That benefit, however, considering the difference of opinion which prevailed on the true intent of that article, the British plenipotentiaries apprehended could no longer be expected to result from its renewal.

Since, therefore, the American plenipotentiary had declared his inability to agree to such a declaration as that proposed by the British plenipotentiaries, the latter were compelled to decline accepting the proposal of the American plenipotentiary for renewing, for a further fixed term of years, the third article of the convention of 1818.

In case, however, the American plenipotentiary should so far modify that proposal as to offer the renewal of that article merely as a temporary act, intended to prevent collision between the parties while measures were maturing for effecting a more permanent settlement of their respective claims, the British plenipotentiaries would, in that case, be ready to take such a proposition into consideration.

They, however, expressly stated that, in agreeing to such a proposal, Great Britain in nowise receded from any claim previously urged on her part to the territory west of the Rocky mountains, or admitted any claim advanced by the United States with respect to the same territory.

With respect to that part of the observations of the American plenipotentiary which had reference to the additional article which the British plenipotentiaries had intimated their probable intention of proposing to insert in the convention of commerce of 1815, if renewed, they observed that, notwithstanding the observations of the American plenipotentiary, they could not recede from the opinion which they had already expressed, that the definition assigned by them to the term "*like*," as applied in the treaty to manufactured articles, was correct, namely, that that term denoted similarity in substance, form, and denomination, and was totally independent of any particular process of manufacture. Waiving, however, all argument on this point, the plain fact was, that a very essential term employed in the convention which it was now proposed to renew *tale quale* was liable to a wide difference of construction between the parties to that compact; and that with such difference of construction, neither party would have any other remedy, in case of actual disagreement, than retaliation under the treaty, or a forcible dissolution of it—two alternatives to be equally deprecated and avoided.

This being the case, the British plenipotentiaries, being sincerely desirous of continuing a treaty under which both parties had derived great advantages, and which Great Britain was happy to consider as a strong bond of union between the two countries, were willing to waive bringing forward the proposition respecting an additional article at which they had before hinted, and offered to renew the convention of 1815, not however for any fixed term of years, but as if the 4th article of the convention of 1818 had originally stipulated for its further continuation, without lapse, until renounced by either party on twelve months' notice being given to the other.

This arrangement would enable either party, if he felt himself aggrieved by the operation of the treaty, the natural and immediate remedy of withdrawing himself from its pressure, and, in so doing, would prevent painful contentions and ill-blood between the two nations.

A project of convention drawn up in the above sense the British plenipotentiaries accordingly now submitted and annexed to the protocol.

ALBERT GALLATIN.
CHA. GRANT.
H. U. ADDINGTON.

True copy. W. B. LAWRENCE, *Secretary of Legation.*

Project of Convention of Commerce.

His Majesty the King of the United Kingdom of Great Britain and Ireland and the United States of America, being desirous of continuing in force the existing commercial regulations between the two countries which are contained in the convention concluded between them on the third of July, 1815, and further renewed by the fourth article of the convention of the twentieth of October, 1818, have, for that purpose, named their respective plenipotentiaries, that is to say: His Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honorable Charles Grant, a member of his said Majesty's most honorable Privy Council, a member of Parliament, and Vice President of the Committee of Privy Council for Affairs of Trade and Foreign Plantations, and Henry Unwin Addington, Esq.; and the President of the United States of America, Albert Gallatin, their Envoy Extraordinary and Minister Plenipotentiary to his Britannic Majesty: who, after having communicated to each other their full powers, found to be in due and proper form, have agreed upon and concluded the following articles:

ARTICLE 1. All the provisions of the convention concluded between his Majesty the King of the United Kingdom of Great Britain and Ireland and the United States of America on the third of July, 1815, and further continued for the term of ten years by the fourth article of the convention of the twentieth of October, 1818, are hereby further indefinitely extended and continued in force, from the date of the expiration of the said ten years, in the same manner as if all the provisions of the said convention of the third of July, 1815, were herein specifically recited.

ARTICLE 2. It shall be competent, however, to either of the contracting parties, in case either should think fit, at any time after the expiration of the said ten years, that is, after the twentieth of October, 1828, on giving due notice of twelve months to the other contracting party, to annul and abrogate this convention; and it shall, in such case, be accordingly entirely annulled and abrogated after the expiration of the said term of notice.

ARTICLE 3. The present convention shall be ratified, and the ratifications shall be exchanged in nine months, or sooner, if possible. In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at London, the ——— day of ——— in the year of our Lord 1827.

Protocol of the thirteenth conference between the American and British Plenipotentiaries, held at the Board of Trade the 26th of July, 1827.

Present: Mr. Gallatin, Mr. Grant, and Mr. Addington.

Protocol of the last conference was read over and signed.

The American plenipotentiary stated that he had conceived the principal advantage resulting from the 3d article of the convention of 1818 to consist in that it prevented collisions and disputes between the citizens and subjects of the two parties. But he coincided entirely in the opinion of the British plenipotentiaries, that, in whatever shape renewed, it must be with a mutual understanding that neither party thereby in anywise receded from any claim previously urged on its part, or admitted any claim advanced by the other party to the territory west of the Rocky mountains.

With that understanding, and believing also that a temporary renewal was necessary and would be sufficient to afford time to mature measures having for their object a more definite settlement of the claims of each party to the said territory, the American plenipotentiary would modify his former proposal and submit a renewal of the article for an indefinite time, but liable to be rescinded at the will of either party.

He accordingly submitted the project of convention hereto annexed, which was taken by the British plenipotentiaries for consideration.

ALBERT GALLATIN.
CHA. GRANT.
H. U. ADDINGTON.

True copy.

W. B. LAWRENCE, *Secretary of Legation.*

Project of Convention relative to the Northwest Boundary.

The United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland, being equally desirous to prevent, as far as possible, all hazard of misunderstanding between the two nations, with respect to the territory on the Northwest Coast of America, west of the Stony or Rocky mountains, after the expiration of the third article of the convention concluded between them on the twentieth of October, 1818, and also with a view to give further time for maturing measures which shall have for their object a more definite settlement of the claims of each party to the said territory, have, respectively, named their plenipotentiaries to treat and agree concerning a temporary renewal of the said article, that is to say: The President of the United States of America, Albert Gallatin, their Envoy Extraordinary and Minister Plenipotentiary to his Britannic Majesty; and his Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honorable Charles Grant, a member of his said Majesty's most honorable Privy Council, a member of Parliament, and Vice President of the Committee of Privy Council for Affairs of Trade and Foreign Plantations, and Henry Unwin Addington, Esquire: who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon and concluded the following articles:

ARTICLE 1. All the provisions of the third article of the convention concluded between the United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland on the twentieth of October, 1818, shall be, and they are hereby, further indefinitely extended and continued in force, in the same manner as if all the provisions of the said article were herein specifically recited.

ARTICLE 2. It shall be competent, however, to either of the contracting parties, in case either should think fit, at any time after the twentieth of October, 1828, on giving due notice of twelve months to the other contracting party, to annul and abrogate this convention; and it shall, in such case, be accordingly entirely annulled and abrogated after the expiration of the said term of notice.

ARTICLE 3. Nothing contained in this convention, or in the third article of the convention of the twentieth of October, 1818, hereby continued in force, shall be construed to impair or in any manner affect the claims which either of the contracting parties may have to any part of the country westward of the Stony or Rocky mountains.

ARTICLE 4. The present convention shall be ratified, and the ratifications shall be exchanged in nine months, or sooner, if possible.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at London, the —— day of ———, in the year of our Lord 1827.

Protocol of the fourteenth conference between the American and British Plenipotentiaries, held at the Board of Trade the 27th of July, 1827.

Present: Mr. Gallatin, Mr. Grant, and Mr. Addington.

The protocol of the last conference was read and signed.

The British plenipotentiaries having expressed their willingness to acquiesce in the project of convention, submitted by the American plenipotentiary for the renewal of the third article of the convention of 1818, the said project was accordingly discussed and agreed to.

The American plenipotentiary, in reference to the observations and proposal of the British plenipotentiaries, with respect to the renewal of the commercial convention, observed, that whilst waiving all argument on the subject of the construction of the term "like," as used in that convention, he must repeat his conviction that the interpretation of the United States was correct, and declare that he could not allow that any such act of either party, as might have arisen from such difference of construction as had been alluded to, would have justified a dissolution of the compact. But although he did not think it

necessary to guard against such an alternative, and although he had expressed a preference in favor of a renewal for a fixed term of years, he would agree to the proposition of the British plenipotentiaries, which, though of a less permanent nature, was founded on perfect reciprocity.

The project of the convention submitted by the British plenipotentiaries at the twelfth conference was accordingly discussed and agreed to.

ALBERT GALLATIN.
CHA. GRANT.
H. U. ADDINGTON.

True copy.

W. B. LAWRENCE, *Secretary of Legation.*

Mr. Gallatin to Mr. Clay.

No. 102.] LONDON, *August* 6, 1827.

SIR: I have the honor to transmit herewith a convention* extending indefinitely, but liable to be rescinded at the will of either party, the commercial convention of 1815 between the United States and Great Britain. The convention was signed this day, and I beg leave to refer to the protocols of the 5th, 9th, 10th, 11th, 12th, and 14th conferences for the progress of the negotiation.

Some conversation took place, in the first instance, on the mutual advantages which might be derived from an extension of the exemption from discriminating duties to articles not the produce of either country, and from whatever country imported. To this proposition I declared my readiness to agree, provided that, in conformity with your instructions, and in accordance with the spirit of the navigation act of the United States, it was general and without exceptions. But the British plenipotentiaries were not prepared for such a general provision; they could not, indeed, on account of the exclusive privileges of the East India Company, extend it to the produce of countries within its charter, since such produce, if from China, can be imported into Great Britain only in the company's ships, and if from the East Indies and other British possessions in that quarter, only in such ships or in British vessels. It appearing impracticable, with that exception, to make any satisfactory and equal arrangement on that subject, the attempt to enlarge the provisions of the former convention was not pursued.

The proposal on the part of the United States was to renew the convention for a fixed term of years, and after the expiration of that term indefinitely, but liable to be annulled by either party on giving due notice of its intention.

The British plenipotentiaries proposed, first, that the convention should, from the time when it expired (October 20, 1828,) be prolonged indefinitely in the manner proposed by the United States. Second. That an additional article should be inserted, giving a closer definition of the term "like articles," as employed in the convention. They insisted that an erroneous interpretation of those words had been adopted by the United States, and that the term "like" ought to be considered as referring to the similarity in form, substance, and general designation of the article, without reference to the process by which it had been manufactured.

The higher duty laid by the United States on rolled than on hammered bar iron is, as is well known, the only case in which the British Government had complained of the construction put by that of the United States on the term "like." And the discussion in the course of our conferences turned principally on that point.

It was insisted, on the part of the British plenipotentiaries, that rolled and hammered bar iron were substantially the same article; that, if substantially the same, a different process in the manufacture was no reason why a difference should be made in the rate of duty; that the process of making bar iron by rolling being a British improvement and peculiar to Great Britain, the higher duty was, in fact, one on a British article, operated in favor of a similar article the produce of another foreign country, and was contrary to the spirit of the convention; and that the several recommendations of the President to Congress on that subject proved that the Government of the United States had themselves considered the construction implied in the act laying the duty in question as erroneous.

I contended that in the particular case in question there was a substantial difference between the two articles; that, though belonging to the same genus, rolled bar iron was a different species from hammered iron, and distinguishable as such by every person who worked it or used it; that castings, bar iron, and steel were but modifications or varieties of the same metal, and yet in practice almost everywhere liable to different rates of duty; that every Government had a right, in fixing those duties, to distinguish and make such subdivisions amongst articles of the same family as suited its policy; that there was no breach of compact, provided the regulation was general, and that the process of rolling iron was, neither from its nature nor in point of fact, peculiar or exclusively belonging to Great Britain. I also appealed to her own acts in support of the principle on which the construction on the part of the United States was founded.

The convention had provided against prohibitions in the same manner as against higher duties. Neither were permitted, unless general and applying to the like articles of every other country. Indeed, the agreement was still more important in reference to prohibitions than with respect to higher duties, since a total prohibition was more injurious to the country to which it applied than admission on payment of a higher duty.

Now, Great Britain did permit the importation of stock-fish, viz: cod, cured by a process peculiar to the Dutch, and prohibited altogether that of every other species of codfish, and, of course, American codfish. She also permitted the importation of hams and bacon, and had, till within a few days, forbidden that of salted or pickled pork. In both cases she had made a distinction similar to that of which she complained, distinguishing between the same species of fish and between the meat of the same animal, and considering both as different articles, according to the mode by which each was cured or prepared. The last instance was quite in point, pickled pork being inferior in value to hams; and the true reason why Great Britain complained of the duty on rolled bar iron being that, in that case, the higher duty was laid on that species of iron which was the cheapest and inferior in value. In all those cases the

* See the convention following the President's message at the beginning of this number.

prohibition and the higher duty operated principally to the injury of either America or Great Britain. No foreign country, except the United States, could import any considerable quantity of pork or codfish into Great Britain. No other country but Great Britain would import large quantities of rolled iron into the United States. But in all those cases the restriction was general, and on that account not inconsistent with the convention. Nor had it in any case been laid with an intention to do an injury to the other party and to favor some other foreign nation, but solely for the purpose of protecting the domestic produce or manufacture of each country respectively against injurious importations.

As to the designation of the articles, it was clear that where no distinctive technical term was in common use they could not be better or, perhaps, otherwise designated than by reference to the process of manufacture, it being always understood that the difference in that process had made a real difference in the article.

I further observed that the additional provision which had been suggested would be quite useless, unless so expressed as to have a direct bearing on the question already at issue. The mere substitution of "similar in substance," or of any such general expressions, for "like" would be nugatory, since the same difference of opinion would exist, whether certain articles were or were not similar in substance.

The messages of the President to Congress which had been alluded to were, I said, only sent in performance of a duty. Congress had laid a certain duty of which a foreign Power complained as contravening a treaty, and that complaint was submitted to their consideration. If those messages were considered as implying a recommendation, this was at most from a spirit of accommodation, and nothing was to be found in them indicating an opinion that the construction put by Congress on the convention was erroneous. But that body had, in consequence of those messages, repeatedly had the subject under consideration; and their refusal to alter the rate of duties proved not only that they adhered to their construction, but that they judged a repeal incompatible with the protection and preservation of the American iron establishments. Under those circumstances I could not accede to any article that would exclude the construction heretofore put on the term alluded to by the United States, and, if insisted on, I must decline renewing the convention.

The discussion of this point alone occupied a considerable portion of three long conferences, and I was rather surprised that so much importance should be attached to it by the British plenipotentiaries. I represented that the value of the rolled iron which might be imported into the United States under a lower rate of duty bore no kind of proportion to the trade carried on between the two countries, or even to the amount of British manufactures of iron and steel imported into the United States. These amounted annually to about four millions of dollars. The importation of rolled iron was about five thousand tons; and supposing this to be doubled in consequence of a lower rate of duty, the increase would be less than three hundred thousand dollars.

Considering the magnitude of the trade carried on between the United States and Great Britain, a trade exceeding twelve millions sterling a year, and which had gradually been increasing since the convention was in force, it must be acknowledged that the differences of opinion which must necessarily arise out of so many commercial operations had been fewer and less important than might have been anticipated. There did not, therefore, appear any sufficient reason for making any alteration in a compact which had been attended with mutual advantages, without producing any serious inconvenience to either party.

The British plenipotentiaries ultimately desisted from their intention of proposing the additional article, but persisted in their declarations that the construction put by Great Britain on the word "like" was correct. And they assigned the difference of opinion in that respect as the reason why they should insist on the renewed convention being made liable to be annulled at the will of either party from the time when that now in force shall expire, that is to say, from the 20th of October, 1828. Although the rejection of the suggested article may have been an additional cause for preferring that mode, it must be observed that the proposal of renewing the convention in that manner, and the intimation of an intention to propose the additional article, were both made at the same time, as will appear by the protocol of the ninth conference. And it had appeared to me from the beginning, though I may be mistaken on that point, that the British plenipotentiaries had made up their minds not to renew the convention otherwise than according to that first proposal of theirs.

Although I should have preferred a renewal for a fixed term of years, the mode proposed being founded in perfect reciprocity, and, under certain circumstances, not being without its advantages, I agreed to it.

That portion of the convention on which the discussion principally turned is perhaps that of least importance to the United States. The East India article would have been of no use prior to the time when the trade of the British possessions in that quarter was opened to private British traders. Till then the incompetency of the East India Company to carry on the trade of the East Indies rendered the commerce of the United States so essential to the prosperity of the country that there was not the slightest danger of their vessels being excluded. Since the admission of British private ships the circumstances are totally different. The trade of the United States is useful, but not necessary to India, and the article secures it against a prohibition, which would not be more contrary to what appears to be a mutual advantage than the exclusion from the West Indies, and for which there might be the same motive.

But the principal advantage of the convention consists in the repeal of the discriminating duties on the navigation of the two countries. It is not at all improbable that if there was no compact to prevent it an attempt again to lay such duties would be made here. This would prove so injurious to both countries that I have no doubt of their ultimately reverting to an agreement similar to that now existing. But the intervening struggle would not only be prejudicial to both parties; it cannot be carried on, without much difficulty, on equal terms, by the United States. They are precluded by the Constitution from retaliating in the most simple and efficient manner, viz: by laying an export duty on the produce of the United States exported in British (or other foreign) ships precisely equal to the discriminating duty which may be laid by Great Britain (or any other foreign nation) on similar produce therein imported in American ships. The retaliating duty must be laid either on the foreign tonnage, and this will be immediately countervailed by a similar one, or on the foreign articles imported in foreign vessels. This operates and affects the navigation of each country in proportion to the bulk of its exported produce, and, therefore, in the ratio of three to one against the United States. This difficulty was felt previous to the arrangement with France; it now exists in the commercial relations with the Netherlands. It is that consideration which affords the strongest motive for any commercial convention on the part of the United

States; and, as it was my principal reason for wishing that that with Great Britain should have been of a more permanent nature, it is perhaps there also that may be found the true cause of her preferring the mode of renewing it which has been agreed on.

On the other hand, the commercial policy of Great Britain is not at this moment perfectly settled. Innovations, perhaps, indeed, more nominal than real, have taken place. Symptoms of a retrograde movement have since appeared, and none that are favorable to the United States. It may, under certain circumstances, prove advantageous that they also should have, at any time, the right of annulling the present compact.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State.*

P. S.—The reference to the exception respecting St. Helena, and the provision for continuing in force the former convention without that exception, have been inserted for greater caution, and in order to remove any doubt as to the right of American vessels touching at that island.

A. G.

Mr. Gallatin to Mr. Clay.

No. 103.] LONDON, *August* 7, 1827.

SIR: I have the honor to enclose a convention* concluded yesterday with the British plenipotentiaries, renewing indefinitely, but liable to be annulled at the will of either party, the third article of the convention of 1818.

The negotiation for establishing a permanent boundary between the United States and Great Britain west of the Rocky mountains failed altogether. The protocols of the three first conferences exhibit the proposals made on both sides, and the arguments urged by each party are embodied in the exposition of their claims, as annexed by each respectively to the sixth and seventh protocols.

The renewal of the temporary agreement contained in the third article of the convention of 1818 was then discussed, and the British plenipotentiaries offered at the sixth conference (of 16th December, 1826) a projet of convention, proposing a renewal of the said article for fifteen years, but with the condition, amongst others, that neither party should, during that term, exercise any right of exclusive sovereignty or dominion over any part of the country in question.

This projet having been referred to my Government, your answer declining the proposed condition was received before the month of April. But the negotiations, which it had been intended to resume in February, had been suspended on account of Mr. Huskisson's state of health; and the unsettled situation of the British Cabinet prevented a renewal of the conferences till the 24th of May.

After it had been declared, on my part, that the United States could not accede to the restrictive condition proposed by the British plenipotentiaries, they intimated an intention of agreeing to the renewal of the former agreement without condition, but of inserting in the protocol a declaration that they considered both parties, according to the true intent of that agreement, to be restricted, during its continuance, from exercising any exclusive sovereignty or jurisdiction over the territory in question.

I stated that, considering an acquiescence to such declaration as tantamount to an acceptance of the same article which the United States had thought inadmissible, I could not agree to the renewal of the agreement if accompanied by the insertion in the protocol of the suggested declaration, or of any purporting to explain the intent or meaning of the article intended to be continued in force.

Various other proposals were suggested, though not presented in an official shape, having the same object in view—such as that neither Power should establish any military post in the territory in question, and that the citizens and subjects of either country should, for any offences or acts done in that territory, be amenable only to the tribunals of their own country. To all these I gave, as a general answer, that I could not entertain any such proposals, their object being, in my opinion, to preclude, in another form, the exercise of exclusive sovereignty—a provision which I was not authorized to admit, and to which the United States were pot prepared to accede.

The reasons assigned by the British plenipotentiaries for this provision were, that, according to their view of the subject, it was the true intent or object of the former agreement to keep in abeyance, during its continuance, all conflicting rights to the territory to which it related; that the Government of the United States had manifested an intention to enforce the rights they claimed by assuming exclusive sovereignty, as appeared by a bill which had passed one of the branches of the Legislature for extending to that territory legislative, executive, and judicial jurisdiction, and by the recommendation of the President to establish there a military post; and that it would be utterly impossible to prevent collisions of a national character if the two parties should proceed to such acts of absolute sovereignty.

It was denied, on my part, that anything more was meant or intended by the former agreement than what appeared on the face of it; and that all that was provided for by that compact was to leave the country open to the commerce of the citizens or subjects of both parties, without hindrance either from the Government or from the subjects or citizens of either party.

I observed that whatever might be the presumed intentions of the American Government, they had not as yet done a single act assuming jurisdiction of any kind over the territory west of the Rocky mountains; and that it was rather singular that the mere apprehension of such acts should have brought forth the proposal which had been made by the British plenipotentiaries at the very time when Great Britain had herself assumed that jurisdiction which she considered dangerous to the peace of the two countries.

The act of Parliament (1 and 2 George IV, ch. 66) of July 2, 1821, entitled "An act for regulating the fur trade, and establishing a criminal and civil jurisdiction within certain parts of North America," authorized the King to grant to any company or persons the exclusive privilege of trading with the Indians in all parts of North America, not being part of the territories of the Hudson's Bay Company, of his Majesty's provinces in North America, or of any lands or territories belonging to the United States

* See this convention following the President's message at the beginning of this number.

of America. But a special exception was made by the fourth section of the act, expressly founded on the convention between Great Britain and the United States, and declaring that nothing in the act contained should be construed to authorize any such persons or company to exercise such exclusive trade to the prejudice or exclusion of any citizens of the United States who might be engaged in the said trade.

No such exception was made in relation to the provisions of the act establishing jurisdiction. The courts of Upper Canada were, by those provisions, declared to have the same civil jurisdiction, in all respects, within the parts of America not within the limits of Lower or Upper Canada, or of any civil Government of the United States, as they had within the limits of Upper Canada. The King was authorized to appoint persons to act as justices of the peace within the aforesaid parts of America, and to constitute courts composed of such justices, and having an inferior civil and criminal jurisdiction. All capital and other high offences, and all civil suits above a certain amount, were to be tried in the courts of Upper Canada. No provision was inserted excepting citizens of the United States from that jurisdiction. And this extended precisely to the country in question—to the whole territory west of the Stony mountains, since the territories of the Hudson's Bay Company did not reach beyond those mountains, and the British Government denied that any part of the said territory was within the limits of the United States.

It was therefore evident that Great Britain had given to the temporary agreement of 1818 the same construction for which I contended; that she had considered it as securing the citizens and subjects of the two countries in the enjoyment of a free trade within the limits of the territory in question, but not as imposing any other restrictions on either Government.

The United States might, indeed, have a right to complain of some of the provisions of the act of Parliament, not as being a breach of the compact, but generally as an infraction of the right of sovereignty claimed by them over a considerable part of the territory. If no such complaint had been made, it was probably because the act had not been literally executed. But Great Britain, having assumed, in fact, as much jurisdiction as was necessary for the protection of her subjects and for the maintenance of order in the country, so far as she was concerned, could not, at all events, complain if the United States should, on their part, adopt such measures as were necessary for the same object, even if these were not precisely the same which had been deemed sufficient by Great Britain.

A powerful incorporated company, to the exclusion of private British traders, was in itself a territorial Government. Even the extensive and populous regions of the East had, for a long period, been governed through the same means. In the American territories inhabited by the native tribes, experience had shown that whenever private British traders had been admitted, or even when the competition was only between two companies, intestine contentions and bloodshed could not be prevented. But when there was but one exclusive company, its agents were the governors; all the other British subjects in the territory were the servants of that company; they might be and were kept under perfect subordination, restrained from committing any outrages on the Indians, and forming a force sufficient for protection against them. Peace and order had, through those means, been effectually preserved. Nothing was wanting to complete the system but the establishment of proper tribunals for deciding civil suits and trying offences. This was precisely what had been done by the act of Parliament of 1821. Taking all its provisions together, it answered every purpose which Great Britain had in view. But in order to attain the same object the United States would be obliged to resort to different means.

The establishment of an exclusive company appeared incompatible with their habits and institutions. They could not govern the country and preserve peace through that medium. So far as related to the administration of justice, Great Britain could not deny their right of doing what she had done herself, of establishing proper tribunals; and it was immaterial whether the superior courts sat within or without the limits of the territory. But the executive authority, as it could not be vested in the agents of a company, must be exercised by officers of the United States. And, again, not having the numerous servants of a company under their control, they had no other means to preserve peace than a military force. This was, indeed, altogether unnecessary, and never resorted to for that purpose, in the interior parts of the United States; but experience had also proved that in what was called Indian territories, and along their borders, such a force was necessary, and a small one was sufficient to protect the white inhabitants against Indian depredations, and the Indians themselves against the aggressions of lawless individuals. Peace had thus, for a number of years, been preserved with the Indians and amongst the Indians. It had been found impracticable to do it without such means.

I admitted, at the same time, that there was, if not imminent, at least ultimate danger of collisions, as long as no permanent boundary was agreed on in that quarter, and that it was extremely desirable that some arrangement might be made which should, in the meanwhile, prevent any serious differences arising from that cause between the two countries. This object would not be attained by simply agreeing to a condition expressed in terms so general and vague as that which had been proposed on the part of Great Britain, and which, if acceded to, would, without providing for what she had in view, give occasion to new discussions respecting its true meaning. Thus, for instance, she was desirous that neither party should establish any military post in the country, and if both should happen to do it, the act could not, on either side, be considered as one of exclusive sovereignty. The only agreement that could answer the end proposed must be one containing specific provisions, enumerating the acts which each party might do, and those from which each must abstain during its continuance. But this subject had not yet been taken into consideration by my Government. Both the utility and the difficulty of such an arrangement had, for the first time, been brought distinctly into view in the course of this negotiation. The various proposals or suggestions of the British plenipotentiaries, not always according with each other in principle, showed that the views of neither party were yet matured. I had no doubt that my Government would be disposed to enter into an agreement calculated to prevent disputes, provided this was found practicable; that they would entertain any proposals having that object in view, and which should neither affect the rights claimed by the United States, nor impede the pursuits of their citizens and the progress of their settlements in the territory west of the Rocky mountains. But this must be the subject of a subsequent negotiation. There was no pressing immediate necessity for such an agreement; at all events, I was not authorized to conclude, or, indeed, the subject being quite new, to discuss its details. I could only agree to a simple renewal of the third article. The United States had no particular interest in its continuance; it was a matter of mutual concern; if there was any advantage in not suffering that agreement to expire, it was common to both parties. Without attaching a very great importance to it, the Government of the United States, seeing no inconvenience in its renewal for a term not exceeding ten years, had instructed me to that effect, because, the country being as yet used only for the purpose of trading with the natives,

there appeared a mutual advantage that the subjects and citizens of neither party should be disturbed in that pursuit by those of the other party. The course which the discussion had taken suggested another reason in favor of the renewal. The dissolution of the existing agreement, whilst the boundary remained unsettled, would have an unfavorable moral effect on the relations between the two countries. They would be left in almost a hostile attitude in that quarter. A temporary renewal would give time to mature measures of a more permanent nature, and leave both parties in a better temper to enter into the discussion of those measures. All these were general considerations, not more applicable to the United States than to Great Britain, and it was now for her to decide; but it was the only option left, whether she would agree to a temporary renewal, without any additional condition or explanatory declaration.

The British plenipotentiaries did not admit that the act of Parliament of July, 1821, was susceptible of the strict literal construction I had put upon it. They declared explicitly that it had no other object but the maintenance of order amongst British subjects, and had never been intended to apply to citizens of the United States. That such was not the intention of Great Britain was evident from the various proposals now made on her part, having all for object to prevent both parties from assuming an exclusive jurisdiction.

They expressed their regret that I was not authorized or even prepared to enter into a discussion of the measures necessary to prevent most serious differences taking place. An arrangement to that effect, though attended with difficulties, did not appear to them impracticable. There was no intention on the part of Great Britain to colonize the country, or to impede the progress of our settlements. They would be disposed, if such an arrangement as they contemplated could be effected, to assign to it a longer duration than had been at first mentioned, (perhaps twenty-five years,) and to leave the further occupation and settlement of a country which they considered as equally open to all to take its own course. But Great Britain owed protection to her subjects in that quarter, and could not admit that they should, so long as the permanent boundary was not settled, be liable to a foreign jurisdiction. Nor would her interest, or a due regard to national character, permit her to acquiesce in an exclusive military occupation of the country on the part of the United States. The necessary consequence of such an occupation on their part would be the establishment also of military posts on the part of Great Britain. There was a great difference between the national flag and that of a private company; and they apprehended that the erection of the first by either party would render the final adjustment of the boundary line more difficult, and the preservation of peace more precarious.

The British plenipotentiaries added that, considering the nature of the claim to the country as set up by each party, Great Britain would hardly be placed on equal terms if the agreement was renewed without inserting in it, in some shape, the condition they had suggested, the United States asserting a claim of absolute sovereignty and a latitude for the construction of that compact which Great Britain denied to herself. They could not, therefore, agree to a simple renewal for a fixed term of years, but they would not object to a temporary continuance, with the intention of preventing collisions while measures were maturing for a more permanent arrangement.

To this overture I acceded without hesitation, and proposed, as had been done by the British plenipotentiaries in relation to the commercial convention, that each party should be at liberty to rescind the agreement on giving twelve months' notice to the other party. This, indeed, appeared to me, upon the whole, a more eligible mode than that of a renewal for ten years, it being quite as probable that the United States may find it expedient to annul the compact before the expiration of that term as that it will suit the convenience of Great Britain to do it.

I beg leave here to observe that some of the most cogent motives for having made the agreement in 1818 have now ceased to operate. The country is still now, as it was then, almost exclusively occupied by the British traders. But the claim of the United States had not at that time been strengthened by the acquisition of that of Spain. The British plenipotentiaries, unable for that very reason to sustain the British claim against the United States by the Nootka convention, did then assert a right of absolute sovereignty, founded, as they said, on prior discoveries and Indian purchases, but which is no longer affirmed. They had also declared that the order given by the British Government, but not yet carried into effect for the restitution of Astoria, had issued, under an erroneous impression, that that establishment had been captured instead of having been, as they asserted, voluntarily transferred. For all those reasons it appeared necessary that, in a convention which established the 49th parallel of latitude as the boundary between the two countries as far as the Stony mountains, some provision should be inserted recognizing the existence of the claims of the United States to the territory west of those mountains. As there was no apparent reason why that boundary should not, as the northern limit of Louisiana, have been extended to the Pacific Ocean, absolute silence with respect to that territory might, under all the circumstances of the case, have had a tendency to weaken the claim of the United States.

A renewal of the agreement is no longer necessary for that object. But, in addition to the reasons that were assigned in the course of the negotiation in favor of continuing it in force, there is still one peculiar to the United States. They claim exclusive sovereignty over a territory, a considerable portion of which is occupied by British traders whom they could not dispossess without engaging in a war—whom, from their distance and other causes, they are not at this time prepared to remove. It is certainly more eligible that those persons should remain on the territory of the United States by virtue of a compact and with their consent than in defiance of their authority.

Although the prospect of paving the way for a more complete and satisfactory agreement has been one of the motives for concluding this convention, no commitment has taken place in that respect. And the further observations which I have to submit on that topic, having no immediate connexion with the temporary continuance of the existing agreement, will be the subject of a separate despatch.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State.*

Extract of a letter from Mr. Gallatin to Mr. Clay.

No. 104.] LONDON, *August* 9, 1827.

SIR: I have the honor to enclose the protocols of the 15th and 16th conferences, which, in addition to some other matter, complete all that passed on the subject of the commercial convention and of the territory west of the Rocky mountains.

I was unexpectedly invited by the British plenipotentiaries on Monday, the 16th instant, to meet them that afternoon. It was for the purpose of signing the two conventions prior to Mr. Canning's death, then every moment expected, although he survived until yesterday morning. He had seen and approved those two instruments. The British plenipotentiaries, whom I met again this morning in an informal way, and only to sign the last protocol, have declined to meet again in conference until after the new administration shall have been formed.

Protocol of the fifteenth conference between the American and British Plenipotentiaries, held at the Board of Trade on the 2d August, 1827.

Present: Mr. Gallatin, Mr. Grant, and Mr. Addington.

The protocol of the preceding conference was read over and signed.

The subject of an agreement for regulating the manner of referring to arbitration, as provided by the 5th article of the treaty of Ghent, the points of difference relative to the boundary line between the United States and the British provinces in North America, was taken up and generally discussed at considerable length.

The views of the plenipotentiaries on this subject not being yet sufficiently matured, its further consideration was postponed to their next meeting.

ALBERT GALLATIN.
CHA. GRANT.
H. U. ADDINGTON.

Protocol of the sixteenth conference between the American and British Plenipotentiaries, held at the Board of Trade on the 6th August, 1827.

Present: Mr. Gallatin, Mr. Grant, and Mr. Addington.

The protocol of the preceding conference was read over and signed.

The convention for continuing in force the commercial convention of 1815, and the convention for continuing in force the third article of the convention of 1818, having been engrossed, were compared and respectively signed by the American and British plenipotentiaries.

The discussion of the intended agreement for regulating the proceedings under the arbitration of the points of difference respecting the boundary line, in conformity with the fifth article of the treaty of Ghent, was further postponed till a future meeting of the plenipotentiaries.

ALBERT GALLATIN.
CHA. GRANT.
H. U. ADDINGTON.

Mr. Gallatin to Mr. Clay.

No. 105.] LONDON, *August* 10, 1827.

SIR: I now proceed to lay before you the observations on a more specific agreement with Great Britain respecting the territory west of the Rocky mountains, to which I alluded in my despatch No. 103.

Whatever change may hereafter take place in the views of the British Government concerning that country, I may with confidence say that there is not at present any wish to colonize it; that they view it rather with indifference; that they do not believe that it will, when once settled, long remain either a British colony or a part of the United States; that they do not think it, therefore, a matter of great importance whether it shall receive its inhabitants from Great Britain, Canada, or the United States; and that they are willing to let the settlement of the country take its natural course. But they are not, and will not probably for some time be, prepared to agree to such a division of it between the two Powers as the United States do ask and have a right to claim. They would not be supported in such a measure at this time by public opinion; and, although events may take place which will accelerate the settlement of a permanent boundary line, it is not probable that it can be done in a satisfactory manner until the citizens of the United States shall have acquired a respectable footing in the country. In the meanwhile, this Government feels itself bound to protect the existing establishments which have been created by British capital and enterprise; and the Fur Company, though not perhaps as popular and favored as formerly, has still sufficient influence not to be disregarded. Of the monopolizing, rapacious, and unfriendly disposition of that company you are well apprised, and that it has been and will continue to be the principal bar to a definitive settlement of differences in that quarter. But recollections of the high, though not very tenable ground assumed by this country towards Spain in the affair of Nootka, have also their influence. National pride prevents any abrupt relinquishment of her pretensions; but Great Britain does not seem indisposed to let the country gradually and silently slide into the hands of the United States; and she is anxious that it should not, in any case, become the cause of a rupture between the two Powers.

It has been under the influence of these motives that, in their exposition of the claims of Great Britain, the British plenipotentiaries, resorting to the principles asserted during the negotiations which terminated in the Nootka convention, have considered the country as unoccupied, and equally open to all, but have sedulously avoided to set up a claim of absolute and exclusive sovereignty to any part of it. And I beg leave here to observe that this exposition of the *nature* of the claim of Great Britain is, in relation to the measures which either country may hereafter adopt or agree to, far more important than the arguments adduced in support of it. To the same disposition must be ascribed the proposal in the projet of convention offered at the sixth conference, that no settlement then existing, or to be formed during the fifteen ensuing years, should be adduced in support of any claim by either party to the

exclusive sovereignty of the country—a proposal which, considering that the United States never had had but one settlement within its limits, was, on the whole, favorable to them; but the principal object of which was, that Great Britain should not hereafter be prevented from adjusting the permanent boundary by settlements acknowledged by her to have been made with her sanction, and under an expectation of support and protection on her part

My opinion that the country must necessarily be settled by the United States, and ultimately fall in their hands, provided that the natural course of events is not prevented, and merely by suffering them to take their course, has already been expressed in the view of the claim of the United States attached to the protocol of the seventh conference. It is under this impression, and that which I have of the views of Great Britain, that I have been induced thus to call the attention of the President to the consideration of those measures which may be deemed necessary for the preservation of harmony in that quarter. Most of those which were suggested in the course of the discussion have been mentioned in my former despatches. But it may be convenient to bring them together before you, observing that, in all that was said, it was explicitly understood that I had no instructions on that branch of the subject, and that our conversation must be considered as informal and intended to prepare both parties for a subsequent and distinct negotiation.

The exercise of sovereign authority, which at first was most objected to by the British plenipotentiaries, was the establishment of a territorial government on the part of the United States. But the explanations given and the comparison made between that form of extending jurisdiction and that adopted by the act of Parliament of July, 1821, have, I think, removed those objections in a great degree; at least among the conditions afterwards suggested there was none bearing directly on that point; and I should think that an understanding might take place in that respect without agreeing to any specific condition. The erection of a territory, having for its eastern boundary a line within the acknowledged boundaries of the United States, and describing the country over which the jurisdiction was to extend, generally, or in terms similar to those used in the act of Parliament, might perhaps answer every purpose. The three restrictive conditions which were ultimately urged or suggested are the following:

1. That no custom-house should be erected, nor any duties or charges on tonnage, merchandise, or commerce, be raised by either party in the territory west of the Rocky mountains. This is the only condition proposed which appeared to me to have any necessary connexion with the existing agreement. It may be urged, as fairly implied in the obligation, that the country shall be free and open to the vessels, citizens, and subjects of the two Powers. The extension of the revenue laws of the United States to that quarter is not immediately wanted. The settlement of the country would be rather promoted by not raising the duties. Indeed, if exacted on merchandise intended for the Indian trade, the citizens of the United States could not compete with the British company. The exception is not liable to the constitutional objection, so long as the boundary line remains unsettled and the country is not within the acknowledged limits of the United States.

2. That the citizens and subjects of the two Powers residing in or resorting to the territory in question should be amenable only to the jurisdiction of their own country, respectively. Every other subject might, perhaps, rest on a mutual understanding without a formal agreement. But it seems indispensable that the respective jurisdiction of the courts of justice should be determined by a positive compact. It would otherwise be hardly possible to avoid collisions. The principle of the condition suggested, as above, appears to be the only one that can be resorted to. And, had it not been for your observations respecting Astoria, I might have been almost tempted to accede to the condition with some explanatory modifications. The power to arrest should, at least for high offences, be given to either party. Should each have also the power to try offences committed within the precincts of a post in his actual occupation? This would have covered the case of Astoria; but, as this condition must be reciprocal, it might have been altogether more injurious than useful.

Permit me, however, to observe that the settlement and restitution of Astoria may be forcibly urged as strengthening the claim of the United States to the whole territory; but that it would be dangerous to adduce those incidents, as giving a stronger claim to the absolute sovereignty over that spot than on any other part of the territory. As there can be no higher title or right than that of such sovereignty, the argument could not be pressed without acknowledging that the right of the United States to the residue of the territory was something less than one of absolute sovereignty.

3. That no military post should be established by either party in the territory. This is the most difficult part of the whole subject. The reasons why Great Britain may dispense with a military force in that country and why it may be wanted by the United States were repeatedly stated to the British plenipotentiaries, and, as I had thought at first, with some effect. But when the conferences were resumed in June last, it appeared to me to be the point of which they were the most tenacious. They seemed to consider military posts as a formal national occupation of the country, and as one of such notoriety that, if it was done by the United States, Great Britain could not suffer it without at least following the same example. They explicitly declared that this would indubitably take place if the United States should carry into effect their intention in that respect; and they intimated that they would enter in the protocol a declaration to that effect. This suggestion was abandoned, partly on my observing that such communication ought rather to be made through the usual organ to my Government; partly, perhaps, because they did not wish to commit themselves so entirely on that question. Its real difficulty consists in that Great Britain, having a much larger military establishment than the United States, may, with no greater inconvenience, make larger detachments for any service of this kind; and that if she once takes possession in that way, independent of the collisions it may occasion, it will render an ultimate relinquishment of that portion she would naturally occupy much more difficult on her part. Whether any mode to reconcile the conflicting interests on that point can be found must be left to further consideration. It may, perhaps, prove necessary to let this part of the subject rest on a mutual understanding instead of a positive agreement. Or, if made an express condition, it would be an inducement for continuing to make the whole agreement liable to be rescinded at the will of either party. The British plenipotentiaries had expressed a decided preference for a compact of twenty or twenty-five years' duration, if the two last mentioned conditions made part of it.

I have, in the course of the conversations on the subject-matter of this despatch, suggested to the British plenipotentiaries (and had also to Mr. Canning) that it would be eligible that any negotiation for that object should be carried on at Washington; and that it should not be pressed immediately, as, the

subject being under several aspects of new impression, some time was necessary to take it under serious consideration and to mature the views of the Government of the United States respecting it.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State.*

Mr. Gallatin to Mr. Clay.

No. 122.] LONDON, *September* 30, 1827.

SIR: I have the honor to transmit herewith a convention* with Great Britain for the regulation of the reference to arbitration of the northeast boundary question, which, after a long, protracted, and arduous negotiation, was concluded yesterday.

Our attention was, in the first instance, drawn to the necessity of supplying the want of a general map of the contested territory, those which had been prepared by the principal surveyors of the two Governments respectively having been objected to, and neither of them admitted to be filed amongst the records of the late commission. We anticipated from the beginning that, as eventually happened, we would be unable to agree respecting the highlands, this being one of the main questions at issue. But there was a great advantage to have, if practicable, a map, mutually agreed on, which should connect together the partial surveys made under the late commission, and to which all the arguments drawn from those surveys and from the relative situation of all the rivers and water courses might refer. The work proved to be one of great labor and considerable difficulty. It was the subject of several informal conferences and communications, and occupied a great part of last spring, whilst our official conferences were suspended. The map, with the exception of some details but lately settled, was completed towards the end of June. As we were unable to agree on the highlands and some other points, it was from that time understood, and has been made one of the provisions of the convention, that each party might, on a transcript of the map, delineate the highlands and other features of the country according to its own view of the subject, and that the transcripts might be laid before the arbiter, each being subject to the objections and observations of the other party.

It was also agreed that "Mitchell's map" should, according to the evidence of the American negotiators of the treaty of 1783, be acknowledged as that by which the framers of that treaty had regulated their joint proceedings. The arbiter will therefore be enabled to compare the topography of the country, such as it was understood by the framers of the treaty of 1783, with what, from subsequent exploration, it actually appears to be. It fortunately happens that all the great features of the country, and specially the position of the river St. John's and other waters, are so nearly similar in both that map and the new one (A) which has been agreed on, that the arguments drawn from the intention of the parties are not at all affected by the particulars in which those two maps differ. To this there is but one exception. It appears, by Mitchell's map, that the point of intersection of the north line drawn from the source of the river St. Croix and of the highlands, as contended for by the United States, (in other words, the northwest angle of Nova Scotia,) must have been presumed to be on the dividing ridge which divides the rivers falling into the river St. Lawrence from the tributary streams of the river St. John's. It has been found by the survey of that north line that the river Restigouche, which empties into the Bay des Chaleurs, penetrates further inland or westwardly than had been supposed by Mitchell, so that the said line crosses several of the upper branches of that river, and that the northwest angle of Nova Scotia, contended for by the United States, is on the dividing ridge which divides the rivers emptying into the river St. Lawrence from those which fall into the Gulf St. Lawrence.

When I say that this is the only discrepancy that may affect the argument to be found between the two maps or between the presumed intentions of the parties, and what has turned out to be the fact, I must always be understood as excepting the question which has been raised by Great Britain respecting the highlands. If, as she contends, (most erroneously in my opinion,) a continuous chain of conspicuous mountains was meant by the term "highlands," neither Mitchell's map nor that on which we have agreed throws any light on the subject. Whether such was the intended meaning of that expression, and, if it was, (which we deny,) whether the ground along which either of the two conflicting lines extends answers that description, will be questions for the arbiter to decide. The separate transcripts of the map agreed on, which will be prepared by each party, are intended, as already stated, to enable each to delineate those highlands as he may think proper.

After our conferences had been resumed in May, I found that our discussions in relation to the manner of regulating the proceedings under the reference were, from the numerous points to be arranged, very desultory. There were many principles which it would have been desirable to settle before an attempt was made to draw a projet of articles, since the whole complexion might vary according as those principles might be settled. Still it appeared necessary to bring the questions to some issue; and, with that object in view, I gave, early in June, to the British plenipotentiaries, but as an informal paper, a projet of convention; stating for what purposes it was offered, and that it must not be considered as definitive on my part, there being several points on which my own opinion was not conclusively made up.

We were at that time more immediately, though not exclusively, engaged in the discussion of the renewal of the commercial convention and of the agreement relative to the territory west of the Rocky mountains. But, although the progress of the negotiations was for a while arrested by the substitution of Mr. Grant for Mr. Huskisson as one of the Commissioners, and although the British plenipotentiaries had not yet prepared any projet, they had, previous to Mr. Canning's death, stated at large their objections to mine and their views of the subject. Our conferences were suspended nearly a month on account of that event, and during that interval I addressed, on the 18th of August, a letter to them, pointing out the modifications which, in consequence of the discussions upon it, I was disposed to make to my informal projet. When we met again, they desired that both this and the letter might be considered as official. To this I assented, and they are both annexed to the protocol of the 17th conference, held on the 12th of September. The British plenipotentiaries presented at the same time their counter projet, to which so many amendments were necessary that I found it expedient to offer at the ensuing conference an entire, new-amended projet, which was ultimately agreed to in substance at the 19th conference. The alterations

* See this convention following the President's message at the beginning of this number.

which are chiefly verbal, will be seen by comparing it with the convention itself. I will now proceed to give such explanations of the various provisions as seem necessary, dwelling chiefly on the points which were contested, and commencing with what relates to evidence.

That which was laid before the late commission consisted of the reports of surveyors, with the maps or draughts of surveys annexed thereto, and of a variety of documents, most of which are included in an appendix; but many, however, were only quoted by the agents, and are incorporated in their arguments. It was, without difficulty, agreed that, with the exception of the maps, the whole of that evidence might be laid before the arbiter. It is principally in order that every part may thus be used by either party that the clause was introduced at the end of the third article, which authorizes either to annex to its statement any portion it may think fit, not only of the papers annexed to the reports of the Commissioners, but of the other written documents laid before them. It will also result from the same provision that the arbiter will not be encumbered with such parts of the evidence heretofore adduced as, in the opinion of both parties, are altogether irrelevant.

The British plenipotentiaries objected to the maps or draughts of surveys annexed to the reports of the surveyors employed under the late commission being laid before the arbiter. Their objection applied almost exclusively to one of those maps, that by Mr. Johnston, No. 3, which they represented as being rather a general map of the country than an actual draught of his surveys, as giving an erroneous delineation of highlands which he had not seen, and as having been filed by the Commissioners through inadvertence. It is true, that, a few days after it had been thus filed, the British agent had objected to it, and moved that it should be withdrawn. But there were maps on file of the British surveyors quite as objectionable. I insisted that we ought not to make ourselves judges of the validity or irrelevancy of any part of the evidence reported by the Commissioners; that a part of the report of the surveyors would be unintelligible without the maps; and that all that was necessary, on account of their supposed inaccuracies and imaginary delineations of what the surveyors had not seen or explored, was to provide that, like the separate transcript of the map A, they should be adduced for the purposes of illustration, and be subject to the objections of either party.

Incorrect and contradictory as those maps really are, there were important reasons on the part of the United States why they should not have been suppressed. They contain, after all, the only evidence yet obtained of the elevation of various parts of the country along which the two conflicting lines respectively extend. They afford, therefore, the only chance there is of dispensing with new surveys in a most difficult and impenetrable country, and where the season for operations is extremely short. Although these may perhaps become necessary, if the British construction of the word "highlands" should prevail, nothing should be omitted by which the delays attending such work may be avoided. I am inclined to think that there is enough in the British surveys to disprove altogether the inferences they have tried to establish; and there are valuable facts in those of the American surveyors to which no solid objection can be made.

The British plenipotentiaries, though after some hesitation and change of opinion, objected also to the admission of any fresh evidence; and they tried to sustain the objection by that provision in the 5th article of the treaty of Ghent which declares that, in case one of the Commissioners should make no report, the arbiter should decide on the report alone of the other Commissioner. I answered that this provision was intended for that case alone, and for the purpose of preventing one of the Commissioners from defeating the object of the convention; that the case thus provided for had not taken place; and that the stipulation was inapplicable to the present state of things. The object now was to carry into effect the reference contemplated by the treaty of Ghent. It was acknowledged to be necessary for that purpose to modify the original stipulations connected with the proceedings of the commission; and if the intention was, as it ought to be, to secure a just and sound decision, the propriety of permitting both parties to adduce such additional evidence as might have been heretofore omitted was unquestionable.

The fact that the State of Maine had lately directed the Governor to collect new evidence was alone sufficient to have induced me to make this provision a *sine qua non*. Independent of this, I had ascertained that there was evidence necessary to establish some important points which had not yet been adverted to. Some of this I had collected, and I could point out other that may be obtained. Without entering into details at this time, I will only say that the evidence to which I allude will prove or tend to prove—

1st. That there was a special reason for designating in the treaty of 1783 the river St. Croix as having its mouth in the Bay Fundy, instead of using in that clause the more general expression of Atlantic Ocean, which will effectually repel the assertion on the part of Great Britain that Bay Fundy was thereby intended to be distinguished from the Atlantic Ocean for all the purposes of the treaty.

2d. That as late at least as the year 1783 it was the universal understanding that the highlands contemplated by the proclamation of 1763, and by the Quebec act, were precisely in that position, and on the ground along which the boundary line contended for by the United States does extend; which fact, if fully established, would be conclusive, since it is easily demonstrated, and has been explicitly admitted by the British agent and Commissioner, that it was the intention of the framers of the treaty of 1783 to make the highlands, contemplated by the proclamation of 1763, the boundary between the United States and the British dominions in that quarter.

3d. That the province of New Brunswick, by grants of land and various other acts, has exercised and continues to exercise jurisdiction (both east and west of the line drawn north from the source of the St. Croix) far north of what must have necessarily been the northern boundary of Nova Scotia, had Mars Hill, as it is contended, been the northwest angle of that province, which fact may certainly be proved, and will be also conclusive, unless the British shall be able to establish that the limits of New Brunswick have, by some subsequent act of the Crown, been extended north of the ancient boundaries of Nova Scotia, as laid down by the proclamation of 1763 and the Quebec act.

4th. That although it may be true that the branch of Connecticut river for which the British contend was, when the surveys under the late commission were executed, generally and alone known by the name of Connecticut river, this was not the case in 1783; that no one of the branches was thus exclusively designated at that time; and that if any was then considered as the main branch, it was not that for which the British now contend.

I will here observe that all engraved maps heretofore published are enumerated amongst those which may, subject to the objections of the other party, be laid before the arbiter, and that ex parte surveys by either party, other than those filed with the late Commissioners, are with great propriety excluded. But power has been reserved by the sixth article to the arbiter to order new surveys, and to call for further evidence if he shall think it necessary.

I also asked as a matter of right, and it was not agreed to without difficulty, that each party should be bound to give authentic copies of such acts of a public nature, issued under its authority, as the other party might apply for, but which he must specify. This is a clause necessary, as it relates not only to new evidence, but also to part of that laid before the Commissioners, the authenticity of which might perhaps be contested. Confining myself to the new evidence, I may mention, as acts of the kind alluded to, and of which authentic copies should be demanded, the grant of Sagadahock to the Duke of York; the act by which Nova Scotia was withdrawn from Massachusetts and erected into a regal province; that by which Nova Scotia was divided and New Brunswick erected into a separate province; the commissions of the Governors of those two provinces, and other acts that may have affected their limits; the grants by the Crown or Nova Scotia of Campo Bello; Governor Bernard's tract and Grand Menan; several grants and other acts under the authority of New Brunswick, &c.

The time for producing new evidence, which the British plenipotentiaries wished to limit to three, has been extended to nine months after the exchange of ratifications. This, considering also that which will elapse before that exchange takes place, will afford sufficient time for the purpose. Six months only are allowed for applying to the other party for authentic copies of acts in his possession, in order to enable him to bring counter evidence within the time limited.

After having settled what related to evidence, the next consideration was how to get rid of all the other proceedings under the late commission, it being obvious that they were so voluminous and complicated as to render it extremely improbable that any Sovereign or State should be found who would be willing or able to investigate and arbitrate upon them.

The first suggestion of a joint statement of facts and of the case was necessarily abandoned as impracticable. It was at once agreed that separate statements, drawn by each party, might with great advantage be substituted to the several arguments and memorials laid by the respective agents before the late board, and that the minutes of the proceedings of the Commissioners might be altogether dispensed with. The only difficulty was about their reports, which, according to the treaty of Ghent, ought to have been laid before the arbiter. But the British Commissioner had incorporated in his report, which extends to more than three hundred pages, exclusively of the appendix, no inconsiderable part of the arguments of the agents. The report of the American Commissioner, short, and drawn with great ability, contained but little extraneous matter, but referred to the arguments of the American agent.

I proposed, in the first instance, that extracts only of the reports should be submitted to the arbiter, meaning thereby that all the quotations of or references to the arguments of the agents, as well as every other extraneous matter, should be excluded, and nothing preserved but the opposite decisions of the two Commissioners, with their respective reasons in support thereof. This selection it would not have been very easy to make, so far at least as related to the British report; and the proposal was rejected by the British plenipotentiaries, who proposed on their part to suppress the reports altogether.

To this I had two objections. It appeared to me, in the first place, desirable that the points of difference should be clearly stated; and as the British plenipotentiaries had refused to describe, in the body of the convention, the line for which they contended, the description as given in the decisions might be supposed to be worth preserving. On further examination, I was satisfied that very little would be gained by preserving the designation adopted by the British Commissioner, inasmuch as he had confirmed the British line in no other manner than by reference to its delineation on a certain map, and this the very map of Mr. Odell, which had been rejected, and was not therefore before the board. Whether this was intended to bring before the arbiter that map, contrary to the vote of the board, it is not now necessary to inquire. But the contending lines having been delineated on the map A, now agreed on, the reference to it made in the convention will be sufficient to prevent the parties from shifting their ground, and to guide the arbiter. As it is, however, obvious that the lines, whenever surveyed, will agree neither as to courses nor distances with those on the map A, it has been expressly provided that the said map was agreed on as a delineation of the water courses, and of the conflicting boundary lines *in reference to the said water courses*. In order to avoid any cavil in the execution of the decision which the United States have a right to expect will be made in their favor, it will be proper to insert in the "statement" a description of the line contended for by them. Such a description will be found, though somewhat differing in terms, in the report of the American Commissioner and in the first American projet attached to the protocol of the seventeenth conference.

The second objection to the total suppression of the reports consisted in the advantage to be derived from various admissions by the British Commissioner, of which, perhaps, the most important consists in his having strongly insisted that the designation of boundaries in the proclamation of 1763 was the prototype of that adopted in the treaty of 1783; which is perfectly true, and precisely what it most imports the United States to establish.

This objection was removed by the provision already alluded to, which authorizes either party to annex to its statements any portion of the reports of the Commissioners which it may think fit. With that clause, the suppression of the reports, being attended with no inconvenience, was agreed to. There is, indeed, some advantage to be derived from it in two respects:

1. The British Commissioner had given a peremptory decision in favor of Great Britain, in relation to the boundary line along the 45th degree of latitude from Connecticut river to St. Regis. The American Commissioner, who throughout acted as a judge and not as a partisan, had, for reasons stated in his report, declined giving an opinion on that question. The unavoidable consequence, had both reports been laid *as such* before the arbiter, would have been that he must confirm the British decision. As the case now stands, the United States will not be deprived of the opportunity of availing themselves of the equitable considerations that may be urged in favor of the *old line*, and there is a chance of having it confirmed.

2. The American Commissioner having decided in favor of "Indian Stream" as the branch of Connecticut river, the head spring of which was the true northwesternmost head of that river designated by the treaty of 1783, it would also have been impossible, had the reports been laid before the arbiter, to have contended for "Hall's Stream." This question will now be still open; but I beg leave to observe, that I think not only that the decision of the American Commissioner was correct, but that it will be for the interest of the United States to contend for "Indian Stream" only. There is a defect in the argument in favor of "Hall's Stream," which, if it is urged, might prove fatal to the question and induce a decision in favor of the branch contended for by the British. I did not think myself, however, authorized to decide on that question, and I have, in the line traced on the map A, assumed "Hall's Stream" as the proper branch, which will leave Government to select either that or "Indian Stream" as the branch to be contended for

in their statement. This was the only doubtful point for me to decide on in designating the line contended for by the United States. It cannot, in any other respect, in conformity with their construction of the treaty, vary from that traced on the map A.

Having analyzed, with minute attention, all the reports and arguments under the late commission, I must say that there is such an evident superiority in those of the American Commissioner and agent, that the principal reason for substituting to them the intended statements of the parties is that which has been mentioned, but which is indeed conclusive, the impossibility of finding a Sovereign or State who would undertake, and, if undertaking it, would be able to investigate and comprehend such voluminous documents. But the labors of those officers will not be lost to the United States. The principal materials for preparing a condensed and perspicuous statement will be found in what has already been done by them. I think, however, that there are some important views of the subject which may be rendered more forcible and conclusive, and that, as already stated, new light will be thrown on it from evidence which had not yet been adverted to.

It having been agreed that separate statements, prepared by each party respectively, should be substituted to both the reports and arguments under the late commission, there was but one point of difference between us in that respect.

I was desirous that both Governments should be unrestrained as to the number of replies and rejoinders each might think fit to make to the statements of the other party. The British plenipotentiaries contended that this would defeat the object in view, and that with that unlimited permission either party might harass the other, and those argumentative replies be so multiplied as to render the subject as complex and difficult for the arbiter to decide on as if presented to him in its present shape. They also represented it as highly desirable, if not essential, that the ministers or agents of the contracting parties should not appear before the arbiter in the character of counsel, but that the whole of the evidence and arguments on which the parties relied should be laid before him at once and as definitive, unless he should himself think it necessary to call for further evidence or elucidations. A compromise of opinions took place, each party being allowed by the convention to make a reply, but which must be definitive, to the statement of the other party. This, I am confident, will be amply sufficient to obtain a just decision, the whole of the evidence permitted to be adduced, being in conformity to the convention, to be communicated twelve months before the date of the definitive reply or statement. Indeed, had it been a matter of personal concern, I would not have hesitated to accede to the proposal of limiting each party to one statement without the faculty of making any reply. But this is only a matter of opinion, on which I would not have been justified to act, even if that course had been warranted by my instructions and consistent with justice to both parties.

On two points I would have wished the provisions of the convention to have remained as I had proposed.

The British plenipotentiaries insisted that the acts of a public nature, of which authentic copies might be demanded by either party, should be individually specified. It would have been more convenient in some instances to have been permitted to make the application in general terms. But as we really could not ask that the British should find out for us evidence against themselves which we were not able to specify, I could not insist on that point.

I had at first proposed that, after the new evidence should have been mutually communicated, each party might bring counter evidence to rebut it, but no other. This, it is true, was calculated to throw embarrassment in the execution of the convention, as it might become a subject of dispute whether the counter evidence thus adduced was simply such as was permitted. And as a time must be fixed beyond which the process of mutually bringing forth counter evidence should terminate, there might, at all events, be ultimately the same reason to complain that all that was found to be necessary was not yet produced. Still, I would have preferred my original proposition; but, after ample discussion, there remained no choice between the exclusion of any fresh evidence and the provision as it now stands. I do not fear, however, that it will be injurious to the United States. I have carefully examined all the documents produced by both parties during the long contest between France and England respecting the limits of Nova Scotia, and am confident that there is none that bears on the pending question to our disadvantage. And, after examining the subject under all its aspects, I do not think that there can have issued, at any time, any public act of Great Britain, as yet unknown to us, which can affect the question, or which, if brought forth in order to embarrass it, may not be repelled without any counter evidence. It is not impossible, on the other hand, that the British may find themselves aggrieved by the provision on which they have insisted. The stipulation is, at all events, equal in its operation on both parties.

I believe that the same observation will apply to the convention generally. From the numerous difficulties I had to encounter to bring it to a conclusion, I should think that there is no other alternative but to adopt it, or a reference of the reports of the Commissioners, and of all the papers thereto annexed, such as they are. In either case, I am of opinion that there is nothing to apprehend so far as relates to the most important question—that of the northwest angle of Nova Scotia, and of the line thence along the highlands. It is barely possible, though very improbable, that the arbiter should adopt the British construction of the word "highlands," and decide that the line claimed by the United States does not accord with that construction. But there is no proposition in mathematics more conclusively demonstrated than that the line contended for by Great Britain is altogether inconsistent with the treaty of 1783. The only danger is that the arbiter may decide that the conditions of that treaty are contradictory, and that it cannot be executed. It is morally impossible that he should give a decision in favor of Great Britain. This view of the subject had better, however, be kept out of view, as it might induce the arbiter to do that to which he may be but too much inclined, viz: to abstain from giving a decision in favor of either party. I also beg leave to observe, generally, that I have been unable to give explanations which seemed necessary without entering into details which, for the present, should not be made public. We are under no obligation to make Great Britain prematurely acquainted with the tendency of our evidence and the manner in which it may be applied.

I enclose the copy of the protocols of our five last conferences, and of the map A. The original of this map, and of that of Mitchell, procured here, being both intended to be laid before the arbiter, will remain in the archives of this legation, subject to your orders, according to the quarter of the world in which the arbiter that will be selected may reside.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State.*

Protocol of the seventeenth conference between the American and British Plenipotentiaries, held at the Board of Trade on the 12th of September, 1827.

Present: Mr. Gallatin, Mr. Grant, and Mr. Addington.

The question of boundaries, under the 5th article of the treaty of Ghent, as one of reference to foreign arbitration, as therein provided, was opened by the British plenipotentiaries.

They referred to a letter addressed to them on the 18th of August by the American plenipotentiary, and to the projet of a convention for the regulation of that reference which had, on a previous day, been submitted informally by him; both of which were, by his consent, annexed to this protocol, (A, B.)

A discussion of some length on the contents of those papers took place, in which the British plenipotentiaries stated some objections which they had conceived to some points set forth in the projet of the American plenipotentiary, to obviate which they presented the counter projet of convention, hereto annexed, for his consideration, (A.)

It was then mutually agreed to defer all further discussion of the subject until the American plenipotentiary should have had time to reflect upon the contents of the said counter projet.

ALBERT GALLATIN.
CHA. GRANT.
H. U. ADDINGTON.

True copy.

W. B. LAWRENCE, *Secretary of Legation.*

A.

[Annexed to the protocol of seventeenth conference.]

62 UPPER SEYMOUR STREET, *August* 18, 1827.

GENTLEMEN: I have reflected on your observations, and what passed at our last conference on that subject, concerning the informal projet of convention which I had previously submitted for regulating the manner of referring to arbitration, as provided by the 5th article of the treaty of Ghent, the points of difference relative to the boundary line between the United States and the British provinces in North America. And I think that the further discussion of this subject may be facilitated by communicating to you how far I feel authorized, as at present advised, to meet your views, such as I have understood them from our conversation.

I beg leave to premise that, in submitting that projet as unofficial, my only motive was to avoid any premature commitment, and entering in our protocol propositions not yet matured, and which I was quite disposed to modify after having heard your objections. But you may, for the purpose of consulting your Government, consider that projet and the contents of this letter as an official communication.

My first proposal, though not so in point of order, was to dispense with all the arguments of the agents under the late commission, and that, as a consequence thereof, abstracts only of the reports of the Commissioners should be submitted to the arbiter; meaning thereby, that so much of those reports as consisted of such arguments, or made a general reference to them, should be left out.

I understood you to prefer that those reports should be suppressed altogether.

To this I feel disposed to acquiesce. But it seems to me necessary that, in that case, 1st, the points of difference should be stated in the convention, but without adhering to the particular manner in which they are stated, on the part of the United States, in the first article of the projet; 2d, that both parties should be at liberty to quote, in their statements, such parts of the said reports as they may think proper.

I do not see that I can feel at liberty to accede to your proposal, or rather suggestion, that no new evidence should be adduced; but I coincide entirely in the opinion that no *ex parte* surveys, by either party, subsequent to such of that description as have been filed by the late Commissioners, should be admitted.

With respect to the statement by each party, although I am not permitted to agree that there should be but one on each side, I will go as far as I can to meet your views in that respect, and will consent that their number be limited to two: that is to say, that each party shall be permitted in addition to his first statement, to present observations on the statement of the other party, and that' this will close the controversy.

These are details which must be left for discussion at our next conferences. I would only suggest that it would be proper that all new evidence should be mutually communicated as soon as possible after the exchange of the ratifications of the intended convention; that the parties should bind themselves to proceed in the choice of the arbiter as soon, also, as possible; and that the respective statements should not be communicated till after that choice has been made. The time within which those statements should be communicated and submitted, and the controversy closed, would then be regulated in reference to the time when an arbiter should have been selected, and signified his assent to act as such.

There remains the most difficult question—that of the surveys. The two maps, on which we have nearly agreed, will be so far useful that they will prevent differences respecting water courses and the relative position of the surveys executed under the commission, and enable the arbiter, so far as that goes, to compare the geography of the country, as it is, with what it was supposed to be, according to Mitchell's map, or any other, (for I think that they are all substantially alike,) by the negotiators of the treaty of 1783. But those maps decide nothing as to the question of highlands.

It is clear that if we do not agree on that point we run the risk of delays in making not only surveys, but in taking sections of a very impenetrable country, and the still greater danger of not being able to find any other Sovereign or State who will undertake to investigate a subject depending, not on argument or the construction of a compact, but on contested topographical details. But how is this to be avoided? I have revolved the subject in my mind in every possible way, and can see no other that would avoid the danger above stated but to agree that our respective lines extend both along highlands generally, and that the only question is, what are *the* highlands contemplated by the treaty? If

you can suggest any other mode, I will most cheerfully receive the proposal, and wish it may be found to answer.

But if we cannot agree on that point the fault is not ours, but partly of the defective surveys executed under the late commission, principally of the subject-matter of difference. We must, in that case, after having arranged in the most simple manner we can the other points, let this take its own course. The reports of the surveyors, and their accompanying maps or sketches, must be submitted to the arbiter, subject, respectively, to the objections of each party, and reserving to the arbiter the power to order additional surveys to be made if he shall think it necessary.

Hoping that you may soon be prepared to meet again in conference, I pray you to accept the assurances of the high consideration with which I have the honor to be, &c.,

ALBERT GALLATIN.

Right Hon. CHARLES GRANT and HENRY U. ADDINGTON, Esq., *&c., &c., &c.*

B.

Project of convention for the settlement of the fifth article of the Treaty of Ghent.

Whereas it is stipulated in the fifth article of the treaty of Ghent that, in case the Commissioners appointed under that article for the settlement of the boundary line therein described should not be able to agree upon such boundary line, a reference should be made of the point or points on which the said Commissioners differed to the decision of some friendly Sovereign or State, which decision should be considered by the contracting parties as final and conclusive: that case having now occurred, and it having therefore become expedient to proceed to and regulate the said reference, the President of the United States &c., &c.

ARTICLE 1. It is agreed that the points of difference which have arisen in the settlement of the boundary between the American and British dominions, as described in the fifth article of the treaty of Ghent, shall be referred, as therein provided, to some friendly Sovereign or State, who shall be invited to investigate and make a decision upon such points of difference. The two contracting Powers engage to proceed in concert to the choice of such friendly Sovereign or State as soon as the ratifications of this convention shall have been exchanged, and to *pray the arbiter thus chosen to give his* [or use their best endeavors to obtain a] decision, if practicable, within two years after he [the arbiter] shall have signified his consent to act as such.

ARTICLE 2. In order to establish in what the points of difference do consist, it is hereby declared, on the part of the United States, that they contend, first, that the northwest angle of Nova Scotia, mentioned in the treaty of 1783, is to be found at a point of the highlands lying due north, and about — miles from the source of the river St. Croix, which divides a certain river that empties itself into the river St. Lawrence, and designated in the surveys executed under the late commission by the name of river Beaver, from the tributary streams of the river Restigouche, which last river falls into the Bay des Chaleurs, an arm of the Gulf of St. Lawrence, which said Gulf, as the United States contend, is part of the Atlantic Ocean. Secondly. That the boundary line between the dominions of the two Powers, as described and intended by the treaty of 1783, extends due north from the source of the river St. Croix to the above described point, which, as the United States contend, is the northwest angle of Nova Scotia, and thence along the highlands which divide the rivers that empty themselves into the river St. Lawrence, from either the tributary streams of the river Restigouche and of the river St. John's, (which last river falls into Bay Fundy, and which bay, as the United States contend, is part of the the Atlantic Ocean,) or the other rivers which fall into the Atlantic Ocean, to the northwesternmost head of the Connecticut river, so that the said line shall, through its whole extent, from the northwest angle of Nova Scotia, as above described, pass between the sources of the said rivers, leaving on the right hand, and within the dominions of Great Britain, the sources of all the rivers that empty themselves into the river St. Lawrence, and on the left hand, and within the dominions of the United States, the sources of the tributary streams of the rivers Restigouche and St. John's, as well as of all the other rivers which fall into the Atlantic Ocean. Thirdly. That the northwesternmost source of the branch of Connecticut river, now known by the name of —— stream, is the northwesternmost head of Connecticut river, described by the treaty of 1783, to which the boundary line aforesaid must extend, and thence proceed down the said branch to its junction with other branches of the said river, and down the said united branches, which together form the Connecticut river, to the place where it meets a line surveyed prior to the year 1776, under the authority of the then provinces or colonies of New York and Quebec, as being in the latitude of forty-five degrees, and as the boundary line between the said provinces or colonies. Fourthly. That so much of the last mentioned boundary line as had been actually thus surveyed prior to the year 1776, under the authority of the said provinces or colonies, was not, by the treaty of Ghent, intended to be again surveyed, but is and ought to remain, as heretofore, the boundary line between the dominions of the two Powers. And it is hereby declared, on the part of his Britannic Majesty, that—

ARTICLE 3. The extracts of the reports of the late Commissioners, which are annexed to this convention, two general maps of the surveys executed by the direction of the said Commissioners, which maps have been signed by the plenipotentiaries at the same time with this convention, and are substituted to two conflicting general maps of the said surveys which had been laid before the said Commissioners, and the original map, published in the year 1755, called Mitchell's map, by which the framers of the treaty of 1783 are admitted to have regulated their proceedings, though other maps were consulted by them, separately, shall be delivered to the minister or agent of the arbiter. But the boundary lines contended for by the two parties, respectively, and which are delineated in the two general maps of surveys aforesaid, so far as the said maps extend, shall be taken and understood as described, (in the next preceding article,) though the said lines and the several water courses should prove not to have been, in every respect, correctly set down in the said general maps. Or, if article two is omitted " by each party, respectively, in the statements mentioned in the fifth article of this convention."

ARTICLE 4. Each of the contracting parties shall, within six months after the exchange of the ratifications of this convention, communicate to the other all the evidence intended to be brought in support of its claim, whether the same consists of public documents, books, maps, surveys, reports of surveyors, or is of

any other nature, and whether it does or does not make a part of the evidence which has been laid before the Commissioners aforesaid; which communication shall be made by the United States to his Britannic Majesty's minister or chargé at Washington, and by Great Britain to the minister or chargé of the United States at London.

Although such evidence may thereafter be contested as irrelevant, its authenticity shall not be questioned; such parts thereof only excepted, as being offered only by one party, shall be objected to by the other party, and the objections thereto delivered in writing by each Government, respectively, to the minister or chargé of the other party within twelve months after the exchange of the ratifications of this convention.

No other evidence (unless as provided by the seventh article of this convention) shall be laid before the arbiter but such as may be deemed necessary by either party to rebut that produced by the other, and as shall likewise be communicated within twelve months after the exchange of the ratifications of this convention. And such additional evidence shall also be deemed authentic, unless objected to, and the objections communicated in writing, in same manner as aforesaid, within four months after such evidence shall have been communicated.

Each of the contracting parties shall be bound, on the application of the other party, to give authentic copies of such acts of a public nature, intended to be laid as evidence before the arbiter, as have been issued under his authority, or are in his exclusive possession.

ARTICLE 5. Each of the contracting parties shall, respectively, draw up a statement of his own case in such terms as he shall think expedient. These statements shall be mutually communicated to each other within six months after the exchange of the ratifications of this convention: that is to say, the statement of the United States to his Britannic Majesty's minister or chargé at Washington, and that of Great Britain to the minister or chargé of the United States at London; and they shall be considered as a substitute to all the arguments of the agents of the two Powers under the late commission, and to such parts of the reports of the Commissioners as are not contained in the aforesaid extracts annexed to this convention.

ARTICLE 6. All the documents, evidence, and statements above mentioned, as well as any additional statements which either of the contracting parties may deem necessary to lay before the arbiter, on account of any new evidence produced, or of any new matter contained in the first statement of the other party, (such additional statements being likewise communicated to the other party,) shall be laid before the arbiter within twenty-four months after the exchange of the ratifications of this convention, unless the arbiter shall not have, within that time, consented to act as such; in which case, all the said documents, evidence, and statements shall be laid before him within six months after the time when he shall have consented to act, and shall, in either case, be considered thenceforward as definitive. But the contracting parties may, by mutual consent, previously agree to withdraw the first statements above mentioned, and to substitute others, which shall be laid before the arbiter in lieu thereof, and shall, in the same manner, be considered thenceforward as definitive, and shall not undergo any alteration or amendment whatever.

ARTICLE 7. In order, however, to facilitate the attainment of a just and equitable decision in the case so referred to the arbitrating Sovereign or State, it is agreed that, in the event of such Sovereign or State desiring further elucidation or explanation of any specific point contained in either of the said statements so submitted to him, the requisition for such elucidation shall be simultaneous to both parties, who shall thereupon be permitted to make each a written reply to the specific questions submitted by the said arbiter, but no further, and such replies shall be immediately communicated by each party to the other.

ARTICLE 8. The decision of the arbiter shall be considered final and conclusive, and shall be carried into immediate effect by Commissioners appointed by the contracting Powers for that purpose.

C.

Projet of convention for the regulation of the reference to arbitration of the Northeast Boundary Question.

Whereas it is provided by the 5th article of the treaty of Ghent that, in case the Commissioners appointed under that article for the settlement of the boundary line therein described should not be able to agree upon such boundary line, the report or reports of those Commissioners, stating the points on which they had differed, should be submitted to the arbitration of some friendly Sovereign or State, and that the award given by such Sovereign or State on such points of difference should be considered by the contracting parties as final and conclusive: that case having now arisen, and it having, therefore, become expedient to proceed to and regulate the reference to arbitration as above described, his Majesty the King of the United Kingdom of Great Britain and Ireland and the United States of America have, for that purpose, named their respective plenipotentiaries, that is to say: his Majesty, on his part, has appointed the Right Honorable Charles Grant, &c., &c., &c., and Henry Unwin Addington, Esq., &c., &c., &c.; and the President of the United States has appointed Albert Gallatin, &c., &c., &c.: who, after having exchanged their respective full powers, found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE 1. It is agreed that the points of difference which have arisen in the settlement of the boundary between the British and American dominions, as described in the 5th article of the treaty of Ghent, shall be referred, as therein provided, to some friendly Sovereign or State, who shall be invited to investigate and make a decision upon such points of difference. The two contracting Powers engage to proceed in concert to the choice of such friendly Sovereign or State as soon as the ratification of this convention shall have been exchanged, and to use their best endeavors to obtain a [*pray the arbiter thus chosen to give his*] decision, if practicable, within two years after *he* [the arbiter] shall have signified his consent to act as such.

ARTICLE 2. The reports and documents thereunto annexed of the Commissioners appointed to carry into execution the 5th article of the treaty of Ghent being so voluminous and complicated as to render it improbable that any Sovereign or State should be willing or able to undertake the office of investigating and arbitrating upon them, it is hereby agreed to substitute for those reports a new and separate

statement of claims, severally drawn up by each of the contracting parties in such form and terms as each may think fit.

ARTICLE 3. The said statements, when prepared, shall be mutually communicated to each other by the contracting parties within six months after the exchange of ratifications of the present convention; and, within six months further after such communication, each party shall have the power of drawing up a second or supplementary statement, if it thinks fit so to do, in reply to the statement of the other party already communicated to it, subject, however, to the restrictions and conditions hereinafter described.

ARTICLE 4. Each of the contracting parties shall, within three months after the exchange of ratifications of this convention, communicate to the other all the evidence intended to be brought in support of its claim beyond that which is contained in the reports and other written documents of the Commissioners under the 5th article of the treaty of Ghent; but it is hereby expressly agreed that no maps, surveys, or hydrographical evidence of any description shall be adduced by either party beyond that which is hereinafter stipulated, nor shall any fresh evidence of any description be adduced or adverted to by either party after the mutual communication of evidence above described. Each party, however, shall have full power to incorporate in or annex to either its first or second statement any portion of the written reports or papers of the Commissioners under the 5th article of the treaty of Ghent, or of the other evidence mutually communicated, as above provided, which it may think fit.

ARTICLE 5. Within —— months after the mutual communication between the contracting parties of the last of the above mentioned statements, all the statements, papers, maps, and documents, of whatever nature, which may form the cases destined to be referred by the contracting parties to arbitration, shall be jointly and simultaneously delivered in to the arbitrating Sovereign or State; and thenceforth no addition, subtraction, or alteration whatsoever, shall be made by either of the contracting parties in the papers so delivered in.

ARTICLE 6. In order, however, to facilitate the attainment of a just and equitable decision on the part of the arbiter, it is agreed that, in case the said arbiter should desire further elucidation or explanation of any specific point contained in either of the statements submitted to him, he shall have the power of calling upon either of the contracting parties for such elucidation; and the party so called upon shall make a written reply to the specific questions so put to him, but no further. And a copy of the requisition so made, and of the reply of the party so called upon, shall be forthwith communicated by that party to the other.

ARTICLE 7. For the purpose of guiding the decision of the arbitrating Sovereign or State upon the points of difference submitted to him, the map A, hereto annexed, as well as a correct copy of the map called Mitchell's map, by which the framers of the treaty of 1783 regulated their proceedings, shall alone be annexed as authentic documents to the statements of the contracting parties; but it shall be lawful for either party to annex to its respective statement or statements, for the purposes of general illustration, a separate section of the said map A transcribed from that annexed to this convention, in which section each party may lay down the highlands or other features of the country as it shall think fit, the water courses remaining as laid down in the said map, subject, however, to such observations as the other contracting party may deem it expedient to attach, whether marginally or otherwise, to any portion of the said section so laid down. In case, however, the arbiter should find this hydrographic evidence insufficient for the purposes of a sound and just arbitration, he shall have the power of ordering fresh surveys to be made by surveyors, appointed by himself, of any portions of the disputed boundary lines or territory, and such surveys shall be considered as authentic by the contracting parties.

ARTICLE 8. The decision of the arbiter, when given, shall be taken as final and conclusive, and it shall be carried, without reserve, into immediate effect by Commissioners appointed for that purpose by the contracting parties.

Protocol of the eighteenth conference between the American and British Plenipotentiaries, held at the Board of Trade, September 14, 1827.

Present: Mr. Gallatin, Mr. Grant, and Mr. Addington.

The protocol of the preceding conference was read over and signed.

The American plenipotentiary having considered the counter projet of convention presented by the British plenipotentiaries at the last conference, and having found therein several points to which he either could not assent in principle, or of which the form and disposition appeared to him susceptible of improvement, submitted the amended projet hereto annexed, (D.)

After some conversation thereupon, the British plenipotentiaries having intimated their wish to reflect further upon the whole subject before they came to a final decision upon any of the proposed amendments, the matter was postponed to the next conference.

ALBERT GALLATIN.
CHARLES GRANT.
H. U. ADDINGTON.

True copy.

W. B. LAWRENCE, *Secretary of Legation.*

[Annexed to protocol of eighteenth conference.]

D.

Counter projet of convention for the regulation of the reference to arbitration of the northeast boundary question.

Whereas it is provided by the fifth article of the treaty of Ghent that, in case the Commissioners appointed under that article for the settlement of the boundary line therein described should not be able to agree upon such boundary line, the report or reports of those Commissioners, stating the points on which they had differed, should be submitted to some friendly Sovereign or State, and that the decision given by such Sovereign or State on such points of difference should be considered by the contracting parties as final and conclusive: that case having now arisen, and it having, therefore, become expedient

to proceed to and regulate the reference as above described, the President of the United States of America and his Majesty the King of the United Kindom of Great Britain and Ireland have, for that purpose, named their respective plenipotentiaries, that is to say: the President of the United States, on his part, has appointed Albert Gallatin, &c., &c., &c., and his Majesty has appointed the Right Honorable Charles Grant, &c., &c., &c., and Henry Unwin Addington, Esq., &c., &c., &c.: who, after having exchanged their respective full powers, found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE 1. It is agreed that the points of difference which have arisen in the settlement of the boundary between the American and British dominions, as described in the fifth article of the treaty of Ghent, shall be referred, as therein provided, to some friendly Sovereign or State, who shall be invited to investigate and make a decision upon such points of difference. The two contracting Powers engage to proceed in concert to the choice of such friendly Sovereign or State as soon as the ratifications of this convention shall have been exchanged, and to use their best endeavors to obtain a decision, if practicable, within two years after the arbiter shall have signified his consent to act as such.

ARTICLE 2. The reports and documents thereunto annexed of the Commissioners appointed to carry into execution the fifth article of the treaty of Ghent being so voluminous and complicated as to render it improbable that any Sovereign or State should be willing or able to undertake the office of investigating and arbitrating upon them, it is hereby agreed to substitute for those reports new and separate statements of each party's case, severally drawn up by each of the contracting parties in such form and terms as each may think fit. The said statements, when prepared, shall be mutually communicated to each other by the contracting parties, that is to say, by the United States to his Britannic Majesty's minister or chargé at Washington, and by Great Britain to the minister or chargé of the United States at London, within fifteen months after the exchange of the ratifications of the present convention. Each party shall have the power of drawing up a second or supplementary statement, if it thinks fit so to do, in reply to the statement of the other party already communicated to it, which supplementary statements shall also be mutually communicated in the same manner to each other by the contracting parties within twenty-one months after the exchange of the ratifications of the present convention.

ARTICLE 3. Each of the contracting parties shall, within nine months after the exchange of ratifications of this convention, communicate to the other, in the same manner as aforesaid, all the evidence intended to be brought in support of its claim beyond that which is contained in the reports and other written documents of the Commissioners under the fifth article of the treaty of Ghent. Each of the contracting parties shall be bound, on the application of the other party, made within six months after the exchange of the ratifications of this convention, to give authentic copies of such acts of a public nature, intended to be laid as evidence before the arbiter, as have been issued under his authority or are in his exclusive possession. No maps, surveys, or topographical evidence of any description shall be adduced by either party beyond that which is hereinafter stipulated; nor shall any fresh evidence of any description be adduced or adverted to by either party, other than that mutually communicated or applied for as aforesaid. Each party shall have full power to incorporate in or annex to either its first or second statement any portion of the written reports or papers of the commission under the fifth article of the treaty of Ghent, or of the other evidence mutually communicated, as above provided, which it may think fit.

ARTICLE 4. The map called Mitchell's map, by which the framers of the treaty of 1783 are admitted to have regulated their proceedings, though other maps were consulted by them separately, and the map A, which has been agreed on by the contracting parties as a delineation of the water courses, and of the boundary lines in reference to the said water courses, as contended for by each party respectively, and which has, accordingly, been signed by the above named plenipotentiaries at the same time with this convention, shall be annexed to the statement of the contracting parties, and be the only maps that shall be considered as indisputable evidence of the topography of the country. It shall, however, be lawful for either party to annex to its respective first statement, for the purposes of general illustration, any of the maps, surveys, or topographical delineations which were filed with the Commissioners under the fifth article of the treaty of Ghent, any engraved map heretofore published, and also a transcript of the above mentioned map A, or of a section thereof, in which transcript each party may lay down the highlands or other features of the country as it shall think fit, the water courses and the boundary lines, as claimed by each party, remaining as laid down in the said map A. But this transcript, as well as all the other maps, surveys, or topographical delineations, other than the map A and Mitchell's map, intended to be thus annexed by either party to his statements, shall be communicated to the other party, in the same manner as aforesaid, within nine months after the exchange of the ratifications of this convention, and shall be subject to such objections and observations as the other contracting party may deem it expedient to make thereto, and shall annex to his first statement, either in the margin of such transcript, map or maps, or otherwise.

ARTICLE 5. All the statements, papers, maps, and documents above mentioned, and which shall have been mutually communicated, as aforesaid, shall, without any addition, subtraction, or alteration whatsoever, be jointly and simultaneously delivered in to the arbitrating Sovereign or State within two years after the exchange of ratifications of this convention, unless the arbiter should not, within that time, have consented to act as such; in which case, all the said statements, papers, maps, and documents shall be laid before him within six months after the time when he shall have consented to act.

ARTICLE 6. In order, however, to facilitate the attainment of a just and sound decision on the part of the arbiter, it is agreed, in case the said arbiter should desire further elucidation or evidence in regard of any specific point contained in either of the statements submitted to him, the requisition for such elucidation or evidence shall be simultaneous to both parties, who shall thereupon be permitted to bring further evidence if required, and to make, each, a written reply to the specific questions submitted by the said arbiter, but no further; and such evidence and replies shall be immediately communicated by each party to the other. And in case the arbiter should find the topographical evidence laid, as aforesaid, before him insufficient for the purposes of a sound and just decision, he shall have the power of ordering additional surveys to be made of any portions of the disputed boundary line or territory as he may think fit; which surveys shall be made at the joint expense of the contracting parties, and be considered as authentic by them.

ARTICLE 7. The decision of the arbiter, when given, shall be taken as final and conclusive; and it shall be carried, without reserve, into immediate effect by Commissioners appointed for that purpose by the contracting parties.

ARTICLE 8. This convention shall be ratified, and the ratifications shall be exchanged in —— months, or sooner, if possible.

Protocol of the nineteenth conference between the American and British Plenipotentiaries, held at the Board of Trade, September 18, 1827.

Present: Mr. Gallatin, Mr. Grant, and Mr. Addington.

The protocol of the preceding conference was read over and signed.

The amended projet of convention submitted at the last conference by the American plenipotentiary was taken up for consideration.

The British plenipotentiaries declared that, although on the first proposal of some of the provisions suggested by the American plenipotentiary for the regulation of the question of boundaries under the fifth article of the treaty of Ghent, they had demurred to admit them into the convention, yet, having further reflected on their nature and tendency, and believing that, upon the whole, the projet, such as it now stood, was calculated to attain its principal objects, namely, those of placing both parties on a footing of perfect equality before the arbiter, and of securing from him a just and sound decision on the differences submitted to him, they had determined to forego the partial opposition which they had offered to some of the propositions of the American plenipotentiary, and to admit, with a few immaterial variations, the projet of convention now before them.

That projet, with the alterations suggested by the British plenipotentiaries, was accordingly read and finally agreed to.

ALBERT GALLATIN.
CHAS. GRANT.
H. U. ADDINGTON.

True copy.

W. B. LAWRENCE, *Secretary of Legation.*

Protocol of the twentieth conference between the American and British Plenipotentiaries, held at the Board of Trade, September 24, 1827.

Present: Mr. Gallatin, Mr. Grant, and Mr. Addington.

The protocol of the preceding conference was read over and signed.

The British plenipotentiaries then adverted to the nine articles of conventional arrangement which had been brought forward, on the part of Great Britain, in July, 1824, and to which, at the eleventh conference between the plenipotentiaries on the 26th of June last, the American plenipotentiary had made a reply in the name of his Government, and inserted it in the protocol of that conference.

The British plenipotentiaries intimated that, since the opinions of the two Governments appeared to be divided on several of the articles in question, and particularly as the British Government could not accede to the proposal made by the American plenipotentiary for the mutual delivery of persons held to service or labor under the laws of either party, it seemed to them advisable to waive for the present all further consideration of the subject. This, they apprehended, might be done without inconvenience, since none of the articles in question were of such importance as to render the immediate adoption of them a matter of urgent necessity, or to call for the formation of a separate convention on their account alone.

The British plenipotentiaries accordingly proposed to postpone the further discussion of that question, to which proposal the American plenipotentiary assented.

The American plenipotentiary stated that, having satisfied himself that there was no probability of forming, at the present moment, any arrangement with respect to the free navigation of the river St. Lawrence on the principles heretofore and still urged by the United States, he would abstain from submitting, as he had intended, any proposal on that subject.

ALBERT GALLATIN.
CHAS. GRANT.
H. U. ADDINGTON.

True copy.

W. B. LAWRENCE, *Secretary of Legation.*

Protocol of the twenty-first conference between the American and British Plenipotentiaries, held at the Board of Trade, September 29, 1827.

Present: Mr. Gallatin, Mr. Grant, and Mr. Addington.

The protocol of the preceding conference was read over and signed.

The convention, as agreed to at the nineteenth conference, was finally concluded and signed by the plenipotentiaries, who also, at the same time, apposed their signature to the map mutually agreed on, and designated in the said convention under the title of the map A.

The subjects of negotiation upon which the plenipotentiaries had been appointed to treat being now exhausted, they agreed to consider the present meeting as their last official conference.

The plenipotentiaries mutually expressed their sincere satisfaction at the cordial and friendly manner in which, whatever might have been their occasional differences of opinion, the discussions arising out of those differences had been conducted; and they parted with a reciprocal assurance that they could not but indulge the hope that the result of their labors, although not altogether equal to what they could have desired, might yet tend in no inconsiderable degree to uphold the friendly relations which at present so happily subsist between the two nations.

ALBERT GALLATIN.
CHAS. GRANT.
H. U. ADDINGTON.

True copy.

W. B. LAWRENCE, *Secretary of Legation.*

Mr. Gallatin to Mr. Clay.

No. 124.] LONDON, *October* 2, 1827.

SIR: I have the honor to transmit herewith an atlas, containing several maps, intended to be laid before the arbiter on the northeast boundary, two engraved and six manuscript copies of engraved maps enclosed in the atlas, the Annual Register for 1763, with a map, and Pownall's topographical account, all intended for the same purpose, and the particular object of which will be explained hereafter.

Duplicates of all the engraved maps, and of Dunn's and Bouchette's maps, are left in the archives of the legation, those sent to you being intended to enable you to make the necessary communications to the British minister, in conformity with the convention. I have not been able to obtain the engraved original maps of the four other manuscript ones sent to you. The books to which they are attached belong to Mr. Aspinwall, and may probably be purchased from him. There is another map in the archives of the legation, (D'Anville's,) of which the copy is not yet prepared, and will be sent to you when it is ready.

I have the honor to be, respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State.*

The following was submitted by Mr. Benton, December 24, 1827, and referred to the Committee on Foreign Relations, and ordered to be printed :

Mr. Ashley to Mr. Benton.

ST. LOUIS, *November* 12, 1827.

DEAR SIR: Your letter making inquiries of me concerning trade and intercourse with Indians west of the Rocky mountains, &c., is at hand. In reply, I will remark that I have no knowledge of any of our citizens being west of the Rocky mountains, upon the territory of the United States, except those employed or equipped by me; and, having a pretty correct idea of the bounds of their operations, can, with certainty, say that in no instance have they advanced north of the 49th degree of north latitude, the supposed boundary between the United States and Great Britain. We believe that, in extending our operations north of that boundary, we should greatly endanger our property and lives, inasmuch as we should be exposed to numerous hostile Indians, who are under the immediate influence of British traders, as well as those traders themselves. I have been creditably informed that the Hudson Bay Company will not even allow the men in their service to trap beaver north of the 49th degree of latitude, west of the Rocky mountains. The policy of this regulation must be obvious to all, that they intend to make the best use of the privilege granted them by the treaty of 1818, allowing British subjects free trade and intercourse upon the territory claimed by the United States south of that degree of latitude. The British have extended their trapping excursions as far south as the Mexican territory; and appearances justify the belief that they have been so engaged, between the 39th and 49th degrees of latitude, for the last ten or fifteen years. I have no criterion by which to estimate the probable amount of furs taken by them in that time but by the products of the labor of men employed or equipped by me in the same business, and upon the same grounds, for the last three years, and from information derived from men who have been in the service of the Hudson Bay Company for many years. The products of the American hunters, (about one hundred in number,) for the three years before mentioned, average about six hundred dollars annually, each; making the sum of $180,000 for that period; they collected those furs from streams that had been previously, and in many instances repeatedly, trapped by the British. That the same water courses did, when first trapped, furnish double the quantity of furs in the same time, with the same labor, I have not the least doubt. In the winters of 1824 and 1825 Mr. Jedediah S. Smith, with a small party of Americans, visited one of the British establishments at the mouth of Flathead river, a branch of the Columbia. Mr. Ogden, who had charge of that post, informed Mr. Smith, rather exultingly, that his party, composed of about sixty men, had taken, during their operations in the district of country claimed by the Snake Indians, (a small portion of our territory west of the Rocky mountains,) eighty-five thousand beaver, equal to £150,000, worth say $600,000. The time employed in collecting those furs, as well as I now recollect, was between two and three years. A considerable portion of our territory west of the Rocky mountains being as yet unexplored, the extent of our fur region is uncertain; it, however, would not be an extravagant estimate to include half of the whole of our territory west of the 30th degree of longitude, (counting from Washington city,) under that denomination; and such is the peculiar situation of the country that, under suitable regulations, it would probably afford a great quantity of furs for centuries to come. I have been brought to this conclusion from the opinions of the most experienced hunters, and in some degree from my own observations, that, after trapping beaver where they were considered plenty, until they became so diminished in numbers as not to justify the hunter's continuing his operations at the same place, leaving the streams undisturbed for five or six years, they will, at the expiration of that time, be found as numerous as when first trapped. The beaver is a shy, sagacious animal; they become, after being pursued for some time, to understand their enemies, and avoid the traps set for them; consequently a sufficient number is left to produce their original number in the course of five or six years. I have been informed that the British have three or four posts established south of the 49th degree of latitude, but do not know the location of but one, that is at the mouth of Flathead river, a branch of the Columbia, and about the centre of our territory west of the Rocky mountains. I have not in every instance answered the questions contained in your communication, but have stated circumstances which would govern me in my opinions, and which will lead you to such conclusions as those circumstances deserve. Putting aside the impropriety of suffering foreigners to enter upon our territory and gather its wealth without any advantage whatever to our Government, and to the great inconvenience and injury of our own citizens engaged in the same pursuits, the serious consequences that may arise from the influence of foreigners among our western Indians should be a sufficient objection to exclude them. In relation to this matter Missouri has the greatest cause to complain. We see our Government locating upon the western borders of our State numerous savages, whose minds have been already poisoned against us by British influence. If the same influence is suffered to be exercised among the savages in the region of the Rocky mountains, what a numerous savage foe may we expect at some period perhaps not very far distant !

Your very obedient servant,

W. H. ASHLEY.

Hon. THOMAS H. BENTON.

20TH CONGRESS.] No. 459. [1ST SESSION.

TREATY OF COMMERCE AND NAVIGATION WITH THE KINGDOM OF SWEDEN AND NORWAY.

COMMUNICATED TO THE SENATE DECEMBER 12, 1827.

To the Senate of the United States:

I transmit to the Senate, for their advice with regard to its ratification, a treaty of commerce and navigation between the United States and the Kingdom of Sweden and Norway, signed at Stockholm by the plenipotentiaries of the two Governments on the fourth day of July last.

A copy of the treaty, with a translation, and the instructions and correspondence relating to the negotiation, are also communicated.

JOHN QUINCY ADAMS.

WASHINGTON, *December* 11, 1827.

TREATY OF COMMERCE AND NAVIGATION BETWEEN THE UNITED STATES AND SWEDEN.

[Translation.]

In the name of the Most Holy and Indivisible Trinity.

The United States of America and his Majesty the King of Sweden and Norway, equally animated with the desire of extending and consolidating the commercial relations subsisting between their respective territories, and convinced that this object cannot better be accomplished than by placing them on the basis of a perfect equality and reciprocity, have, in consequence, agreed to enter into negotiation for a new treaty of commerce and navigation, and, to this effect, have appointed plenipotentiaries, to wit: The President of the United States of America, John James Appleton, Chargé d'Affaires of the said States at the Court of his Majesty the King of Sweden and Norway; and his Majesty the King of Sweden and Norway, the Sieur Gustave Count de Wetterstedt, his Minister of State and of Foreign Affairs, Knight Commander of his Orders, Knight of the Orders of St. Andrew, St. Alexander Newsky, and St. Ann, of the first class, of Russia; Knight of the Order of the Red Eagle, of the first class, of Prussia; Grand Cross of the Order of Leopold, of Austria; one of the eighteen of the Swedish Academy: who, after having exchanged their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE 1. The citizens and subjects of each of the two high contracting parties may, with all security for their persons, vessels, and cargoes, freely enter the ports, places, and rivers of the territories of the other, wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories; to rent and occupy houses and warehouses for their commerce; and they shall enjoy, generally, the most entire security and protection in their mercantile transactions, on condition of their submitting to the laws and ordinances of the respective countries.

ARTICLE 2. Swedish and Norwegian vessels, and those of the island of St. Bartholomew, arriving, either laden or in ballast, into the ports of the United States of America, from whatever place they may come, shall be treated on their entrance, during their stay, and at their departure, upon the same footing as national vessels coming from the same place, with respect to the duties of tonnage, light-houses, pilotage, and port charges, as well as to the perquisites of public officers, and all other duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever.

And reciprocally, the vessels of the United States of America arriving, either laden or in ballast, in the ports of the Kingdoms of Sweden and Norway, from whatever place they may come, shall be treated on their entrance, during their stay, and at their departure, upon the same footing as national vessels coming from the same place, with respect to the duties of tonnage, light-houses, pilotage, and port charges, as well as to the perquisites of public officers, and all other duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever.

ARTICLE 3. All that may be lawfully imported into the United States of America in vessels of the said States may also be thereinto imported in Swedish and Norwegian vessels, and in those of the island of St. Bartholomew, from whatever place they may come, without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if imported in national vessels.

And reciprocally, all that may be lawfully imported into the Kingdoms of Sweden and Norway in Swedish and Norwegian vessels, or in those of the island of St. Bartholomew, may also be thereinto imported in vessels of the United States of America, from whatever place they may come, without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if imported in national vessels.

ARTICLE 4. All that may be lawfully exported from the United States of America in vessels of the said States may also be exported therefrom in Swedish and Norwegian vessels, or in those of the island of St. Bartholomew, without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if exported in national vessels.

And reciprocally, all that may be lawfully exported from the Kingdoms of Sweden and Norway in Swedish and Norwegian vessels, or in those of the island of St. Bartholomew, may also be exported therefrom in vessels of the United States of America without paying other or higher duties or charges,

of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if exported in national vessels.

ARTICLE 5. The stipulations contained in the three preceding articles are, to their full extent, applicable to the vessels of the United States of America proceeding, either laden or not laden, to the colony of St. Bartholomew, in the West Indies, whether from the ports of the Kingdoms of Sweden and Norway or from any other place whatsoever; or proceeding from the said colony, either laden or not laden, whether bound for Sweden or Norway, or for any other place whatsoever.

ARTICLE 6. It is expressly understood that the foregoing second, third, and fourth articles are not applicable to the coastwise navigation from one port of the United States of America to another port of the said States; nor to the navigation from one port of the Kingdoms of Sweden or of Norway to another, nor to that between the two latter countries, which navigation each of the two high contracting parties reserves to itself.

ARTICLE 7. Each of the two high contracting parties engages not to grant, in its purchases or in those which might be made by companies or agents acting in its name or under its authority, any preference to importations made in its own vessels, or in those of a third Power, over those made in the vessels of the other contracting party.

ARTICLE 8. The two high contracting parties engage not to impose upon the navigation between their respective territories, in the vessels of either, any tonnage or other duties of any kind or denomination which shall be higher or other than those which shall be imposed on every other navigation, except that which they reserved to themselves, respectively, by the sixth article of the present treaty.

ARTICLE 9. There shall not be established in the United States of America, upon the products of the soil or industry of the Kingdoms of Sweden and Norway, or of the island of St. Bartholomew, any prohibition or restriction of importation or exportation, nor any duties of any kind or denomination whatsoever, unless such prohibitions, restrictions, and duties shall likewise be established upon articles of like nature, the growth of any other country.

And reciprocally, there shall not be established in the Kingdoms of Sweden and Norway, nor in the island of St. Bartholomew, on the products of the soil or industry of the United States of America, any prohibition or restriction of importation or exportation, nor any duties of any kind or denomination whatsoever, unless such prohibitions, restrictions, and duties be likewise established upon articles of like nature the growth of the island of St. Bartholomew, or of any other place, in case such importation be made into or from the Kingdoms of Sweden and Norway, or of the Kingdoms of Sweden and Norway, or of any other place, in case such importation or exportation be made into or from the island of St. Bartholomew.

ARTICLE 10. All privileges of transit, and all bounties and drawbacks which may be allowed within the territories of one of the high contracting parties upon the importation or exportation of any article whatsoever, shall likewise be allowed on the articles of like nature, the products of the soil or industry of the other contracting party, and on the importations and exportations made in its vessels.

ARTICLE 11. The citizens or subjects of one of the high contracting parties arriving with their vessels on the coasts belonging to the other, but not wishing to enter the port, or after having entered therein not wishing to unload any part of their cargo, shall be at liberty to depart and continue their voyage without paying any other duties, imposts, or charges whatsoever for the vessel and cargo than those of pilotage, wharfage, and for the support of light-houses, when such duties shall be levied on national vessels in similar cases. It is understood, however, that they shall always conform to such regulations and ordinances concerning navigation and the places and ports which they may enter as are, or shall be, in force with regard to national vessels; and that the custom-house officers shall be permitted to visit them, to remain on board, and to take all such precautions as may be necessary to prevent all unlawful commerce as long as the vessels shall remain within the limits of their jurisdiction.

ARTICLE 12. It is further agreed that the vessels of one of the high contracting parties, having entered into the ports of the other, will be permitted to confine themselves to unlading such part only of their cargoes as the captain or owner may wish, and that they may freely depart with the remainder without paying any duties, imposts, or charges whatsoever, except for that part which shall have been landed, and which shall be marked upon and erased from the manifest exhibiting the enumeration of the articles with which the vessel was laden; which manifest shall be presented entire at the custom-house of the place where the vessel shall have entered. Nothing shall be paid on that part of the cargo which the vessel shall carry away, and with which it may continue its voyage to one or several other ports of the same country, there to dispose of the remainder of its cargo, if composed of articles whose importation is permitted, on paying the duties chargeable upon it, or it may proceed to any other country. It is understood, however, that all duties, imposts, or charges whatsoever, which are or may become chargeable upon the vessels themselves, must be paid at the first port where they shall break bulk or unlade part of their cargoes; but that no duties, imposts, or charges, of the same description, shall be demanded anew in the ports of the same country which such vessels might afterwards wish to enter, unless national vessels be, in similar cases, subject to some ulterior duties.

ARTICLE 13. Each of the high contracting parties grants to the other the privilege of appointing, in its commercial ports and places, consuls, vice consuls, and commercial agents, who shall enjoy the full protection and receive every assistance necessary for the due exercise of their functions; but it is expressly declared that, in case of illegal or improper conduct with respect to the laws or Government of the country in which said consuls, vice consuls, or commercial agents shall reside, they may be prosecuted and punished conformably to the laws, and deprived of the exercise of their functions by the offended Government, which shall acquaint the other with its motives for having thus acted; it being understood, however, that the archives and documents relative to the affairs of the consulate shall be exempt from all search, and shall be carefully preserved under the seals of the consuls, vice consuls, or commercial agents, and of the authority of the place where they may reside.

The consuls, vice consuls, or commercial agents, or the persons duly authorized to supply their places, shall have the right, as such, to sit as judges and arbitrators in such differences as may arise between the captains and crews of the vessels belonging to the nation whose interests are committed to their charge, without the interference of the local authorities, unless the conduct of the crews, or of the captain, should disturb the order or tranquillity of the country, or the said consuls, vice consuls, or commercial agents should require their assistance to cause their decisions to be carried into effect or supported. It is however understood that this species of judgment or arbitration shall not deprive the contending parties of the right they have to resort, on their return, to the judicial authority of the country.

ARTICLE 14. The said consuls, vice consuls, or commercial agents are authorized to require the assistance of the local authorities for the arrest, detention, and imprisonment of the deserters from the ships of war and merchant vessels of their country; and for this purpose they shall apply to the competent tribunals, judges, and officers, and shall, in writing, demand said deserters, proving, by the exhibition of the registers of the vessels, the rolls of their crews, or by other official documents, that such individuals formed part of the crews; and on this reclamation being thus substantiated, the surrender shall not be refused.

Such deserters, when arrested, shall be placed at the disposal of the said consuls, vice consuls, or commercial agents, and may be confined in the public prisons at the request and cost of those who claim them, in order to be sent to the vessels to which they belonged, or to others of the same country. But if not sent back within the space of two months, reckoning from the day of their arrest, they shall be set at liberty, and shall not be again arrested for the same cause.

It is understood, however, that, if the deserter should be found to have committed any crime or offence, his surrender may be delayed until the tribunal before which the case shall be depending shall have pronounced its sentence, and such sentence shall have been carried into effect.

ARTICLE 15. In case any vessel of one of the high contracting parties shall have been stranded or shipwrecked, or shall have suffered any other damage on the coasts of the dominions of the other, every aid and assistance shall be given to the persons shipwrecked or in danger, and passports shall be granted to them to return to their country. The shipwrecked vessels and merchandise, or their proceeds if the same shall have been sold, shall be restored to their owners, or those entitled thereto, if claimed within a year and a day, upon paying such costs of salvage as would be paid by national vessels in the same circumstances; and the salvage companies shall not compel the acceptance of their services, except in the same cases, and after the same delays, as shall be granted to the captains and crews of national vessels. Moreover, the respective Governments will take care that these companies do not commit any vexatious or arbitary acts.

ARTICLE 16. It is agreed that vessels arriving directly from the United States of America at a port within the dominions of his Majesty the King of Sweden and Norway, or from the territories of his said Majesty in Europe, at a port of the United States, and provided with a bill of health granted by an officer having competent power to that effect, at the port whence such vessel shall have sailed, setting forth that no malignant or contagious diseases prevailed in that port, shall be subjected to no other quarantine than such as may be necessary for the visit of the health officer of the port where such vessels shall have arrived; after which said vessels shall be allowed immediately to enter and unload their cargoes: provided, always, that there shall be on board no person who, during the voyage, shall have been attacked with any malignant or contagious diseases; that such vessels shall not, during their passage, have communicated with any vessel liable itself to undergo a quarantine; and that the country whence they came shall not at that time be so far infected or suspected that, before their arrival, an ordinance had been issued in consequence of which all vessels coming from that country should be considered as suspected, and consequently subject to quarantine.

ARTICLE 17. The second, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twenty-first, twenty-second, twenty-third, and twenty-fifth articles of the treaty of amity and commerce, concluded at Paris on the third of April, one thousand seven hundred and eighty-three, by the plenipotentiaries of the United States of America and of his Majesty the King of Sweden, together with the first, second, fourth, and fifth separate articles, signed on the same day by the same plenipotentiaries, are revived and made applicable to all the countries under the dominion of the present high contracting parties, and shall have the same force and value as if they were inserted in the context of the present treaty. It being understood that the stipulations contained in the articles above cited shall always be considered as in no manner affecting the conventions concluded by either party with other nations during the interval between the expiration of the said treaty of one thousand seven hundred and eighty-three, and the revival of said articles by the treaty of commerce and navigation concluded at Stockholm by the present high contracting parties on the fourth of September, one thousand eight hundred and sixteen.

ARTICLE 18. Considering the remoteness of the respective countries of the two high contracting parties, and the uncertainty resulting therefrom with respect to the various events which may take place, it is agreed that a merchant vessel belonging to either of them which may be bound to a port supposed, at the time of its departure, to be blockaded, shall not, however, be captured or condemned for having attempted, a first time, to enter said port, unless it can be proved that said vessel could and ought to have learned during its voyage that the blockade of the place in question still continued. But all vessels which, after having been warned off once, shall, during the same voyage, attempt a second time to enter the same blockaded port during the continuance of said blockade, shall then subject themselves to be detained and condemned.

ARTICLE 19. The present treaty shall continue in force for ten years, counting from the day of the exchange of the ratifications; and if, before the expiration of the first nine years, neither of the high contracting parties shall have announced, by an official notification, to the other its intention to arrest the operation of said treaty, it shall remain binding for one year beyond that time, and so on until the expiration of the twelve months which will follow a similar notification, whatever the time at which it may take place.

ARTICLE 20. The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate, and by his Majesty the King of Sweden and Norway, and the ratifications shall be exchanged at Washington within the space of nine months from the signature, or sooner, if possible.

In faith whereof, the respective plenipotentiaries have signed the present treaty by duplicates, and have affixed thereto the seals of their arms. Done at Stockholm, the fourth of July, in the year of Grace one thousand eight hundred and twenty-seven.

J. J. APPLETON. [L. S.]
G. COUNT DE WETTERSTEDT. [L. S.]

SEPARATE ARTICLE.

Certain relations of proximity and ancient connexions having led to regulations for the importation of the products of the Kingdoms of Sweden and Norway into the Grand Duchy of Finland, and

that of the products of Finland into Sweden and Norway, in vessels of the respective countries, by special stipulations of a treaty still in force, and whose renewal forms, at this time, the subject of a negotiation between the Courts of Sweden and Norway and Russia, said stipulations being in no manner connected with the existing regulations for foreign commerce in general, the two high contracting parties, anxious to remove from their commercial relations all kinds of ambiguity or motives of discussion, have agreed that the eighth, ninth, and tenth articles of the present treaty shall not be applicable either to the navigation and commerce above mentioned, nor, consequently, to the exceptions in the general tariff of custom-house duties, and in the regulations of navigation resulting therefrom, nor to the special advantages which are, or may be, granted to the importation of tallow and candles from Russia, founded upon equivalent advantages granted by Russia on certain articles of importation from Sweden and Norway.

The present separate article shall have the same force and value as if it were inserted, word for word, in the treaty signed this day, and shall be ratified at the same time.

In faith whereof, we the undersigned, by virtue of our respective full powers, have signed the present separate article, and affixed thereto the seals of our arms.

Done at Stockholm, the fourth of July, one thousand eight hundred and twenty-seven.

J. J. APPLETON. [L. S.]
G. COUNT DE WETTERSTEDT. [L. S.]

[Original.]

Au nom de la très Sainte et Indivisible Trinité.

Les Etats Unis d'Amérique, et sa Majesté le Roi de Suède et de Norvège, également animés du désir d'étendre et de consolider les relations commerciales qui subsistent entre leurs territoires respectifs, et convaincus que ce but ne saurait être mieux rempli, qu'en les plaçant sur la base d'une parfaite égalité et réciprocité, sont convenus, en conséquence, d'entrer en négociation pour un nouveau traité de commerce et de navigation, et ont nommé, à cet effet, des plénipotentiaires, savoir: le President les Etats Unis d'Amérique, John James Appleton, Chargé d'Affaires desdits Etats à la Cour de sa Majesté le Roi de Suède et de Norvège; et sa Majesté le Roi de Suède et de Norvège, le Sieur Gustave, Compte de Wetterstedt, son Ministre d'Etat et des Affaires Etrangères, Chevalier Commandeur de ses Ordres, Chevalier des Ordres de Russie, de St. André, de St. Alexandre Newsky, et de Ste. Anne de la premiere classe, Chevalier de l'Ordre de l'Aigle Rouge de Prusse de la premiere classe, Grand' Croix de l'Ordre de Léopold d'Autriche, un des Dix-huit de l'Académie Suédoise, lesquels, après avoir echangé leurs pleins pouvoirs, trouvés en bonne et due forme, ont arrêté les articles suivans:

Article 1. Les citoyens et sujets de chacune des deux hautes parties contractantes, pourront avec toute sureté, pour leurs personnes, vaisseaux et cargaisons, aborder librement dans les ports, places et rivieres des territoires de l'autre, partout où le commerce étranger est permis. Ils pourront s'y arrêter et résider dans quelque partie que ce soit desdits territoires, y louer et occuper des maisons, et des magasins pour leur commerce, et jouiront, généralement de la plus entiere sécurité et protection pour les affaires de leur négoce, à charge de se soumettre aux lois et ordonnances des pays respectifs.

Article 2. Les bâtimens Suèdois et Norvégiens et ceux de l'ile de St. Barthelemy qui arriveront sur leur les ou chargés dans les ports des Etats Unis d'Amérique, de quelque lieu qu'ils viennent, seront traités à leur entrée, pendant leur séjour et à leur sortie, sur le même pied que les bâtimens nationaux venant du même lieu, par rapport aux droits de tonnage, de fanaux, de pilotage, et de port, ainsi qu'aux vacations des officiers publics, et à tout autre droit ou charge, des quelque espèce vu dénomination que ce soit, perçus au nom vu au profit du Gouvernement, des administrations locales, ou d'establissemens particuliers quelconques.

Et réciproquement, les bâtimens des Etats Unis d'Amérique qui arriveront sur leur lest ou chargés dans les ports des Royaumes de Suède et de Norvège, de quelque lieu qu'ils viennent, seront traités à leur entrée, pendant leur séjour et à leur sortie, sur le même pied que les bâtimens nationaux venant du même lieu, par rapport aux droits de tonnage, de fanaux, de pilotage et de port, ainsi qu'aux vacations des officiers publics et à tout autre droit ou charge, de quelque espèce ou dénomination que ce soit, perçus au nom, ou au profit, du Gouvernement, des administrations locales, ou d'establissemens particuliers quelconques.

Article 3. Tout ce qui pourra légalement être importé dans les Etats Unis d'Amérique, par bâtimens desdits Etats, pourra également y être importés par bâtimens Suédois et Norvégiens, ou de l'ile de St. Barthelemy, de quelque lieu qu'ils viennent, sans payer d'autres ou plus hauts droits ou charges, de quelque espèce ou dénomination que ce soit, perçus au nom, ou au profit du Gouvernement, des administrations locales, ou d'etablissemens particuliers quelconques, que si l'importation avait lieu en bâtimens nationaux.

Et réciproquement, tout ce qui pourra légalement être importé dans les Royaumes de Suède et de Norvège, par bâtimens Suédois ou Norvégiens, ou de l'ile de St. Barthelemy, pourra également y être importé par bâtimens des Etats Unis d'Amérique, de quelque lieu qu'ils viennent, sans payer d'autres ou plus hauts droits ou charges, de quelque espèce ou dénomination que ce soit, perçus au nom, ou au profit du Gouvernement, des administrations locales, ou d'etablissemens particuliers, quelconques, que si l'importation avait lieu en bâtimens nationaux.

Article 4. Tout ce qui pourra légalement être exporté des Etats Unis d'Amérique, par bâtimens desdits Etats, pourra également en être exporté par bâtimens Suédois et Norvégiens, ou de l'ile de St. Barthelemy, sans payer d'autres ou plus hauts droits ou charges, de quelque espèce ou dénomination que se soit perçus au nom, ou au profit, du Gouvernement, des administrations locales, ou d'etablissemens particuliers quelconques, que si l'exportation avait eu lieu bâtimens nationaux.

Et réciproquement, tout ce qui pourra légalement être exporté des Royaumes de Suèda et de Norvège, par bâtimens Suédois et Novégiens, ou de l'ile de St. Barthelemy, pourra également en être exporté par bâtimens des Etats Unis d'Amérique, sans payer d'autres ou plus hauts droits ou charges, de quelque espèce ou dénomination que ce soit, perçus au nom, ou au profit, du Gouvernement, des administrations locales, ou d'etablissemens particuliers quelconques, que si l'exportation avait lieu en bâtimens nationaux.

Article 5. Les stipulations des trois articles précédens sont dans toute leur plénitude, applicables aux bâtimens des Etats Unis d'Amérique qui se rendront charges, ou non chargés dans la colonie de St.

Barthelemy, aux Indes Occidentales, soit des ports des royaumes de Suède et de Norvège, soit de tout autre lieu quelconque, ou qui sortiront de la dite colonie, chargés ou non chargés, pour se rendre, soit en Suède ou en Norvège, soit en tout autre lieu quelconque.

Article 6. Il est expressément entendu que les articles précédens, deux, trois, et quatre, ne sont point applicables à la navigation de côte ou de cabotage d'un port des Etats Unis d'Amérique, à un autre port desdits Etats, ni à la navigation d'un port des royaumes de Suède ou de Norvège à un autre, ou a celle entre ces deux derniers pays, navigation que chacune des deux hautes parties contractantes se réserve.

Article 7. Chacune des deux hautes parties contractantes s'engage à ne donner dans ses achats, ou dans ceux qui seraient faits par des compagnies ou des agens agissant en son nom ou sous son autorité, aucune préférence aux importations faites par ses bâtimens ou par ceux d'une nation tierce, sur celles faites dans les bâtimens de l'autre partie contractante.

Article 8. Les deux hautes parties contractantes s'enagent à ne pas établir sur la navigation entreleurs territoires respectifs, pâr les bâtimens de l'une ou de l'autre, des droits de tonnage ou autres, de quelque espèce ou dénomination que ce soit, plus hauts ou autres que ceux qui seront établis sur toute autre navigation, excepté celle qu' elles se sont respectivement reservée par le sixieme article du present traité.

Article 9. Il ne pourra pas être établi dans les Etats Unis d'Amérique, sur les productions du sol ou de l'industrie des royaumes de Suède et de Norvège, et de l'île de St. Barthelemy, aucune prohibition ou restriction d'importation ou d'exportation, ni aucuns droits, de quelque espèce ou dénomination que ce soit, qu' autant que ces prohibitions, ces restrictions et ces droits seraient également établis sur les objets de même nature provenant de toute autre contrée.

Et réciproquement, il ne pourra pas être établi dans les royaumes de Suède et de Norvège, ni dans l'île de St. Barthelemy, sur les productions du sol ou de l'industrie des Etats Unis d'Amérique, aucune prohibition ou restriction d'importation ou d'exportation, ni aucuns droits, de quelques espèce ou dénomination que ce soit, qu' autant que ces prohibitions, ces restrictions et ces droits, seraient également etablis sur les objets de même nature provenant, dans le cas où l'importation ou l'exportation aurait lieu dans ou hors des royaumes de Suède et de Norvège, de l'île de St. Barthelemy ou de tout autre endroit; et, dans le cas où l'importation ou l'exportation aurait lieu dans ou hors l'île de St. Barthelemy, des royaumes de Suède et de Norvège ou de tout autre endroit.

Article 10. Toute faculté d'entrepôt et toutes primes et remboursemens de droits, qui seroient accordés dans les territories d'une des hautes parties contractantes, à l'importation ou à l'exportation de quelque objet que ce soit, seront également accordés aux objets de même nature produits du sol ou de l'industrie de l'autre partie contractante, et aux importations et exportations faites dans ses bâtimens.

Article 11. Le citoyens ou sujets de l'une des hautes parties contractantes, arrivant avec leurs bâtimens à l'une des côtes appartenant à l'autre, mais ne voulant pas entrer dans le port, ou, après y être entrés, ne voulant décharger aucune partie de leur cargaison, auront la liberté de partir et de poursuivre leur voyage, sans payer d'autres droits, impôts ou charges quelconques, pour le bâtiment ou la cargaison, que les droits de pilotage, de quayage, et d'entretien de fanaux, quand ces droits sont perçus sur les nationaux dans les mêmes cas. Bien entendu, cependant, qu'ils se conformeront toujours aux règlemens et ordonnances concernant la navigation et les places ou ports dans lesquels ils pourront aborder, qui sont, ou seront ed vigueur pour les nationaux, et qu'il sera permis aux officiers des doûanes de les visiter, de rester à bord, et de prendre telles précautions, qui pourraient être necessaires pour prévener tout commerce illicite, pendant que les bâtimens resteront dans l'enceinte de leur jurisdiction.

Article 12. Il est aussi convenu que les bâtimens de l'une des hautes parties contractantes, étant éntres dans les ports de l'autre, pourront se borner à ne décharger qu'une partie de leur cargaison, selon que le capitaine ou propriétaire le desirera, et qu'ils pourront s'en aller librement avec le reste, sans payer de droits, impôts ou charges quelconques, que pour la partie qui aura été mise à terre, et qui sera marquée et biffée sur le manifeste, qui contiendra l'enumeration des effets dont le bâtiment était chargé, lequel manifeste devra être présenté en entier à la douane du lieu où le bâtiment dura abordé. Il ne sera rien payé pour la partie de la cargaison que le bâtiment remportera, et avec la quelle il pourra continuer sa route pour un ou plusieurs autres ports du même pays, et y disposer du reste de sa cargaison, si elle est composée d'objets dont l'importations est permise, en puyant les droits qui y sont applicables, ou bien il pourra s'en aller dans tout autre pays. Il est cependant entendu que les droits, impôts ou charges quelconques, qui sont ou seront payables pour les bâtimens même, doivent être acquittés au premier port où ils romproient le chargement, ou en dechargeroient une partie, mais qu'aucuns droits, impôts ou charges parcils ne seront demandés de nouveau dans les ports du même pays où lesdits bâtimens pourroient vouloir entrer après, à moins que les nationaux ne soient sujets à quelques droits ultériéur dans le même cas.

Article 13. Chacune des hautes parties contractantes à l'autre la faculté d'entretenir dans ses ports et places de commerce, des consuls, vice consuls, ou agens de commerce, qui jouiront de toute la protection, et recevront toute l'assistance nécessaire pour remplir duement leurs fonctions; mais il est expressément déclaré que dans le cas d'une conduite illégale ou impropre envers les lois ou le Gouvernement du pays dans lesquels lesdits consuls, vice consuls, ou agens de commerce, résideroient ils pourron être poursuivis et punis conformément aux lois, et privés de l'exercice de leurs fonctions par le Gouvernement offensé qui fera connoitre à l'autre ses motifs pour avoir agi ainsi, bien entendu cependant que les archives et documens relatifs aux affaires du consulat seront à l'abri de toute recherche, et devront être soigneusement conservés sous le scellé des consuls, vice consuls, ou agens commerciaux, et de l'autorité de l'endroit où ils résideroient.

Les consuls, vice consuls, et agens commerciaux, ou ceux qui seroient duement autorisés à les suppléer, auront le droit, comme tels, de servir de juges et d'arbitres dans les differens qui pourroient s'elever entre les capitaines et les équipages des bâtimens de la nation dont ils soignent les intérèts, sans que les autorités locales puissent y intervenir, à moins que la conduite des équipages ou du capitaine ne troublât l'ordre ou la tranquillité du pays, ou que lesdits consuls, vice consuls, ou agens commerciaux ne réguissent leur intervention pour faire exécuter ou maintenir leurs décisions. Bien entendu que cette espèce de jugement ou d'arbitrage ne saurait pourtant priver les parties contendantes du droit qu'elles ont, à leur retour de recourir aux autorités judiciaires de leur patrie.

Article 14. Les dits consuls, vice consuls, ou agens commerciaux, seront autorisés à requérir l'assistance des autorités locales pour l'arrestation, la détention, et l'emprisonnement de déserteurs des navires de guerre et marchands de leur pays, et ils s'adresseront, pour cet objet, aux tribunaux, juges et officiers compétens, et reclameront, par écrit, les deserteurs sus mentionnés, en prouvant, par la commu-

nication des régistres des navires, ou rôles de l'équipage, ou par d'autres documens officiels, que de tels individus ont fait partie desdits équipages, et cette reclamation ainsi prouvée, l'extradition ne sera point refusée.

De tels déserteurs, lorsqu'ils auront été arrêtés, seront mis à la disposition desdits consuls, vice consuls, ou agens commerciaux, et pourront être enfermés dans les prisons publiques, à la réquisition et aux frais de ceux qui les reclament, pour être envoyé saux navires auxquels ils appartenoient, ou à d'autres de l même nation. Mais s'ils ne sont pas renvoyés dans l'espace de deux mois, à compter du jour de leur arrestation, ils seront mis en liberté et ne seront plus arrêtés pour la même cause.

Il est entendu, toutefois, que si le déserteur se trouvoit avoir commis quelque crime ou délit, il pourra être sursis à son extradition, jusqu, à ce que la tribunal nanti de l'affaire aura rendu sa sentence, et que celle-ci ait reçu son exécution.

ARTICLE 15. Dans le cas où quelque bâtiment de l'une des hautes parties contractantes, aura échoué, fait naufrage, ou souffert quelqu' autre dommage sur les côtes de la domination de l'autre, il sera donné toute aide et assistance aux personnes naufragées, ou qui se trouveraient en danger, et il leur sera accordé des passeports pour retourner dans leur patrie. Les bâtimens et les marchandises naufragés, ou leur produit, s'ils ont été vendus, seront restitués à leurs propriétaires ou ayant cause, s'ils sont réclamés dans l'an et jour, en payant les frais de sauvetage que payeroient les nationaux dans les mêmes cas. Et les compagnies de sauvetage ne pourront faire accepter leurs services que dans les mêmes cas, et après les mêmes délais qui seraient accordés aux capitaines et aux equipages nationaux. Les Gouvernemens respectifs veilleront d'ailleurs à ce que ces compagnies ne se permettent point de vexations ou d'actes arbitraires.

ARTICLE 16. Il est convenu que les bâtimens qui arriveront directement des Etats Unis d'Amérique, à un port de la domination de sa Majesté le Roi de Suède et de Norvège, ou des territoires de sa dite Majesté en Europe, à un port des Etats Unis, et qui seroient pourous d'un certificat de santé, donné par l'officier compétent à cet égard du port d'ou les bâtimens sont sortis, et assurant qu'aucune maladie maligne ou contagieuse n'existait dans ce port, ne seront soumis à aucune autre quarantaine que celle qui sera nécessaire pour la visite de l'officier de santé du port où les bâtimens servient arrivés, après laquelle il sera permis a ces bâtimens d'entrer immédiatement, et de discharger leurs cargaisons, bien entendu, toutefois, qu'il n'y ait eu personne à leur bord, qui ait été attaqué pendant le voyage d'une maladie maligne ou contagieuse, que les bâtimens n'aient point communiqué dans leur traverseé avec un bâtiment qui seroit lui même dans les cas de subir une quarantaine, et que la contrée d'où ils viendroient ne fut pas, à cette épogue si généralement infectée ou suspecte, qu'on ait rendu, avant leur arrivée, une ordonnance, d'après laquelle tous les bâtimens venant de cette contrée seroient regardés comme suspects, et en conséquence assusettis à une quarantaine.

ARTICLE 17. Les articles deux, cinq, six, sept, huit, neuf, dix, onze, douze, treize, quatorze, quinze, seize, dix-sept, dix-huit, dix-neuf, vingt-un, vingt-deux, vingt-trois, et vingt-cinq, du traité d'amitié et de commerce conclu à Paris le trois Avril, mil sept cent quatre-vingt-trois, par les plénipotentiaires des Etats Unis d'Amerique et de sa Majesté le Roi de Suède, ainsi que les articles séparés un, deux, quatre et cinq, qui furent signés le même jour par les mêmes plénipotentiaires, sont remis en vigueur en rendus applicables à tous les pays sous la domination des hautes parties, actuellement contractantes, et auront la même force et valeur que s'ils etaient insérés textuellement dans le présent traité. Bien entendu que les stipulations contenues dans les articles précités seront toujours censés ne rien changer aux conventions conclues de part et d'autre, avec d'autres nations dans l'intervalle ecoulé entre l'expiration dudit traite de mil sept-cent quatre-vingt-trois, et la remise en vigeur des dits articles par le traité de commerce et de navigation, conclu par les hautes parties actuellement contractantes, à Stockholm, le quatre Septembre, mil-huit-cent seize.

ARTICLE 18. Vû l'éloignement des pays respectifs des deux hautes parties contractantes, et l'incertitude qui en résulte sur les divers événemens qui peuvent avoir lieu, il est convenu qu'un bâtiment marchand appartenant à l'une d'elles, qui se trouverait destiné pour un port supposé bloqué au moment du départ de ce bâtiment, ne sera cependant pas capturé ou no condamné pour avoir essayé une premiere fois d'entrer dans ledit port, à moins qu'il ne puisse être prouvé que ledit bâtiment avait pû et dû apprendre en route que l'état de blocus de la place en question duroits encore: mais les bâtimens qui après avoir été renvoyés une fois, essayeroient pendant le même voyage d'entrer une seconde fois dans le même port bloqué, durant la continuation de ce blocus, se trouveront alors sujets à être détenus et condamnés.

ARTICLE 19. Le présent traité sera en vigueur pendant dix années, à partir du jour de l'échange des ratifications, et, si avant l'expiration des neuf premieres années, l'une ou l'autre des hautes parties contractantes n'avait pas annoncé à l'autre, par une notification officielle, son intention d'en faire cesser l'effet, ce traité restera obligatoire une anneé au delà, et ainsi de suite jusqu' à l'expiration des douze mois qui suivront une semblable notification, à qu'elqu épogue quelle ait lieu.

ARTICLE 20. Le présent traité sera ratifié par le Président des Etats Unis d'Amérique, par et avec l'avis et le consentement du Sénat, et par sa Majesté le Roi de Suède et de Norvège, et les ratifications en seront echangées à Washington, dans l'espace de neuf, mois après la signature, ou plutôt, si faire se peut.

En foi de quoi les plénipotentiaires respectifs ont signé le présent traité en duplicata, et y ont apposé le cachet de leurs armes. Fait à Stockholm, le quartre Juillet, l'an de Grâce mil huit cent vingt-sept.

J. J. APPLETON. [L. S.]
G. COMTE DE WETTERSTEDT. [L. S.]

ARTICLE SÉPARÉ.

Des rapports de proximité et d'anciennes relations ayant fait regler l'importation des productions des Royaumes des Suède et de Norvège dans le Grand Duché de Finlande, et celle des productions de la Finlande en Suède et en Norvège sur les bâtimens des pays respectifs, par des stipulations spéciales d'un traité encore en vigueur, et dont le renouvellement forme un objet de négociation actuelle, entre les cours de Suède et de Norvège et de Russie, sans que lesdites stipulations soient liées aux règlemens existans pour le commerce étranger en général, les deux hautes parties contractantes voulant écarter de leurs relations commerciales toute espèce d'équivoque ou de motif de discussion, sont tombées d'accord que les articles huit, neuf et dix du présent traité, ne seront point applicables ní à la navigation et au commerce susmentionnés, et par conséquent aux exceptions dans les tarifs generaux des douanes, et dans les

reglemens de navigation qui en résultent, ni aux avantages speciaux qui sont ou pourroient être donnés à l'importation du suif et des chandelles de Russie, motivés par des avantages equivalens accordés en Russie à des articles d'importation de Suède et de Norvège.

Le present article separé aura la même force et valeur que s'il etait inséré mot à dans le traité signé aujourd'hui, et sera ratifié en même tems.

En foi de quoi, nous soussignés, en vertu de nos pleins pouvoirs respectifs, avons signé le present article séparé, et y avons apposé le cachet de nos armes.

Fait à Stockholm, le quatre Juillet, mil huit cent vingt-sept.

J. J. APPLETON. [L. S.]
G. COMTE DE WETTERSTEDT. [L. S.]

TREATY WITH SWEDEN.

[Translation.]

A Treaty of Amity and Commerce, concluded between his Majesty the King of Sweden and the United States of North America.

The King of Sweden, of the Goths and Vandals, &c., &c., &c., and the thirteen United States of North America, to wit: New Hampshire, Massachusetts Bay, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, the counties of Newcastle, Kent, and Sussex, on Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, desiring to establish, in a stable and permanent manner, the rules which ought to be observed relative to the correspondence and commerce which the two parties have judged necessary to establish between their respective countries, States, and subjects, his Majesty and the United States have thought that they could not better accomplish that end than by taking for a basis of their arrangements the mutual interest and advantage of both nations, thereby avoiding all those burdensome preferences which are usually sources of debate, embarrassment, and discontent, and by leaving each party at liberty to make, respecting navigation and commerce, those interior regulations which shall be most convenient to itself.

With this view, his Majesty the King of Sweden, has nominated and appointed for his plenipotentiary Count Gustavus Philip de Creutz, his Ambassador Extraordinary to his most Christian Majesty, and Knight Commander of his Orders; and the United States, on their part, have fully empowered Benjamin Franklin, their Minister Plenipotentiary to his most Christian Majesty; the said plenipotentiaries, after exchanging their full powers, and after mature deliberation in consequence thereof, have agreed upon, concluded, and signed the following articles:

ARTICLE 1. There shall be a firm, inviolable, and universal peace, and a true and sincere friendship between the King of Sweden, his heirs, and successors, and the United States of America, and the subjects of his Majesty and those of the said States, and between the countries, islands, cities, and towns, situated under the jurisdiction of the King and of the said United States, without any exception of persons or places; and the conditions agreed to in this present treaty shall be perpetual and permanent between the King, his heirs, and successors, and the said United States.

ARTICLE 2. The King and the United States engage, mutually, not to grant hereafter any particular favor to other nations, in respect to commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same favor freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional.

ARTICLE 3. The subjects of the King of Sweden shall not pay in the ports, havens, roads, countries, islands, cities, and towns of the United States, or in either of them, any other nor greater duties or imposts, of what nature soever they may be, than those which the most favored nations are or shall be obliged to pay; and they shall enjoy all the rights, liberties, privileges, immunities, and exemptions in trade, navigation, and commerce, which the said nations do or shall enjoy, whether in passing from one port to another of the United States, or in going to or from the same, from or to any port of the world whatever.

ARTICLE 4. The subjects and inhabitants of the United States shall not pay in the ports, havens, roads, islands, cities, and towns, under the dominion of the King of Sweden, any other or greater duties or imposts of what nature soever they may be, or by what name soever called, than those which the most favored nations are or shall be obliged to pay; and they shall enjoy all the rights, liberties, privileges, immunities, and exemptions in trade, navigation, and commerce, which the said nations do or shall enjoy, whether in passing from one port to another of the dominion of his said Majesty, or in going to or from the same, from or to any part of the world whatever.

ARTICLE 5. There shall be granted a full, perfect, and entire liberty of conscience to the inhabitants and subjects of each party, and no person shall be molested on account of his worship, provided he submits, so far as regards the public demonstration of it, to the laws of the country. Moreover, liberty shall be granted, when any of the subjects or inhabitants of either party die in the territory of the other, to bury them in convenient and decent places, which shall be assigned for the purpose; and the two contracting parties will provide, each in its jurisdiction, that the subjects and inhabitants respectively may obtain certificates of the death, in case the delivery of them is required.

ARTICLE 6. The subjects of the contracting parties in the respective States may freely dispose of their goods and effects, either by testament, donation, or otherwise, in favor of such persons as they think proper; and their heirs, in whatever place they shall reside, shall receive the succession, even *ab intestato*, either in person or by their attorney, without having occasion to take out letters of naturalization. These inheritances, as well as the capitals and effects, which the subjects of the two parties, in changing their dwellings, shall be desirous of removing from the place of their abode, shall be exempted from all duty called "*droit de détraction*" on the part of the Government of the two States respectively. But it is at the same time agreed that nothing contained in this article shall in any manner derogate from the ordinances published in Sweden against emigrations, or which may hereafter be published, which shall remain in full force and vigor. The United States, on their part, or any of them, shall be at liberty to make, respecting this matter, such laws as they think proper.

ARTICLE 7. All and every the subjects and inhabitants of the Kingdom of Sweden, as well as those of the United States, shall be permitted to navigate with their vessels, in all safety and freedom, and without any regard to those to whom the merchandises and cargoes may belong, from any port whatever; and the subjects and inhabitants of the two States shall likewise be permitted to sail and trade with their vessels, and with the same liberty and safety to frequent the places, ports, and havens of Powers enemies to both or either of the contracting parties, without being in anywise molested or troubled, and to carry on a commerce not only directly from the ports of an enemy to a neutral port, but even from one port of an enemy to another port of an enemy, whether it be under the jurisdiction of the same or of different Princes. And as it is acknowledged by this treaty, with respect to ships and merchandises, that free ships shall make merchandise free, and that everything which shall be on board of ships belonging to subjects of the one or the other of the contracting parties shall be considered as free, even though the cargo or a part of it should belong to the enemies of one or both, it is, nevertheless, provided that contraband goods shall always be excepted, which, being intercepted, shall be proceeded against according to the spirit of the following articles. It is likewise agreed that the same liberty be extended to persons who may be on board a free ship, with this effect, that although they be enemies to both or either of the parties, they shall not be taken out of the free ship unless they are soldiers in the actual service of the said enemies.

ARTICLE 8. This liberty of navigation and commerce shall extend to all kinds of merchandises, except those only which are expressed in the following article, and are distinguished by the name of contraband goods.

ARTICLE 9. Under the name of contraband or prohibited goods shall be comprehended arms, great guns, cannon balls, arquebuses, muskets, mortars, bombs, petards, grenadoes, saucisses, pitch balls, carriages for ordnance, musket rests, bandoliers, cannon powder, matches, saltpetre, sulphur, bullets, pikes, sabres, swords, morions, helmets, cuirasses, halberts, javelins, pistols and their holsters, belts, bayonets, horses with their harness, and all other like kinds of arms and instruments of war for the use of troops.

ARTICLE 10. These which follow shall not be reckoned in the number of prohibited goods, that is to say: all sorts of cloths, and all other manufactures of wool, flax, silk, cotton, or any other materials; all kinds of wearing apparel, together with the things of which they are commonly made; gold, silver, coined or uncoined; brass, iron, lead, copper, latten, coals, wheat, barley, and all sorts of corn or pulse; tobacco; all kind of spices; salted and smoked flesh, salted fish, cheese, butter, beer, oil, wines, sugar; all sorts of salt and provisions which serve for the nourishment and sustenance of man; all kinds of cotton, hemp, flax, tar, pitch, ropes, cables, sails, sail-cloth, anchors, and any parts of anchors, ship-masts, planks, boards, beams, and all sorts of trees, and other things proper for building or repairing ships; nor shall any goods be considered as contraband which have not been worked into the form of any instrument or thing for the purpose of war by land or by sea, much less such as have been prepared or wrought up for any other use, all which shall be reckoned free goods, as likewise all others which are not comprehended and particularly mentioned in the foregoing article, so that they shall not by any pretended interpretation be comprehended among prohibited or contraband goods; on the contrary, they may be freely transported by the subjects of the King and of the United States even to places belonging to an enemy, such places only excepted as are besieged, blocked, or invested; and those places only shall be considered as such which are nearly surrounded by one of the belligerent Powers.

ARTICLE 11. In order to avoid and prevent on both sides all disputes and discord, it is agreed that, in case one of the parties shall be engaged in a war, the ships and vessels belonging to the subjects or inhabitants of the other shall be furnished with sea-letters or passports expressing the name, property, and port of the vessel, and also the name and place of abode of the master or commander of the said vessel, in order that it may thereby appear that the said vessel really and truly belongs to the subjects of the one or the other party. These passports, which shall be drawn up in good and due form, shall be renewed every time the vessel returns home in the course of the year. It is also agreed that the said vessels, when loaded, shall be provided not only with sea-letters, but also with certificates containing a particular account of the cargo, the place from which the vessel sailed, and that of her destination, in order that it may be known whether they carry any of the prohibited or contraband merchandises mentioned in the 9th article of the present treaty; which certificates shall be made out by the officers of the place from which the vessel shall depart.

ARTICLE 12. Although the vessels of the one and of the other party may navigate freely and with all safety, as is explained in the 7th article, they shall, nevertheless, be bound at all times when required to exhibit, as well on the high sea as in port, their passports and certificates above mentioned; and not having contraband merchandise on board for an enemy's port, they may freely and without hindrance pursue their voyage to the place of their destination. Nevertheless, the exhibition of papers shall not be demanded of merchant ships under the convoy of vessels-of-war, but credit shall be given to the word of the officer commanding the convoy.

ARTICLE 13. If, on producing the said certificates, it be discovered that the vessel carries some of the goods which are declared to be prohibited or contraband, and which are consigned to an enemy's port, it shall not, however, be lawful to break up the hatches of such ships, nor to open any chest, coffers, packs, casks, or vessels, nor to remove or displace the smallest part of the merchandises, until the cargo has been landed in the presence of officers appointed for the purpose, and until an inventory thereof has been taken; nor shall it be lawful to sell, exchange, or alienate the cargo or any part thereof until legal process shall have been had against the prohibited merchandises, and sentence shall have passed declaring them liable to confiscation, saving, nevertheless, as well the ships themselves as the other merchandises which shall have been found therein, which, by virtue of this present treaty, are to be esteemed free, and which are not to be detained on pretence of their having been loaded with prohibited merchandise, and much less confiscated as lawful prize. And in case the contraband merchandise be only a part of the cargo. and the master of the vessel agrees, consents, and offers to deliver them to the vessel that has discovered them, in that case the latter, after receiving the merchandises which are good prize, shall immediately let the vessel go, and shall not by any means hinder her from pursuing her voyage to the place of her destination. When a vessel is taken and brought into any of the ports of the contracting parties, if upon examination she be found to be loaded only with merchandises declared to be free, the owner, or he who has made the prize, shall be bound to pay all costs and damages to the master of the vessel unjustly detained.

ARTICLE 14. It is likewise agreed, that whatever shall be found to be laden by the subjects of eith e

of the two contracting parties on a ship belonging to the enemies of the other party, the whole effects, although not of the number of those declared contraband, shall be confiscated as if they belonged to the enemy, excepting, nevertheless, such goods and merchandises as were put on board before the declaration of war, and even six months after the declaration, after which term none shall be presumed to be ignorant of it; which merchandises shall not in any manner be subject to confiscation, but shall be faithfully and specifically delivered to the owners, who shall claim or cause them to be claimed before confiscation and sale, as also their proceeds, if the claim be made within eight months, and could not be made sooner after the sale, which is to be public; provided, nevertheless, that if the said merchandises be contraband it shall not be in anywise lawful to carry them afterwards to a port belonging to the enemy.

ARTICLE 15. And that more effectual care may be taken for the security of the two contracting parties, that they suffer no prejudice by the men-of-war of the other party, or by privateers, all captains and commanders of ships of his Swedish Majesty and of the United States, and all their subjects, shall be forbidden to do any injury or damage to those of the other party; and if they act to the contrary, having been found guilty on examination by their proper judges, they shall be bound to make satisfaction for all damages and the interest thereof, and to make them good under pain and obligation of their persons and goods.

ARTICLE 16. For this cause, every individual who is desirous of fitting out a privateer shall, before he receives letters patent, or special commission, be obliged to give bond, with sufficient sureties, before a competent judge, for a sufficient sum, to answer all damages and wrongs which the owner of the privateer, his officers, or others in his employ, may commit during the cruise, contrary to the tenor of this treaty, and contrary to the edicts published by either party, whether by the King of Sweden or by the United States, in virtue of this same treaty, and also under the penalty of having the said letters patent and special commission revoked and made void.

ARTICLE 17. One of the contracting parties being at war, and the other remaining neuter, if it should happen that a merchant ship of the neutral Power be taken by the enemy of the other party, and be afterwards retaken by a ship-of-war or privateer of the Power at war, also ships and merchandises of what nature soever they may be, when recovered from a pirate or sea rover, shall be brought into a port of one of the two Powers, and shall be committed to the custody of the officers of the said port, that they may be restored entire to the true proprietor as soon as he shall have produced full proof of the property. Merchants, masters, and owners of ships, seamen, people of sorts, ships and vessels, and, in general, all merchandises and effects of one of the allies or their subjects, shall not be subject to any embargo, nor detained in any of the countries, territories, islands, cities, towns, ports, rivers, or domains whatever, of the other ally, on account of any military expedition, or any public or private purpose whatever, by seizure, by force, or by any such manner; much less shall it be lawful for the subjects of one of the parties to seize or take anything by force from the subjects of the other party without the consent of the owner. This, however, is not to be understood to comprehend seizures, detentions, and arrests made by order and by the authority of justice, and according to the ordinary course for debts or faults of the subject, for which process shall be had in the way of right according to the forms of justice.

ARTICLE 18. If it should happen that the two contracting parties should be engaged in a war at the same time with a common enemy, the following points shall be observed on both sides:

1. If the ships of one of the two nations, retaken by the privateers of the other, have not been in the power of the enemy more than twenty-four hours, they shall be restored to the original owner on payment of one-third of the value of the ship and cargo, If, on the contrary, the vessel retaken has been more than twenty-four hours in the power of the enemy, it shall belong wholly to him who has retaken it.

2. In case, during the interval of twenty-four hours, a vessel be retaken by a man-of-war of either of the two parties, it shall be restored to the original owner on payment of a thirtieth part of the value of the vessel and cargo, and a tenth part if it has been retaken after the twenty-four hours, which sums shall be distributed as a gratification among the crew of the men-of-war that shall have made the recapture.

3. The prizes made in the manner above mentioned shall be restored to the owners, after proof made of the property, upon giving security for the part coming to him who has recovered the vessel from the hands of the enemy.

4. The men-of-war and privateers of the two nations shall reciprocally be admitted with their prizes into each other's ports; but the prizes shall not be unloaded or sold there until the legality of a prize made by Swedish ships shall have been determined according to the laws and regulations established in Sweden, as also that of the prizes made by American vessels shall have been determined according to the laws and regulations established by the United States of America.

5. Moreover, the King of Sweden and the United States of America shall be at liberty to make such regulations as they shall judge necessary respecting the conduct which their men-of-war and privateers, respectively, shall be bound to observe with regard to vessels which they shall take and carry into the ports of the two Powers.

ARTICLE 19. The ships-of-war of his Swedish Majesty, and those of the United States, and also those which their subjects shall have armed for war, may, with all freedom, conduct the prizes which they shall have made from their enemies into the ports which are open in time of war to other friendly nations; and the said prizes, upon entering the said ports, shall not be subject to arrest or seizure, nor shall the officers of the places take cognizance of the validity of the said prizes, which may depart and be conducted freely and with all liberty to the places pointed out in their commissions, which the captains of the said vessels shall be obliged to show.

ARTICLE 20. In case any vessel belonging to either of the two States, or to their subjects, shall be stranded, shipwrecked, or suffer any other damage on the coasts or under the dominion of either of the parties, all aid and assistance shall be given to the persons shipwrecked, or who may be in danger thereof, and passports shall be granted to them to secure their return to their own country. The ships and merchandises wrecked, or their proceeds, if the effects have been sold, being claimed in a year and a day by the owners or their attorney, shall be restored on their paying the costs of salvage, conformably to the laws and customs of the two nations.

ARTICLE 21. When the subjects and inhabitants of the two parties, with their vessels, whether they be public and equipped for war, or private, or employed in commerce, shall be forced by tempest, by pursuit of privateers and of enemies, or by any other urgent necessity, to retire and enter any of the rivers, bays, roads or ports of either of the two parties, they shall be received and treated with all humanity and politeness, and they shall enjoy all friendship, protection, and assistance, and they shall be at liberty to supply themselves with refreshments, provisions, and everything necessary for their

sustenance, for the repair of their vessels, and for continuing their voyage; provided, always, that they pay a reasonable price; and they shall not in any manner be detained or hindered from sailing out of the said ports or roads, but they may retire and depart when and as they please, without any obstacle or hindrance.

ARTICLE 22. In order to favor commerce on both sides as much as possible, it is agreed that in case a war should break out between the said two nations, which God forbid, the term of nine months after the declaration of war shall be allowed to the merchants and subjects, respectively, on one side and the other, in order that they may withdraw with their effects and movables, which they shall be at liberty to carry off or to sell where they please, without the least obstacle; nor shall any seize their effects, and much less their persons, during the said nine months; but, on the contrary, passports, which shall be valid for a time necessary for their return, shall be given them for their vessels, and the effects which they shall be willing to carry with them. And if anything is taken from them, or if any injury is done to them by one of the parties, their people, and subjects during the time above prescribed, full and entire satisfaction shall be made to them on that account. The above mentioned passports shall also serve as a safe conduct against all insults or prizes which privateers may attempt against their persons and effects.

ARTICLE 23. No subject of the King of Sweden shall take a commission or letters of marque for arming any vessel to act as a privateer against the United States of America, or any of them, or against the subjects, people, or inhabitants of the said United States, or any of them, or against the property of the inhabitants of the said States, from any Prince or State whatever with whom the said United States shall be at war. Nor shall any citizen, subject, or inhabitant of the said United States, or any of them, apply for or take any commission, or letters of marque, for arming any vessel to cruise against the subjects of his Swedish Majesty, or any of them, or their property, from any Prince or State whatever with whom his said Majesty shall be at war. And if any person of either nation shall take such commissions or letters of marque he shall be punished as a pirate.

ARTICLE 24. The vessels of the subjects of either of the parties coming upon any coast belonging to the other, but not willing to enter into port, or being entered into port, and not willing to unload their cargoes or to break bulk, shall not be obliged to do it; but, on the contrary, shall enjoy all the franchises and exemptions which are granted by the rules subsisting with respect to that object.

ARTICLE 25. When a vessel belonging to the subjects and inhabitants of either of the parties, sailing on the high sea, shall be met by a ship-of-war or privateer of the other, the said ship-of-war or privateer, to avoid all disorder, shall remain out of cannon shot, but may always send their boat to the merchant ship, and cause two or three men to go on board of her, to whom the master or commander of the said vessel shall exhibit his passport, stating the property of the vessel; and when the said vessel shall have exhibited her passport, she shall be at liberty to continue her voyage, and it shall not be lawful to molest or search her in any manner, or to give her chase, or force her to quit her intended course.

ARTICLE 26. The two contracting parties grant mutually the liberty of having each in the ports of the other, consuls, vice consuls, agents, and commissaries, whose functions shall be regulated by a particular agreement.

ARTICLE 27. The present treaty shall be ratified on both sides, and the ratifications shall be exchanged in the space of eight months, or sooner, if possible, counting from the day of the signature.

In faith whereof, the respective plenipotentiaries have signed the above articles, and have thereto affixed their seals.

Done at Paris, the third day of April, in the year of our Lord one thousand seven hundred and eighty-three.

GUSTAV. PHILIP, [L. S.]
Comte de Creutz.

SEPARATE ARTICLE.

The King of Sweden and the United States of North America agree that the present treaty shall have its full effect for the space of fifteen years, counting from the day of the ratification, and the two contracting parties reserve to themselves the liberty of renewing it at the end of that term.

Done at Paris, the third day of April, in the year of our Lord one thousand seven hundred and eighty-three.

GUSTAV. PHILIP, [L. S.]
Comte de Creutz.

SEPARATE ARTICLES.

ARTICLE 1. His Swedish Majesty shall use all the means in his power to protect and defend the vessels and effects belonging to citizens or inhabitants of the United States of North America, and every of them, which shall be in the ports, havens, roads, or on the seas near the countries, islands, cities, and towns of his said Majesty, and shall use his utmost endeavors to recover and restore to the right owners all such vessels and effects which shall be taken from them within his jurisdiction.

ARTICLE 2. In like manner, the United States of North America shall protect and defend the vessels and effects belonging to the subjects of his Swedish Majesty which shall be in the ports, havens, or roads, or on the seas near to the countries, islands, cities, and towns of the said States, and shall use their utmost efforts to recover and restore to the right owners all such vessels and effects which shall be taken from them within their jurisdiction.

ARTICLE 3. If in any future war at sea the contracting Powers resolve to remain neuter, and, as such, to observe the strictest neutrality, then it is agreed that if the merchant ships of either party should happen to be in a part of the sea where the ships-of-war of the same nation are not stationed, or if they are met on the high sea, without being able to have recourse to their own convoys, in that case, the commander of the ships-of-war of the other party, if required, shall, in good faith and sincerity, give them all necessary assistance; and in such case, the ships-of-war and frigates of either of the Powers shall protect and support the merchant ships of the other; provided, nevertheless, that the ships claiming assistance are not engaged in any illicit commerce contrary to the principles of neutrality.

ARTICLE 4. It is agreed and concluded that all merchants, captains of merchant ships, or other subjects of his Swedish Majesty, shall have full liberty in all places under the dominion or jurisdiction of the United States of America to manage their own affairs, and to employ in the management of them whom-

soever they please; and they shall not be obliged to make use of any interpreter or broker, nor to pay them any reward unless they make use of them. Moreover, the masters of ships shall not be obliged, in loading or unloading their vessels, to employ laborers appointed by public authority for that purpose; but they shall be at full liberty themselves to load or unload their vessels, or to employ in loading or unloading them whomsoever they think proper, without paying reward under the title of salary to any other person whatever; and they shall not be obliged to turn over any kind of merchandises to other vessels, nor to receive them on board their own, nor to wait for their lading longer than they please; and all and every of their citizens, people, and inhabitants of the United States of America shall reciprocally have and enjoy the same privileges and liberties in all places under the jurisdiction of the said realm.

ARTICLE 5. It is agreed that when merchandises shall have been put on board the ships or vessels of either of the contracting parties they shall not be subjected to any examination, but all examination and search must be before lading, and the prohibited merchandises must be stopped on the spot before they are embarked, unless there is full evidence or proof of fraudulent practice on the part of the owner of the ship, or of him who has the command of her; in which case only he shall be responsible and subject to the laws of the country in which he may be. In all other cases, neither the subjects of either of the contracting parties, who shall be with their vessels in the ports of the other, nor their merchandises, shall be seized or molested on account of contraband goods which they shall have wanted to take on board; nor shall any kind of embargo be laid on their ships, subjects, or citizens of the State whose merchandises are declared contraband, or the exportation of which is forbidden; those only who shall have sold or intended to sell or alienate such merchandise being liable to punishment for such contravention.

Done at Paris, the third day of April, in the year of our Lord one thousand seven hundred and eighty-three.

GUSTAV. PHILIP, [L. S.]
Comte de Creutz.
B. FRANKLIN. [L. S.]

Mr. Clay to Mr. Appleton.

No. 2.] DEPARTMENT OF STATE, *Washington, January* 12, 1827.

SIR: Having just indirectly heard of your arrival at Stockholm, I am directed by the President to call your immediate attention to the subject of the treaty which was concluded in that capital and signed on the 4th day of September, 1816. The treaty expired on the 25th of last September. It had been the President's wish, by a new negotiation, and by engrafting some further regulations upon it, to prevent the event which has occurred. The illness and subsequent death of your predecessor, and your engagement on another public service, together with the incidental delay in your arrival at Stockholm, have prevented, on our part, the opening of the negotiation there. We had, moreover, some reason to believe that the Baron de Stackelberg would have been provided with instructions to negotiate on that subject here. It was not until about the time of the expiration of the treaty that we were disappointed in the fulfilment of these expectations. On the 26th day of September last a note was received from the Baron, of which a copy, together with a copy of the answer which was returned to it, is herewith transmitted.

As he announced in that note the determination of the Government of Sweden to continue to observe the rule of the treaty, notwithstanding it should expire without being renewed, he was informed that the President would recommend to Congress to provide by law for its observance on our part until the issue should be known of the intended negotiation. He has accordingly, in his message to Congress* on the opening of its present session, (a copy of which accompanies this despatch,) recommended to that body the enactment of the necessary law to secure to the navigation and commerce of Sweden the benefit of the treaty until the result of the negotiation is known. A bill has been introduced into the House of Representatives (of which a copy is herewith sent) to admit the vessels of Sweden upon the terms stipulated in the treaty, and making provision to refund any discriminating duties, should any such have been collected from Swedish vessels or their cargoes between the 25th of September last and the date of the law. No doubt is entertained of the passage of the bill prior to the adjournment of Congress, nor is any inconvenience anticipated before the renewal of the treaty from the limitation of the law to the single object of the discriminating duties. The bill would have been shaped so as to comprehend all the regulations of the treaty but for doubts which were felt by some members of Congress as to the competency of the legislative power to extend to some of the stipulations which were believed to appertain strictly to the treaty-making power. As it is hoped that the interval will not be long before the treaty is renewed, and that no intermediate prejudice will arise to Sweden, it was not considered important to press a decision on those doubts. Your knowledge of our Constitution will enable you to explain the reasons of the President's being unable, without the concurrence of Congress or of the Senate, to direct the enforcement of the provisions of the treaty in the same summary manner as has been done in the ports of Sweden. By the act of the 7th day of January, 1824, the vessels of Norway will continue, without any interruption, to enjoy an exemption in our ports from the payment of the discriminating duties.

You are now authorized to propose the renewal of all the articles of the treaty, with the exception of the third, fourth, and sixth, to which the Senate, when it was submitted to them for their advice and consent to its ratification, objected, and with which exception it was untimately ratified by both parties. The third and fourth articles related to the reciprocal introduction into the ports of the two Powers of the produce of the Baltic and the West Indies in the vessels of each, and providing a discrimination of ten per cent. more on the duties when paid by the foreign than the national vessel. The sixth specified the evidence which should be taken as conclusive of the fact of origin of the produce of the two countries. The same considerations which formerly induced the Senate to object to those three articles would, probably, still prevail if they should be again inserted in a new treaty. In lieu, and as entirely superseding the necessity of them, you will propose a stipulation of a more liberal and comprehensive character—that is, that whatever can by law be imported from or exported to any foreign country, place, or possession, including the colonies of either party in the vessels of one party, may be in those of the other, the foreign vessel and her cargo paying no higher or other duties or charges of any kind than the

* See antecedent No. 457.

national vessel. A model of an article to that effect, which may serve as your guide, you will find in the fourth article of a treaty which was concluded at Washington on the 5th day of December, 1825, between the United States and the Federation of Central America, of which a copy is now transmitted. If this article be agreed to, the vessels of the United States will be entitled to navigate between the ports of Sweden and Norway and the Swedish colony of St. Bartholomew, as well as between those ports and all other foreign countries and places; but the vessels of neither party will be entitled to share in the coasting trade of the other. It is possible that it will be insisted that the intercourse between Sweden and Norway and that colony should be reserved exclusively to the parent country. The President being very anxious to secure the adoption of the general principle without qualification, and that it should ultimately be extended to all the colonial Powers, you will oppose the reservation as long as there is any prospect of your prevailing on the Swedish Government to yield the point. You may urge that the inconsiderable trade of the colony can render the monopoly of no importance to Sweden; that she is equally with the United States interested in the universal adoption of the general principle, without any exception; that the uncertainty of her continuing to hold the island, in events of such frequent occurrence in Europe, should induce her to concur in the introduction of a liberal rule of permanent duration, not likely to be affected by those events, rather than adhere to a monopoly which might be lost upon the first occurrence of any one of them; that she will gain more, by her example, in her intercourse with other colonial Powers, as well as those which are without colonies, than by contending for the retention of a worthless monopoly; and, finally, that, considering the relative amount of the commerce and navigation of the two countries, the United States manifest a liberality, in the offer of this proposal, which ought to be reciprocated.

Should your efforts to induce a waiver of the monopoly be unsuccessful, you are then authorized to agree to an article similar to the before mentioned fourth article in the treaty with the Federation of the Centre of America, with an exception like that which is contained in the sixth article of a treaty lately concluded between the United States and Denmark, (of which a copy is herewith transmitted,) to the following effect: "But it is further agreed that this treaty is not to extend to the direct trade between Sweden and Norway and the island of St. Bartholomew; but in the intercourse with that colony it is agreed that whatever can be lawfully imported into or exported from the said colony in vessels of one party from or to ports of the United States, or from or to the ports of any other foreign country, may, in like manner, and with the same duties and charges applicable to vessel and cargo, be imported into or exported from the said colony in vessels of the other party."

According to one so framed Sweden will retain the monopoly, but the vessels of the United States will be allowed to trade between the island and any other country or place, Sweden and Norway only excepted.

If the Swedish Government should decline agreeing to an article in either of the two forms suggested, you are then at liberty to agree to a simple renewal of the treaty of 1816, with the exception of the third, fourth, and sixth articles before mentioned. The duration of any treaty on which you may finally agree, according to the preceding instructions, may be fixed to any term of between eight and fifteen years, to which you will propose a clause to guard against the event of its expiration of similar import with the 11th article of our treaty with Denmark.

A power authorizing you to open and conclude the negotiation is now also transmitted.

As the law which is at present before Congress will probably be limited to the end of the next session, it is advisable that you should transmit the treaty which it is expected you will be able to conclude in time to be laid before the Senate at the next session of Congress.

I am, sir, respectfully, your obedient servant,

H. CLAY.

J. J. APPLETON, *Chargé d'Affaires at Stockholm.*

P. S.—JANUARY 20, 1827. Since the preceding letter was written, your despatch, under date the 1st November, has been received, with its accompaniments. Considering the tenor of the treaty which you state to have been lately concluded between Denmark and Sweden, no difficulty is anticipated in your prevailing upon the Swedish Government to accede to the broad principle of our treaty with the Republic of the Federation of the Centre of America, by which Swedish vessels and those of the United States would be reciprocally allowed to import into or export from the ports of the respective countries whatever national vessels could import or export from or to any foreign country. To that rule, as we understand you, there is but one exception, which is confined to the article of salt, the importation of which is, as it respects Sweden and Denmark, limited to national vessels. But this limitation does not apply to Denmark and Norway. If the Government of Sweden should insist upon making the same exception of the article of salt, you are authorized to agree to it, taking care that the stipulation be mutual.

Perhaps it may be urged that the 10th article of the treaty lately concluded between Sweden and Great Britain disables the former from agreeing to the above mentioned principle—that article providing that "salt, hemp, flax, oil of all kinds, grain of all kinds, wine, tobacco, salt or dried fish, wool, and stuffs of all kinds," shall be imported into Sweden only in vessels of Sweden and Norway, or in vessels of the country of which such articles were the produce. But if it formed no obstacle to the subsequent conclusion of the above mentioned stipulation between Denmark and Sweden, it is presumed it can form none to the proposed stipulation with the United States. We suppose, also, that the stipulation in that 10th article was not intended to abridge the liberty of Sweden to contract whatever engagements it might deem proper with any other foreign Power upon proper equivalents, but was designed to limit the right of British vessels to import the specified articles into the ports of Sweden.

Information has been received at this Department that there are certain advantages enjoyed by Swedish, and now by British vessels, (under the late treaty concluded between Great Britain and Sweden,) as regards vessels arriving under distress on the coasts of Norway and Sweden, as also in pilotage and harbor dues, which are not enjoyed by vessels of the United States. You will inquire and ascertain if that information be correct, in which case you will propose an article securing to our vessels the same advantages.

In order to prevent any evasion of the principle of equality between the vessels of the two countries, which forms the basis on which the Government of the United States offers to treat with that of Sweden, you will propose the following article: "No priority or preference shall be given, directly or indirectly, by the Government of either country, or by any corporation, company, or agent, acting in its behalf, or under its authority, in the purchase of any article imported into the other on account of or in reference to

the character of the vessel in which such article was imported, it being the true intent and meaning of the contracting parties that no distinction or difference whatever shall be made in this respect."

Should you be unable to prevail on the Government of Sweden to agree to the principle of our Guatemala treaty, with or without the exception of the article of salt, as above mentioned, or to that of our treaty with Denmark, you will understand that your authority extends to a renewal of the expired treaty.

Mr. Clay to Mr. Appleton.

No. 3.] DEPARTMENT OF STATE, *Washington, April* 11, 1827.

SIR: Herewith you will receive the copy of a note which I addressed to Baron de Stackelberg on the 16th ultimo, communicating to him the copy of an act passed at the last session of Congress entitled "An act to exempt Swedish and Norwegian vessels from the payment of discriminating duties of import and tonnage for a limited time, and for other purposes," a transcript of which is also transmitted to you. You will take some fit occasion to make known to the Government of Sweden and Norway, and turning to the best account, in your negotiations for a permanent arrangement, the provisions of this act, which suspends, in behalf of Swedish and Norwegian vessels arriving in the United States, the discriminating duties which are levied in our ports on foreign vessels, and directs the refunding of such as may have been collected from the vessels of Sweden and Norway during the interval between the period of the expiration of the late treaty between the United States and Sweden and that of the passage of the act.

I am, respectfully, your obedient servant,

H. CLAY.

JOHN J. APPLETON, *Chargé d'Affaires to Sweden.*

Mr. Appleton to Mr. Clay.

No. 15.] STOCKHOLM, *April* 7, 1827.

SIR: In a postscript of my letter of the 3d instant I had the honor to announce to you the safe arrival of your letter of the 12th (20th) January, (No. 2,) with the various enclosures to which it refers. I have now further to inform you that, under date of the 5th instant, I addressed a letter to the Count of Wetterstedt, in which I made known to him my being furnished with full powers to negotiate and to conclude a treaty of commerce and navigation with the Kingdoms of Sweden and Norway, and enclosed him a copy of the bill before the House of Representatives for the exemption of Swedish and Norwegian vessels from the payment of alien duties and charges in our ports, giving him, at the same time, the explanations contemplated by your letter in reference to the course which the President has pursued to secure to the subjects of Sweden and Norway advantages equal to those which we derive from the continued enforcement of the treaty here. The enclosure (A) is a copy of my letter to the Count of Wetterstedt.

In reference to the information received at the Department, that there are certain advantages enjoyed by Swedish, and now by British vessels, under the treaty concluded between Great Britain and Sweden, as regards arrivals in distress on the coast of Norway and Sweden, I hasten to state that, from inquiries made previous to the receipt of your letter, I had ascertained that these advantages consist in the faculty of availing themselves of other aid than that of the "Diving and Saving Company" during the first sixty hours after stranding. A liberal construction of the tenth article of our treaty would certainly have placed us in this respect upon a footing of equality with the Swedes. But it is a fact that, while by a decision of the year 1821, had in the case of an American vessel stranded on the island of Gotland, the inequality in the salvage-money to which the company is entitled by the first and third sections of its regulations between Swedish and foreign vessels has disappeared in relation to us, that which results from the faculty above mentioned, accorded to the Swedes and denied to foreigners, still affects us. It is founded upon the tenth section of the company's regulations, which, under pretence of better guarding the interest of foreign merchants and ship-owners, obliges the captains employed by them to avail themselves exclusively of the aid of the company when in distress upon the coast. The injury resulting from this obligation is considerable in every case where the assistance required is small, and yet cannot be dispensed with, for the foreigner is then liable to pay six, eight, or ten per cent. upon ship and cargo as salvage money to the company, when, perhaps, he might, like the Swede, have obtained the same aid elsewhere at a very moderate expense. By the third paragraph of the second declaration annexed to the British treaty it is stipulated: "Que les bâtimens de commerce Anglais seront également assimilés aux bâtimens nationaux par rapport aux droits de sametage sans aucune restriction ou difference." The construction given to this stipulation had, I am informed, done away, in the case of British vessels, the inequality. It shall be my object to have the corresponding article in the treaty to be negotiated so worded as to admit no evasion from the observance of that perfect equality which it is intended to secure.

You have also received information that a difference existed between the pilotage and harbor dues collected upon Swedish and American vessels. I am happy to have it in my power to lay before you two documents that will show you where and to what extent that difference exists.

The first of these documents (marked B) is an extract of a letter from Mr. Murray, our consul at Gottenburg, in which, in answer to inquiries made by me on the 30th of January last, he states explicitly the existence of a perfect equality in the duties and charges paid by the Americans and Swedes. This, I presume, will be considered satisfactory in relation to the port where that consul resides, which, of all the Swedish ports, is that most frequented by our vessels. In that of Stockholm the result of my researches has produced a different result; a result which, as you will see by the enclosure, (C,) certified by the respective brokers as a correct statement of the charges and fees upon American, English, and Swedish vessels, establishes the existence of a difference of $11 27 against the American vessel when compared

to the Swede, and of less than $2 when compared to the British. Upon what particular charges and fees the difference falls, the statement and the notes thereunto subjoined will show. You will remark that in the essential charges of tonnage, pilotage, and light-money, no difference whatever exists. It is to be sought in the charge made by the broker for his services, which is double upon a foreign vessel in consequence of the greater trouble which attends the management of the foreigner's business, and in the small fees and *douceurs*, the amount of which has been rather fixed by usage than established by any competent authority, and remains as before the treaty, unequal, because the parties more immediately interested either have not been aware of the inequality, or, knowing it, have preferred overlooking it, as a matter of small importance, to making it a subject of altercation with persons whose good or ill will is not indifferent to them. If the broker's account wears upon its face a general appearance of fairness, it is passed, as a matter of course, and the more readily as the charge for his own personal trouble, though twice as high upon a foreign as upon a national vessel, is still, when taken by itself, considered but as an inadequate compensation for all the services which are officially and *officiously* rendered by him. When everything, therefore, shall have been done to secure to our countrymen equal terms with the Swedes, the equality will still, in the smaller fees, be only nominal—so deeply rooted is the disposition to overcharge foreigners, not here only, but in all the countries which I have visited on public service. I shall, as it is my duty, struggle constantly against this evil, and do what is possible for its correction in the impending negotiation.

It will not escape your notice that the only instance in which, by the paper C, British captains appear to be treated better than ours, the inequality is satisfactorily accounted for by the difference in the price of freight to the United States and to Great Britain, respectively.

After giving you the assurance that I shall, in the negotiation intrusted to me by the President, spare no exertions to procure the accomplishment of his wishes, such as they are explained by your instructions, I have only to add the request that you would honor me with directions respecting the eventual transmission of the treaty to the United States. Should I receive nothing from you on the subject before it is necessary to act, I shall forward it by my friend and inmate, Mr. Cucheval, whom I will at the same time beg leave to recommend for the compensation usually allowed to the bearers of public despatches of the United States.

I have the honor to be, sir, respectfully, your very obedient and humble servant,

J. J. APPLETON.

Hon. HENRY CLAY, *Secretary of State.*

A.

STOCKHOLM, *April* 5, 1827.

I have the honor to inform your excellency that my Government has carried into effect the intention which it made known to that of his Majesty the King of Sweden and Norway on the 31st of October last, through his Chargé d'Affaires at Washington, by conferring upon me its full powers to negotiate and to conclude a treaty of commerce and navigation with such a person or persons as shall be similarly empowered on the part of his Majesty the King of Sweden and Norway. In making this communication to your excellency, it is also my duty to add that, animated by the same sentiments that induced his Majesty to extend to the citizens of the United States the benefit of the expired treaty beyond the time fixed for its duration, the President would, to the full extent of the principle of reciprocity, have made the subjects of his Majesty the object of a similar measure, if the Constitution of the United States had invested him with the necessary power. But as this power, which, in fact, would be no other than that of enforcing in the United States the provisions of their public treaties beyond the time for which they had been advised and consented to by the Senate, had not been conferred upon him, the immediate reciprocation on the part of the United States of the continuance of the treaty was rendered impossible. Such were the circumstances under which the United States Secretary of State informed his Majesty's Chargé d'Affaires at Washington that the President would recommend to Congress the enacting of a law for the temporary observance of the treaty on the part of the United States; and, as your excellency has already learned by the copy of the President's message which I had the honor of presenting to you on the 5th of February last that this was one of the earliest recommendations to that body, it only remains that I should inform your excellency that in consequence thereof a bill (of which a copy is enclosed) was actually introduced in the House of Representatives which provides for the admission of the vessels and cargoes of Sweden and Norway in the ports of the Union on paying the same duties and charges as previous to the 25th of September last, and for the immediate reimbursement of any discriminating duties or charges which may have been collected from them between that date and that of the enactment. Owing to doubts which were felt by members of the House as to the competency of the legislative power to extend to some of the stipulations of the treaty, believed to appertain strictly to the treaty-making power, the bill has not been made to comprehend all the regulations of the treaty; it is, however, confidently expected that what it enacts, with what is in addition provided for by other laws of the Union, will suffice to insure, as it is the wish of the President, to his Majesty's subjects a reciprocation of the advantages which the citizens of the United States enjoy in Sweden and Norway. The duration of the bill is limited to the end of the ensuing session of Congress, under an impression that the intervening time will be sufficient for the conclusion of the new treaty.

I hope that your excellency will see in the preceding statement satisfactory evidence that the friendship and liberality evinced by his Majesty towards the United States are fully reciprocated by them, and that you will also anticipate with me the happiest results from the negotiations that have been determined on under such auspices.

I avail myself, with great pleasure, of this occasion to renew to your excellency the assurance of my most distinguished consideration.

J. J. APPLETON.

His Excellency the COUNT OF WETTERSTEDT,
Minister of State and of Foreign Affairs of his Majesty the King of Sweden and Norway.

Extract of a letter from Mr. C. A. Murray, American Consul at Gothenburg, to J. J. Appleton, under date of the 10th of February, 1827.

"The American vessels have, ever since the ratification of the treaty, enjoyed a perfect equality as to the payment of all duties and charges to Government. Even the local charges which captains use to disburse themselves through the broker are on a footing of perfect similarity. At present there exists, therefore, to my knowledge, no room for complaint in this respect.

"Truly extracted. J. J. APPLETON."

Account of port charges for a vessel of 100 *Swedish lasts.*

THE BROKER'S DISBURSEMENTS.

	Swedish.	American.	English.
For a ballast-note, with ballast charges, &c	4 08	4 08	4 08
Pilotage and light money, expedition and ring money; 11 inwards, 14 outwards	75 22	75 22	75 22
Copy of the incoming entering *	32	40	40
Measuring the ship with expedition, and certificate of the said measurement and stamp paper, &c.†	14 36	17 40	17 40
Two copies of the said certificate	36	36	36
Ship's charges or tonnage duty, with pass money	52 05	52 05	52 05
Town's duty, last and bridge money, with navigation school money	18 05	18 05	18 05
Cooking room ‡	.....	2 32	2 32
Pass money for the custom-house and Great Governor's pass; stamp paper on the custom-house and Great Governor's pass	5 24	5 24	5 24
Men's pass and sailor's house mustering money and stamp paper, about *	8 40	11 00	11 00
Collector and comptroller, with the incoming bridge comptroller and cask collector	5 16	5 16	5 16
British poor money	.....	.....	.....
Wood and deal note, &c*	16	1 16	1 16
Bridge inspector and comptroller §	1 16	1 32	1 32
Iron bridge inspector and comptroller §	1 16	1 32	1 32
Iron weigh inspectors and comptrollers §	2 16	3 20	3 20
Tolags (wharf) book-keeper and comptroller §	32	1 00	1 00
Brokerage ‖	16 32	33 16	33 16
Inwriting money at iron bridge and iron weigh	2 24	2 24	2 24
Incoming searcher and at the freight chamber, (Swedish captains pay themselves) ¶	.....	2 00	2 00
Stamp paper on the outward freight for the cargo from hence, and commission **	12 42	12 42	8 04
Paid your incoming pilots foy (fees) and above day's and drink's money, about	8 00	8 00	8 00
Paid your incoming clearing money	3 00	3 00	3 00
Paid the harbor master	1 16	1 16	1 16
Paid the commander at Dalarö castle *	1 16	2 00	2 00
Pay day wages to custom-house officer, about	7 00	7 00	7 00
Expenses in the river, about	26 00	26 00	26 00
Custom-house officer from Dalarö	3 00	3 00	3 00
Banco R.	273 18	303 42	299 04
At the exchange of 2.33-10 for a dollar	$101 07	$112 34	$110 57

* No reason is assigned for the difference except usage.

† One skilling banco (one cent nearly) more per ton is taken for the measurement of foreign than of Swedish vessels; the certificate of measurement also costs one dollar banco (40 cents nearly) more than for a Swedish vessel.

‡ The cooking house is city property, and the use of it is granted gratuitously only to the crews of the vessels belonging to citizens.

§ For the difference existing in these four charges I have been able to obtain no satisfactory reason. It is probable that the amount of this difference upon the four charges, viz: 2 dollars and 4 skillings banco, is an overcharge.

‖ By ancient regulation foreign vessels pay double brokerage. Brokers assign as a reason the greater trouble which they have with foreign than with native captains. In the former case having to serve as interpreters, guides, &c.—services for which they receive no special compensation.

¶ The charge is discretionary, as the Swedish captain generally pays it himself; it is omitted as one of the broker's charges against the Swedish ship.

** Freight to the United States being higher than to England, the stamp paper used is also of a higher price; and the same of the commission for procuring it.

Signed for the charges and fees upon a Swedish vessel by—

G. S. FLYGERFELL.

STOCKHOLM, *March* 28, 1827.

Signed for the charges and fees upon an American and an English vessel by—

A. E. THORELL.

STOCKHOLM, *January* 27, 1827.

A true copy.

J. J. APPLETON.

Mr. Appleton to Mr. Clay.

No. 16.] STOCKHOLM, *April* 23, 1827.

SIR: I have the honor to enclose to you a copy (marked A) of a letter from the Count of Wetterstedt, of the 21st instant, and another (marked B) of my answer thereto, under date of yesterday.

The Count's letter announces to me that he has been charged with his Majesty's full powers to negotiate and to sign the new treaty of commerce, and that he intends to invite me at an early day to confer with him on the business; mine is merely an acknowledgment of the receipt of his letter, expressive of my readiness to meet him.

The length of time which has elapsed between my first letter to the Count and his answer will not fail to surprise you. It would have made a like impression upon me had I not, in the interval, received the most satisfactory assurances. At the Count's ordinary conference, on the 9th instant, he informed me that the King had charged him with the negotiation of the treaty, and that the information would soon be conveyed to me officially. Understanding from this that the Count was to be sole negotiator, I hastened to express my pleasure at it, and said that the presence of a third person would have been more fit to impede than to facilitate the progress of the negotiation. The Count's reply was, that he did not yet know with certainty whether he would be the sole negotiator, but that he would assure me that if any one was joined to him it would be a person not likely to embarrass us. At the Count's preceding conference, on the 16th instant, he apologized for not having yet answered my letter, and promised that he would do it very shortly, for he was anxious that we should enter upon the work of the treaty, in which, he added, he hoped I was authorized to extend the basis of that expired. I answered that I had instructions to that effect, but that my Government was not disposed to stop at halfway measures if it left the basis of the ancient treaty.

Lord Bloomfield, the English Minister at this Court, will leave this for England on the 27th instant, having obtained permission to absent himself from his post for the space of a year. He appears to be generally regretted. His son will remain charged with the affairs.

I have the honor to be, sir, respectfully, your very humble and obedient servant,

J. J. APPLETON.

Hon. HENRY CLAY, *Secretary of State.*

A.—[With Mr. Appleton's No. 16.]

STOCKHOLM, *le* 21 *Avril*, 1827.

MONSIEUR: J'ai mis sous les yeux du Roi, monsieur, la lettre que vous m'avez fait l'honneur de m'adresser en date du 5 de ce mois.

Sa Majesté a appris avec une véritable satisfaction que le Président des Etats-Unis etoit animé des mêmes dispositions qu'elle pour la conclusion du nouveau traité de commerce entre les deux pays, dispositions qui viennent de se manifester en dernier lieu par la resolution provisoire du Congrès.

Le Roi m'ayant muni de ses pleins pouvoirs pour négocier et signer avec vous, le traité en question, je ne manquerai pas, au première jour, de vous inviter à commencer ce travail.

Je vous prie, monsieur, de recevoir les assurances de ma considèration très distinguée.

LE CTE. DE WETTERSTEDT.

Mr. APPLETON, *Chargé d'Affaires, &c.*

A true copy.

J. J. APPLETON

B.—[With Mr. Appleton's No. 16.]

STOCKHOLM, *April* 22, 1828.

I have the honor to acknowledge the receipt of the letter which your excellency addressed to me, under date of yesterday, informing me that his Majesty had conferred upon you his full powers to negotiate and to sign with me a new commercial treaty between our respective countries, and that, in consequence, you would, at an early day, invite me to enter with you on the business.

I hasten to express the pleasure I have received from this communication, and to say that I shall hold myself ready to wait upon your excellency whenever you shall think it convenient to express to me your wish to confer with me on the subject to which it relates.

I also improve the occasion to renew to your excellency the assurance of my most distinguished consideration.

J. J. APPLETON.

His Excellency the COUNT OF WETTERSTEDT, *Minister of State and of Foreign Affairs of His Majesty the King of Sweden and Norway.*

A true copy.

J. J. APPLETON.

No. 17.] STOCKHOLM, *May* 15, 1827.

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§ 1. Treaty of commerce and navigation between Sweden and Norway and Prussia.

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A copy of a treaty of commerce and navigation between Sweden and Norway and Prussia.

No. 17.] STOCKHOLM, *May* 15, 1827.

SIR: I have the honor to enclose to you a copy of a treaty that has lately been concluded between this country and Prussia. It was sent to me this day by the Count of Wetterstedt. Though it is entitled a treaty of commerce and navigation, you will see that it is only a treaty of navigation, framed, however, upon principles of great liberality.

I have, since the date of my last letter, waited on the Count of Wetterstedt every day on which he held his official conferences, in hopes of reminding him by my presence of the promise contained in his letter of the 21st ultimo. Wishing at the same time not to betray too great an impatience to begin the negotiation, I avoided alluding to the subject. He never, however, suffered me to depart without holding out the expectation that he might soon be able to take up the business, and he yesterday told me that the cause which had prevented his doing so until now having ceased, he would be glad to see me at his office to-morrow to talk over the matter with me. As I understand that he intends paying, in a few days, a visit to his estate in the country, I do not flatter myself with the hope that much progress will be made in the negotiation before his departure. An opportunity will, however, be offered for a disclosure of the views of my Government, which, having been before that of his Majesty during his absence, will enable him to act at once upon them after his return.

Nothing has occured here since my last, a communication of which would prove of the least interest on your side of the Atlantic. I have therefore only to add that I am, with great respect, sir, your very obedient and humble servant,

J. J. APPLETON.

Hon. HENRY CLAY, *Secretary of State.*

[With Mr. Appleton's No. 17, of May 15, 1827.]

Traité de commerce et de navigation entre sa Majesté le Roi de Suède et de Norvège, d'une part, et sa Majesté le Roi de Prusse, de l'autre, fait et conclu à Stockholm le 14 *Mars,* 1827, *et ratifié à Stockholm le* 14 *Avril, et à Berlin le* 4 *Avril de la même année.*

Nous Charles Jean, par la Grace de Dieu, Roi de Suède, de Norvège, des Goths et des Vandales, Savoir faisons: que nous et le Sérénissime et très Puissant Prince et Seigneur Frederic Guillaume III, Roi de Prusse, ayant jugé à propos, pour l'avantage réciproque de nos sujets respectifs, d'entrer en négociation, afin de regler, d'une manière plus précise, les relations commerciales qui existent entre la Suède et la Norvège, d'une part, et les Etats de sa Majesté Prussienne, de l'autre, et ayant nommé, à cet effet, nos plénipotentiaires respectifs, savoir: Nous, de notre côté, nos amés et féaux le Sieur Gustave Comte de Wetterstedt, notre Ministre d'Etat et des Affaires, Etrangères, Chevalier Commandeur de nos Ordres, Chevalier des Ordres de Russie de St. André, de St. Alexandre Newsky et de St. Anne de la Première Classe, Chevalier de l'Ordre de l'Aigle Rouge de Prusse de la Première Classe, et Grand' Croix de celui de Leopold d'Autriche, Un des Dix Huit de l'Academie Suédoise, et le Sieur Paul Chretien Holst, notre Conseiller d'Etat dans le Royaume de Norvège, Commandeur de notre Ordre de l'Etoile Polaire; et sa Majesté le Roi de Prusse, de son côté, le Sieur François Frederic Louis de Tarrach, son Conseiller intime d'Ambassade, Envoyé Extraordinaire et Ministre Plénipotentiaire près notre Cour, Commandeur de notre Ordre de l'Etoile Polaire, Chevalier de l'Ordre de l'Aigle Rouge de Prusse de la Seconde Classe; lesquels, après avoir échangé leurs plein pouvoirs, trouvés en bonne et dûe forme, ont dressé, conclu, signé et scellé à Stockholm, le quatorze Mars de l'année courante, un traité, portant, mot pour mot, ce qui suit:

Au nom de la très Sainte et Indivisible Trinité!

Sa Majesté le Roi de Suède et de Norvège, et sa Majesté le Roi de Prusse, également animés du désir d'étendre et de consolider, pour le bien réciproque de leurs sujets, les relations commerciales, qui subsistent entre leurs Etats respectifs, et convaincus, que ce but salutaire ne saurait être mieux rempli, que par l'adoption d'un système de parfaite réciprocité, basé sur des principes équitables, sont convenus, en conséquence, d'entrer en négociation pour la conclusion d'un traité de commerce, et ont nommé, pour cet effet, des plénipotentiaires, savoir: Sa Majesté le Roi de Suède et de Norvège, le Sieur Gustave Comte de Wetterstedt, son Ministre d'Etat et des Affaires Etrangères, Chevalier Commandeur de Ses Ordres, Chevalier des Ordres de Russie de St. André, de St. Alexandre Newsky et de St. Anne de la Première Classe, Chevalier de l'Ordre de l'Aigle Rouge de Prusse de la Première Classe, Grand' Croix de l'Ordre de Leopold d'Autriche, Un des Dix Huit de l'Académie Suédoise et le Sieur Paul Chretien Holst, son Conseiller d'Etat du Royaume de Norvège, Commandeur de son Ordre de l'Etoile Polaire; et sa Majesté le Roi de Prusse le Sieur François Frederic Louis de Tarrach, son Conseiller intime d'Ambassade, son Envoyé Extraordinaire et Ministre Plénipotentiaire près sa Majesté le Roi de Suède et de Norvège Chevalier de son Ordre de l'Aigle Rouge de la Seconde Classe, Commandeur de celui de l'Etoile Polaire de Suède, lesquels, après avoir échangé leurs plein pouvoirs respectifs, trouvés en bonne et dûe forme, sont convenus des articles suivans:

ARTICLE 1. Les bâtimens Suédois et Norvégiens, qui arrivent sur leur lest ou chargés dans les ports du Royaume de Prusse, de même que les bâtimens Prussiens, qui arrivent dans les ports des Royaumes de Suède et de Norvège, sur leur lest ou chargés, seront traités, tant à leur entrée qu'à leur sortie sur le même pied que les bâtimens nationaux, par rapport aux droits de port, de tonnage, de fanaux, de pilotage, et de sauvetage, ainsi qu'à tout autre droit ou charge, de quelle espéce ou dénomination que se soit, revenant à la Couronne, aux villes, au à des établissemens particuliers quelconques.

ARTICLE 2. Toutes les marchandises et objets de commerce, soit productions du sol ou de l'industrie des Royaumes de Suède et de Norvège soit de tout autre pays, dont l'importation dans les ports du Royaume de Prusse est légalement permise dans des bâtimens Prussiens, pourront également y être importées sur des bâtimens Suédois et Norvégiens, sans être assujetties à des droits plus forts ou autres, de quelle dénomination que ce soit, que si les mêmes marchandises ou productions avaient été importées dans des bâtimens Prussiens; et, réciproquement, toutes les marchandises et objets de commerce, soit productions, du sol ou de l'industrie du Royaume de Prusse, soit de tout autre pays, dont l'importation dans les ports des Royaumes de Suède et de Norvège est légalement permise dans des bâtimens Suédois et Norvégiens, pourront également y être importées sur des bâtimens Prussiens, sans être assujetties à des droits plus forts ou autres, de quelle dénomination que ce soit, que si les mêmes marchandises ou productions avaient été importées dans des bâtimens Suédois et Norvégiens.

Les stipulations de l'article précédent et de celui-ci, sont, dans toute leur plénitude, applicables aux navires Suédois et Norvégiens, qui entreront dans les ports du Royaume de Prusse, ainsi qu'aux navires Prussiens, qui entreront dans les ports des Royaumes de Suède et de Norvège, alors même, que ces

navires respectifs, sans venir directement des ports des Royaumes de Suède et de Norvège, ou bien de ceux de la Monarchie Prussienne, arriveraient en droiture des ports d'une domination tierce ou étrangère.

Article 3. Toutes les marchandises et objets de commerce, soit productions du sol ou de l'industrie des Royaumes de Suède et de Norvège, soit de tout autre pays, dont l'exportation des ports des dits Royaumes, dans leurs propres bâtimens, est légalement permise, pourront, de même, être exportées des dits ports sur des bâtimens Prussiens, sans être assujetties à des droits plus forts ou autres, de quelle dénomination que ce soit, que si l'exportation avait été faite en des bâtimens Suédois et Norvégiens. Une exacte réciprocité sera observée dans les ports du Royaume de Prusse, de sorte, que toutes les marchandises et objets de commerce, soit productions du sol ou de l'industrie du Royaume de Prusse, soit de tout autre pays, dont l'exportation des ports du dit Royaume, dans ses propres bâtimens, est légalement permise, pourront, de même, être exportées des dits ports sur des bâtimens Suédois et Norvégiens, sans être assujetties à des droits plus forts au autres, de quelle dénomination que ce soit, que si l'exportation avait été faite en des bâtimens Prussiens.

Article 4. Les stipulations générales des articles 1, 2, et 3, inclusivement, seront, de même, appliquées aux navires de la colonie de St. Barthelémy de sa Majesté le Roi de Suède et de Norvège aux Indes Occidentalis, qui entreront dans les ports de la Monarchie Prussienne, et aux navires Prussiens, qui entreront dans les ports de la dite colonie.

Article 5. Il ne sera donné, ni directement, ni indirectement, ni par l'un des deux Gouvernemens, ni par aucune compagnie, corporation, ou agent, agissant en son nom ou sous son autorité, aucune préférence quelconque pour l'achât d'aucune production du sol ou de l'industrie, soit d'lun des deux Etats, soit de tout autre pays, importée dans le territoire de l'autre, à cause ou en considération de la nationalité du navire, qui aurait transporté cette production légalement permise, l'intention bien positive des deux hautes parties contractantes étant, qu'aucune difference ou distinction quelconque n'ait lieu à cet égard.

Article 6. Les bâtimens Suédois et Norvégiens, ainsi que les bâtimens Prussiens, ne pourront profiter des immunités et avantages, que leur accorde le présent traité, qu'autant qu'ils se trouveront munis des papiers et certificats, voulûs par les règlemens existans des deux côtés, pour constater leur port et leur nationalité.

Les hautes parties contractantes se réservant d'échanger des déclarations, pour faire une énumeration claire et précise des papiers et documens, dont l'un et l'autre Etat exigent, que leurs navires soient munis. Si, après cet échange, qui aura lieu, au plus tard, deux mois après la signature du présent traité, l'une des hautes parties contractantes se trouverait dans le cas de changer ou modifier ses ordonnances à cet égard, il en sera fait à l'autre une communication officielle.

Article 7. Les stipulations de l'article XI, du traité conclu à Vienne le sept Juin mil huit cent quinze, entre les deux hautes parties contractantes, sont maintenues dans toute leur intégrité.

Article 8. Le présent traité sera en vigueur pendant huit années, à compter du première Avril de la présente année et si, douze mois avant l'expiration de ce terme, l'une ou l'autre des deux hautes parties contractantes n'aura point annoncé à l'autre son intention d'en faire cesser l'effet, ce traité restéra encore obligatoire une année au de là, et ainsi de suite, jusqu'á l'expiration des douze mois, qui suivront l'annonce officielle, faite par l'une des deux hautes parties contractantes à l'autre, pour qu'il soit annullé.

Article 9. Le présent traité sera ratifié par les hautes parties contractantes, et les ratifications en seront échangées à Stockholm, dans l'espace de quatre sémaines après la signature, ou plutôt si faire se peut.

En foi de quoi, nous soussignés, en vertu de nos plein pouvoirs, avons signé le présent traité, et y avons apposé le cachet de nos armes. Fait à Stockholm de quartorze Mars, l'an de Grace mil huit cent vingt sept.

G. COMTE DE WETTERSTEDT. [L. S.]
F. DE TARRACH. [L. S.]
P. C. HOLST. [L. S.]

A ces causes, nous avons voulu accepter, approuver, confirmer et ratifier ce traité, avec tous ses articles, points, et clauses, comme étant en tous points conforme à notre volonté, tout comme par la présente, nous l'acceptons, approuvons, confirmons et ratifions de la manière la plus efficace que faire se peut; voulons et promettons de tenir et de remplir sincèrement, fidèlement et loyalement, ce que contient le dit traité et tous ses articles, points, et clauses. En foi de quoi, nous avons signé la présente de notre propre main, et y avons fait attacher notre grand sceau royal. Fait au Chateau de Stockholm, le quartorzième jour du mois d'Avril, l'an de grace mil huit cent vingt sept.

CHARLES JEAN. [L. S.]

Gustave de Wetterstedt.

Ratification de sa Majesté le Roi de Prusse du Traité susmentionné.

Nous Frederic Guillaume III, par la Grace de Dieu Roi de Prusse savoir faisons par les présentes: qu'ayant lu et examiné la convention, conclue entre nous et sa Majesté le Roi de Suède et de Norvège, et signée par nos plénipotentiaires respectifs á Stockholm le 14 Mars 1827, convention, dont la teneur suit ici de mot á mot.

Fiat insertio:

Nous l'avons trouvée, en tous ses points et articles, conforme à notre volonté:

En consequence de quoi, nous avons accepté, approuvé, confirmé et ratifié la dite convention, comme nous l'acceptons, l'approuvons, la confirmons et la ratifions par les présentes, pour nous et nos successeurs, promettant, sur notre parole royale, d'en faire exactement et fidèlement exécuter le contenu.

En foi de quoi, nous avons signé ces présentes de notre main, et y avons fait apposer notre sceau Royal.

Fait à Berlin, le quatre Avril l'an de Grace mil huit cent vingt sept et de notre règne le trentième.

FREDERIC GUILLAUME, [L. S.]

Bernstorff.

Mr. Appleton to Mr. Clay.

No. 18.] STOCKHOLM, *June* 22, 1827.

SIR: I had, on the 27th ultimo, the honor to receive your letter of the 11th of April, No. 3, enclosing copies of the act of Congress entitled "An act to exempt Swedish and Norwegian vessels from the payment of discriminating duties of import and tonnage for a limited time, and for other purposes," and of the letter by which you had communicated this act to the Baron of Stackelberg. The transmission of these papers was accompanied with instructions to turn them to the best account in the negotiation with which I was charged. Having, as you will have seen by my despatch No. 15, fully anticipated these instructions, I acted no further upon them in the interview I had, immediately after their receipt, with the Count of Wetterstedt, than by inquiring whether he had heard anything from the Baron of Stackelberg on the subject; and I then learned that the act of Congress had been received through him. Indeed, the Count presumed that the act thus received was the original document, for it was executed on *parchment*, and had apparently the autograph signatures of the President of the Senate, the Speaker of the House of Representatives, and that of the President of the United States. He inquired whether it was our practice to send similar documents in that form, and dwelt so much upon the circumstance that I was forced to conclude that this Government had not been more pleased with the act itself than with the form in which they had received it. I now advert to the circumstance only as a proof of the importance attached here to forms.

I have now the honor of enclosing to you copies of a letter from the Count of Wetterstedt, under date of the 18th instant, announcing to me the birth of another son to the Prince Royal, and of my congratulatory answer thereto. The Princess and her child are doing well. This event, which has given much pleasure here, will, as I have been informed this day, be formally announced to the President by the King; notices of this kind have heretofore been made "to the President and Senate of the United States." I believe, however, that, in consequence of some suggestions they have received from the Baron of Stackelberg, they will so far deviate this time from their former practice as to address the letter to the President alone. My opinion having been asked, it was unhesitatingly given in favor of the change.

I had sought the interview of this day with the Count of Wetterstedt to hand him some remarks upon a counter project of a treaty of commerce which I had received from him on the 20th instant. This was the eighth conference which I had held with the Count on the subject of the treaty since the 15th ultimo, the date of my last despatch. In the absence of a trusty conveyance for my letters, I abstained from writing to you, at the time, what had passed at these conferences. This being intended to go by mail, I am still constrained to suppress all details, and to say merely that a perfect understanding has now been established between the Count and myself, in the sense of your instructions, on the points on which you were desirous that the old treaty should be extended, with an exception, however, in relation to the article of salt, about which we are still at variance. Should I succeed in carrying this last point, the signature of the treaty will suffer no further delay. Should I fail, a reference to the instructions with which you have honored me will apprise you of the course which it is my duty to pursue.

I have the honor to be, sir, very respectfully, your most obedient and humble servant,

J. J. APPLETON.

Hon. HENRY CLAY, *Secretary of State.*

[With Mr. Appleton's No. 18.]

STOCKHOLM, le 18 *Juin*, 1827.

MONSIEUR: C'est avec la plus vive satisfaction que je m'empresse de vous informer, monsieur, que son Altesse Royale Madame la Princesse Royale est accouchée au Château de Haga, aujourd hui à midi 11 minutes d'un Prince, qui recevra, sur les fonts de baptême, les noms de François Gustave Oscar et le titre de Duc d'Uplande.

En vous invitant, monsieur, deporter cette nouvelle à la connoissance de votre Gouvernement, le Roi connoit trop bien d'avance les sentimens d'amitié que lui porte le Gouvernement des Etats Unis d'Amérique, et qui correspondent entièrement aux siens, envers lui, pour ne pas être persuadé de l'intérêt sincère, qu'il prendra à un événément, qui offre une nouvelle garantie au bonheur à venir des deux Royaumes-Unis.

Je vous prie, monsieur, d'agréer les assurances de ma considèration très distinguée,

LE CTE. DE WETTERSTEDT.

M. APPLETON, *Chargé d'Affaires, &c.*

[Answer.]

STOCKHOLM, le 18 *Juin*, 1827.

MONSIEUR LE COMPTE: J'ai l'honneur d'accuser la réception de la lettre par laquelle votre excellence vient de m'informer que son Altesse Royale Madame la Princesse Royale est heureusement accouchée d'un Prince qui portera le nom de François Gustave Oscar et le titre de Duc d'Uplande.

Je m'empresse d'offrir à votre excellence mes felicitations les plus vives sur cet heureux événement, et de l'assurer que mon Gouvernement, fidèle aux sentimens d'amitié qu'il à toujours portés à sa Majesté le Roi de Suède et de Norvège, prendra une part bien sincère à la satisfaction que sa Majesté en éprouve.

Je profite aussi de cette occasion pour renouveler à votre excellence l'assurance de ma considèration la plus distinguée.

J. J. APPLETON.

A Son Excellence Monsieur le COMTE DE WETTERSTEDT, *&c., &c., &c.*

Mr. Appleton to Mr. Clay.

No. 20.] STOCKHOLM, *July* 11, 1827.

SIR: It is with great pleasure that I have the honor to announce to you that the negotiation with which I was charged has resulted in the signature of a new treaty of navigation and commerce between the United States and his Majesty the King of Sweden and Norway, which you will receive herewith.

You will see that this new treaty secures all the interests for which you had instructed me to provide. By it the vessels of the United States are placed, in the ports of Sweden, Norway, and the island of St. Bartholomew, on a footing of perfect equality with the vessels of those countries, with reference to the general faculty of importing and exporting, and to the duties and charges of all kinds payable in such cases on the vessels and their cargoes; the trade between Sweden and Norway and their West India colony is opened to the citizens of the United States on the same footing as to natives of those countries; and the produce of the United States are admitted in Sweden, Norway, and St. Bartholomew on the same terms as similar produce from any other foreign country; and, moreover, in Sweden and Norway on the same terms as similar produce from their West India colony, and in the colony as similar produce from the mother country.

The only exceptions to these principles that have been recognized are the following:

1. As regards vessels, the reserve made by each State of its own coasting trade.

2. As regards both vessels and produce, the reserve made by Sweden and Norway of their trade with Finland.

3. As regards produce alone, the reserve made by Sweden and Norway of particular advantages to the tallow and tallow candles of Russia.

In the account of the conferences which accompanies this, you will see the reasons which have operated with me for the admission of the 2d and 3d exceptions, which already existed under the former treaty, although not mentioned by it. If, in the treaties lately concluded between this Court and those of Denmark and Prussia, there are no reserves of this kind, it is not because they do not actually exist in reference to them, but because the trade to which they relate having always been the object of regulations distinct from those applicable to the foreign trade of Sweden, was not considered by the parties as affected by those treaties. The same course might have been adopted by me, but I deemed it more regular that the exceptions should be specially mentioned providing this against any pretension which this Government might hereafter set up to a right of multiplying such exceptions, founded upon our silent acquiescence in those existing at the formation of the treaty. The anxiety of the Swedes to procure markets for their iron might, it was feared, induce them to make, sooner or later, tariff treaties with France and the Netherlands to the detriment of the principles established in their treaty with us, and every care was taken to keep out of the treaty whatever was calculated to countenance such a deviation from its spirit.

You will observe that, agreeably to your instructions, an article has been introduced in the treaty which provides that the two Governments shall give no preference in their purchases with reference to the character of the vessel in which the goods were imported. In the same spirit I have obtained the insertion of an article which interdicts the laying of any higher or other duties on vessels employed in the trade between the two countries than upon vessels employed in the trade between either of them and any other country; the importance of such an article was proved to me by what had lately occurred between France and England. By the convention of 1825 it had been agreed that the vessels of each of these Powers should not, when employed in the direct trade between the two countries, pay in the ports of the other higher tonnage duties than were paid by national vessels. But no provision in that convention having been made of the nature of that to which I now refer, the French Government, with a view to favor its *distant* navigation at the expense of that employed between France and England, suddenly raised the tonnage duty payable by her own vessels coming from England to the par of that payable by *foreign* vessels, and defeated all the hopes which the English ship-owners had built upon the convention.

In addition to the articles in which the above mentioned interests are generally provided for, I have inserted several others in the treaty of a more special nature, taken almost verbatim from that lately expired. Although a liberal application of the principles already established might have insured nearly all, if not all, the facilities and exemptions which are guaranteed by these additional articles, still I did not think it expedient to omit them. They were retained as useful specifications of rights better calculated to the intelligence of the parties immediately interested than general principles, the application of which to particular cases might not be equally obvious. These articles have, however, been carefully revised, and, where it was required, changed so as to harmonize as much as possible with our own custom-house and local regulations, and with the phraseology of the other articles. What was superfluous has been retrenched; what was thought susceptible of being better expressed has been altered. The most important change has been made in the 10th article of Mr. Russel's treaty, which, as stated by your instructions, had failed to insure to our shipwrecked countrymen all the advantages it contemplated. This article has become the 15th of the new treaty, with the insertion of a clause that the saving companies are not to compel an acceptance of their services but under such circumstances and after such delays as are applicable to native captains and crews. The 12th article of the late treaty, which re-enacts a great portion of the treaty made by Franklin, required some change to make it applicable to Norway as well as to London. Such a change was made, and the last clause altered so as to show more distinctly what were the other treaties concluded by the two Powers to which its provisions were rendered subordinate. I have admitted, as you will see, an article stipulating the mutual delivery of deserters. Although I had no special instructions in relation to this point, I thought that the introduction of a similar provision in our treaty with Central America having settled the question of principle, I ought not to be detered from consenting to it, by the idea that it might prove more advantageous to the other party than to us. I would not have suggested the article, but when it was proposed to me I could not refuse it without departing from the spirit of enlarged liberality which had presided at the negotiation. After all, the greater inducement to desert from the Swedish and Norwegian vessels may be compensated by the greater number of American vessels engaged in the trade between the two countries.

I have enclosed with this a succinct account of all that has occurred at the twelve conferences which preceded the conclusion of the treaty, as also copies of my original project; of the Count's counter project; of a note sent to the Count in support of my proposal to retrench the exception relative to salt from the 2d article of his project; of the additional act of the treaty of jurisdiction; of a private correspondence with the Count of Wetterstedt in relation to the invocation at the head of the treaty, and of two articles originally prepared by the Count in lieu of the separate article. All these papers, and an additional one containing the basis of the negotiation, are numbered with reference to their connexion with the conferences.

The treaty which I carried to the conference of the 4th of July for signature having at that conference required some alterations to make it agree with that which the Count had prepared, not to lose the opportunity of signing it that day, we signed it, notwithstanding its erasures and interlineations,

intending subsequently to sign fairer copies without altering the date. The preparation of these copies, which I had committed to my secretary, Mr. Cucheval, was not completed until the 9th instant. On that day the document already signed was cancelled, and the new exemplifications signed and sealed. These two originals are intrusted to Mr. Cucheval, with directions to take charge of one to Washington, and to leave the other with our consul at Liverpool, to be forwarded by the packet succeeding that in which Mr. Cucheval will embark. I have advanced to Mr. Cucheval, on account of the United States, three hundred and ninety-four dollars and seventy cents, in part payment of the sum of thirteen hundred and twenty dollars which I have promised him for his expenses and time in going to Washington with the treaty and returning here; subjecting, however, the arrangement, as it was my duty, to your approbation. In making him this allowance, I have calculated his travelling expenses to Washington and back to Stockholm at six hundred dollars, and his compensation for four months, at six dollars a day, at seven hundred and twenty. If you should think fit to allow him something for copying during the negotiation, he will have well deserved it by his industry, fidelity, and intelligence. My confidence in him rests upon a friendship dating back more than twenty years. The Count of Wetterstedt has requested that my messenger might take charge of despatches for the Baron of Stackelberg. I have reasons to believe that the ratification of the King will be forwarded with those papers.

Hoping that, in the negotiation which has just ended, I have not misunderstood your instructions, and that its result will be advantageous to our dear country, I have the honor to be, with great respect, your most obedient and humble servant,

J. J. APPLETON.

Hon. HENRY CLAY, *Secretary of State.*

Journal of the conferences between J. J. Appleton and the Count of Wetterstedt, Plenipotentiaries for the conclusion of a new treaty of navigation and commerce between the United States of America and the King of Sweden and Norway, in 1827.

On the 16th of May I called at the Cabinet, in compliance with an invitatiom from the Count of Wetterstedt, and had with him a long and free conversation on the subject of the treaty we were charged to negotiate. He stated, in substance, that this Government was disposed to place its commercial relations with all foreign Powers upon the most liberal footing, and in proof thereof referred to the treaties it had lately concluded with Denmark and Prussia. I stated, on my side, that the policy of my Government was not, in this respect, different from that of Sweden, as he would see by our latest treaties, which had fixed the principles on which we were willing to enter into commercial arrangements with other States. After these mutual declarations it appeared easy to find a basis for the incipient negotiation. The Count proposed at once that we should start from the principle that whatever might be imported from or exported to a foreign country in the territories of either party in its own vessels might also be imported from or exported to such foreign country in the vessels of the other party without paying any other or higher duties on the vessel or cargo than were payable by natives in the same case. I agreed to this proposal, *provided* it should apply to the colony of St. Bartholomew as well as to Sweden and Norway, and place the trade between that colony and Sweden and Norway upon the footing of a foreign trade, in which, as such, we could, under his proposition, participate on a footing of equality with the subjects of his Majesty in the two hemispheres. These *provisoes* opened a wide field of discussion between the Count and myself, in which it was his object to show that the trade between the mother country and its colony was in fact a coasting trade, which he supposed it was the intention of both parties to reserve for their own navigation, and mine to prove that the trade in question had none of the features of a coasting trade, but all those of a foreign one, in which, therefore, we might be allowed to participate without departing from the principle he had offered as a basis. At last the Count declared that he had no authority to extend the principle mentioned to the width for which I contended, and must, therefore, before going further, consult the King. He promised, however, to give me an early answer. Anxious that my provisoes should not appear at the King's council in the light of exceptions to the principle proposed by the Count, I left with him a memorandum of two bases which I proposed for his acceptance: the first containing, in its generality, both the Count's proposal and the provisoes with which I offered to accept it, and the second, relative to the produce of the soil or industry of either country, so elastically worded as to adapt itself to the ground which might be gained in the discussion of the first, without, however, furnishing *prima facia* reasons against its adoption. For these bases I beg leave to refer you to the enclosed paper, No. 1.

Second Conference.

On the 18th of May the Count of Wetterstedt declared himself ready to negotiate with me upon the two bases which I had left him in memorandum at our last interview, and it was agreed between us that each should prepare a project of a treaty for the next conference, fixed for the 28th of May.

Third Conference.

On the 28th of May I had, agreeably to appointment, a meeting with the Count of Wetterstedt. The Count had not yet had time to prepare his project; mine was ready, but I did not communicate it.

Fourth Conference.

On the 4th of June I again waited on the Count of Wetterstedt, and learned that his project was in the hands of the Council of State. Conceiving from these delays that it was the Count's desire to see my project before he communicated his, I offered him frankly the perusal of it. He said he would now receive it as a confidential communication, and so it was left with him. This project is herewith enclosed, No. 2.

Fifth Conference.

On the 11th of June I had a new interview with the Count of Wetterstedt, at which he opened my project and examined with me its various stipulations. He questioned the practicability of admitting my first article, as it secured here to American citizens certain rights which were not conceded to the King's subjects generally, but were a matter of privilege attached to localities. He also questioned the propriety of making a separate mention of the island of St. Bartholomew in the second, third, fourth, and seventh articles. He thought that all we claimed in relation to that island might, in each case, be expressed in the second paragraph, beginning with "Et reciproquement," by adding "dans l'ile," or "de l'ile de St. Barthelemy," after "Suède et Norvège." I answered that I would also have preferred this mode of introducing the island of St. Bartholomew if it had not been liable to the objection of leaving in doubt our right to navigate between the mother country and the colony on the same terms as the natives, and to introduce our produce in either upon as favorable footing as the same produce from one of them into the other. That if he could find any other manner of stating what I wished distinctly, I would readily give up my own. As to the changes which had been made in the articles adopted from the late treaty, the Count considered them as improvements upon the ancient text. To the additional provision in favor of such of our vessels as might be shipwrecked on the coasts of Sweden and Norway, he gave a ready assent, as also to what is stipulated in the fifth, sixth, eighth, fourteenth, and sixteenth articles of my project. When this review was terminated, I inquired what would be the effect of the new treaty upon the privileged navigation and commerce between Sweden and Finland. The Count replied that this navigation and commerce would of course be left unaffected by the general provisions of the treaty. Sweden and Finland, formerly under the same Government, were still bound together in the most intimate manner by their mutual wants. It was from Finland, as I well knew, that the markets of Stockholm were supplied with the necessaries of life, including even fuel. Finland was equally dependent upon Stockholm for articles it could not as well procure elsewhere. This mutual dependence had been recognized by treaties made with Russia since the cession, where the intercourse between them had been left nearly what it was before. No tonnage duties were exacted on either side, and the articles of produce or manufacture in exchange between the two countries were subjected to a very low rate of duty when compared with those established in the tariff affecting the trade with foreign countries. The trade between Sweden and Finland was considered by the Powers with whom Sweden had lately made treaties so much out of the sphere of those treaties that it had not even occurred to them to have it excepted from their operation; and that the United States considered this trade in the same light might be inferred from the fact that they had never asked, under the expired treaty, that their produce should be admitted in Sweden on the footing of those of similar nature coming from Finland. He hoped that these considerations, while they show the propriety of excepting the trade in question from the operation of the new treaty, would dispense with the necessity of referring to it in the treaty, even to withdraw it from the mass of foreign trade which it would throw in common. I answered that the reasons he had assigned appeared to me conclusive in favor of *assimilating* the trade between Sweden and Finland to the coasting trade of the former, yet, as it was a trade with a foreign territory, in which, as such, we were called, by the general provisions of the treaty, to participate, it ought, I conceived, to avoid all doubt in future, to be nominally excepted. The Count declared that he had no objection to comply, in this respect, with my wishes, and there the subject was dropped to be resumed in its proper place.

Sixth Conference.

Having, agreeably to appointment, called again at the Count's office, on the 17th of June, I was requested by the Count to call again the next day, when he would communicate to me his "project." Before the hour assigned for our meeting I received, on the 18th, a billet from the Count, announcing that an "august birth" put it out of his power to comply with his promise, but that he would certainly see me on the 20th.

Seventh Conference.

At the conference of the 20th I had at last a view of the long-promised "project." This "project" was in fact a counter project, for, considering the request that I had made that the communication of mine should be deemed confidential as absolete, (as he well might from the tenor of our intervening conversations,) he had, after submitting it to the Council of State, transferred most of its articles into his own. This "counter project" is enclosed, No. 3. In reading it over with him I made upon it such observations as then occurred to me, which I will not now repeat, as they were made the subject of a "memorandum" which I left with him at the succeeding conference. Before leaving the Count, I was informed that it was his wish that an article should be added to those he had handed to me providing for the mutual delivery of deserters from the Navy and the merchant service of the two countries. I said that though I had no special instructions on this subject, which was not necessarily connected with a treaty of commerce, I would not refuse to introduce some dispositions in the treaty in relation to it after we had come to an understanding respecting what was already before us.

Eighth Conference.

On the 22d of June I delivered to the Count of Wetterstedt a memorandum containing my remarks upon his "project." In the copy of the project, which you will find enclosed, No. 3, these remarks are noted in the margin. In favor of the restoration of the first article of *my* project in its *new* form, I laid everything which a desire to secure to our citizens settling in Sweden and Norway all the rights, privileges, and immunities in commerce which are enjoyed by the natives could dictate. Having referred, among other topics, to the last treaty, where these rights had been recognized, the Count observed that he presumed there could be no objection to the re-insertion of the article of that treaty referring to these rights. I said that I had made no other change in that article than that which was required to secure its harmony with the other articles of my project; rather, however, than to leave these rights unprovided for, I would take the old article in question, retrenching from it the expression of "the most favored nations," which sounded strangely to my ears in a treaty founded on the principle of "*equality.*" My next

remarks fell upon the restriction he had introduced in the second article of his project in relation to the importation of salt. Their substance is embodied in a note I subsequently addressed to the Count on the subject, and to which I beg leave to refer you. It is herewith enclosed, under No. 4. The Count thought me rather unreasonable in insisting upon the retrenchment of the proposed restriction. The concessions that were already made to our navigation had not been obtained from the Chamber of Commerce without some difficulty. We had almost exclusively the navigation between the two countries; the faculty of importing salt, if extended to us, would, he feared, throw also into our hands this branch of navigation, on which the Swedes had heretofore relied for their homeward freights. The claim had been resisted in the case of Denmark, with whom competition was much less feared than with us, and was so repugnant to the long-established policy of this country that the Swedish merchants would, one and all, prefer a simple renewal of the expired treaty to the conclusion of a new one threatening their navigation with the loss of this article of importation. The Count then inquired whether I was authorized to consent to a simple renewal of the former treaty. I replied that the discussion of this point appeared to be now premature; that it would be time to seek for a new basis for the negotiation when it was shown that I was insisting upon anything that could not fairly be derived from those to which we had already agreed; that I considered my proposition as strictly within the range of these bases; and that I could not persuade myself that he would persist in rejecting it, after having again taken into mature consideration the reasons I had urged in its favor, which I would beg leave to submit to him in the form of a note, that he might make such use of them as he should judge proper. The Count said that if I addressed him a note on the subject it would receive all due attention. Passing, then, from the second article of his project to the fourth, we agreed to make the fate of the retrenchment I had therein proposed dependent upon that which had just been discussed. As regards the eighth article, the Count could with difficulty be brought to see the necessity of the addition I had proposed. Upon my persisting, he, however, consented to its admission, with such a change in the order of my phraseology as he supposed was necessary for the clearness of the sense. All the other alterations I had proposed in the remaining articles were readily admitted.

On the 24th of June I sent in my note (enclosure No. 4) relating to the proposed retrenchment from the second article of the Count's project.

Ninth Conference.

In a short interview I had with the Count on the 28th of June I learned that my note had produced a favorable effect in the Council of State. I then ventured to express a wish that, if the obstacle against which the note was directed should be removed, the treaty might be signed on the 4th of July, the double anniversary of my country's independence and of the birth of the Prince Royal. The suggestion appeared to strike the Count agreeably. Before leaving him, I said that I would wish so to restrict the seventh article of the treaty of 1783 as to bind the two parties only in relation to property belonging to the subjects of States who recognized the principle on which that article was founded, and entered into explanations tending to show that it was the policy of our two Governments only to adopt the principle in question with such a restriction. My observations appeared to him just, but he was very unwilling to do anything that was calculated to bring the principles of the *old* treaty in discussion continued in force by the treaty of 1816. He had not objected to their being again mentioned in the same manner, for this seemed to be done as a matter of course; but if any provision were now made respecting the application of these principles, the whole subject would assume a character of importance inviting comments, and imposing the necessity of explanations in their relations with other Powers which it was the wish of Sweden to avoid. He would, however, mention the subject in council and let me know the result.

Tenth Conference.

On the 30th, having again met the Count of Wetterstedt according to appointment, I was informed that the King, anxious for the happy conclusion of the negotiation, had consented to the withdrawal of the restriction on the second article of the Count's project. I also received a new draught of an article in substitution of the first article of my project. This article is the one inserted in the treaty; it varies but little from the first article of Mr. Russel's treaty. The subject of deserters having again been brought on the carpet, the Count presented me an article respecting them, copied almost verbatim from a similar arrangement made a few weeks since with the Netherlands. It conceded the delivery of deserters to consuls upon their simple application, unsupported by the production of any documentary evidence proving the connexion of the persons claimed with the vessel to which they were alledged to belong, and regarding only seamen *not of the country* from which their extradition was asked. Deriving my authority to stipulate on this subject only from the thirty-first article of our late treaty with Central America, I had determined to confine myself within the limits it had traced. After pointing out, therefore, to the Count the particulars in which his projected article differed from that precedent, I proposed that it should be changed so as to agree with it. He agreed to the proposal so far as it related to the obligation to produce documentary evidence of the connexion of the deserters with the vessels in behalf of which they were claimed, but was not equally ready to grant the *extradition* of deserters generally without any reference to the country to which they belonged. The Norwegians, he said, were particularly anxious that the ground of *extradition* should not apply to natives. I replied that such a limitation would render the article of no value whatever to the United States. The article, even changed as I wished it, would still be greatly in favor of Sweden and Norway, for, owing to the high wages paid in our service, desertion from it was of rare occurrence, while the contrary cause acted as a permanent inducement to desertion from Swedish and Norwegian vessels. The Count yielded the point, and he promised to send me the next day a new article modelled upon the thirty-first article of our treaty with Central America, with the only addition of a clause providing that if the deserters had committed any crimes or misdemeanors their extradition was to be stayed until the tribunal charged with their case should have given its sentence and the sentence been executed. After having thus disposed of the subject of deserters, we discussed that of quarantine. To the article treating of it the Count wished the addition of a paragraph somewhat to this effect: "That the provisions of this article were not to be so understood as to exempt vessels from the effect of the other health regulations in force in the countries where they arrive." Seeing that such a clause would render the whole article a useless appendage to the treaty, I expressed an opinion to that effect. The Count said that the addition had been asked by the deputies of Norway in consequence

of the difference which existed between the quarantine regulations of their country and those of Sweden. I inquired in what consisted the difference; and on learning that, besides the conditions imposed upon vessels by our article, the Norwegians further required that the vessels should not on the passage have communicated with a vessel from an infected place, I proposed to supersede the necessity of the desired paragraph, that this additional condition should be inserted in the body of the article. The Count consented to this, and the life of the article was saved. On coming to the fifteenth article of the Count's project, which continues in vigor certain articles of the treaty of 1783, I handed to the Count the draught of a clause which I was desirous, in conformity to the views developed at the last conference, should be appended to that article: "Mr. Appleton propose que le 15e article finisse par les mots suivans: *Et que les dispositions de l'article sept du traité de Paris du trois Avril, 1783, mentionné ci-dessus, ne seront point applicables aux propriétés appartenant à des citoyens ou sujets de Puissances qui ne reconnoitroient pas les principes sur lequel il est basé.*" I hoped, I said, that so cursory a notice of the article which we wished to restrict would not be liable to the objections he alluded to at our last meeting. The Count looked at me with an air of incredulity, and said it would not do. On reflecting upon the subject, he was more and more confirmed in the ideas he had expressed. The gentlemen (meaning Counsellor Wirsen and the president of the Board of Trade, *Scogman*, who have been his advisers during the negotiation,) he added, shared all his repugnance to touch the old treaty; he would frankly own to me that on subjects of this kind Sweden could not be too cautious. It was to no purpose that I repeated that caution had dictated my proposal as much as a desire that the principle of "free ships making free goods" should not be perverted to its own destruction by operating in favor of those who opposed it. The determination of this Government appeared to be made up to leave things as they were, and we proceeded to another subject. Having omitted, in the article of ratification furnished in my first project, to allude to the advice and consent of the Senate, the corresponding article in the Count's project was now, at my request, so altered as to make the President's ratification depend upon the advice and consent of the Senate, as it does in all our treaties. Nothing now remained but to arrange an article for the exception of the trade with Finland from the general provisions of the treaty. The project of one was presented by the Count. It is herewith enclosed, (No. 5.) It did not altogether please me, but might still have been admitted had it not left a lacune for which the Count proposed to provide by the insertion in the treaty of a *new article* of a general nature, which I thought it my duty to refuse. A copy of this article is also enclosed, (No. 6.) As both of these articles were grounded upon the stipulations of the additional act of the treaty of Fredricshamn, I have thought it proper to furnish you also with a copy of the said act under No. 7. You will see that, besides reserving special advantages to the trade between Sweden and Finland in vessels of the two countries, it secures to the tallow and candles of *Russia* a preference over like articles brought to Sweden from any other place, in compensation of a similar favor accorded to the herring, stockfish, and red lead of Sweden and Norway in Russia. The Count of Wetterstedt stated that it was the intention of this Government to obtain in the treaty now negotiating with Russia a renewal of these reciprocal advantages. Russia had already proposed that the favor accorded to her tallow and candles should be extended to her hemp and duck. It was to save the faculty of granting respectively *such* favors, founded upon proper equivalents, that he had now proposed the *new* article by which each of the contracting parties engaged not to grant any special advantages in commerce and navigation to any other nation which should not be made common to the other contracting party freely, if the grant was free, or on giving an equivalent, if the grant was conditional. To this I replied, that from the beginning, recognizing a particular character in the trade between Sweden and Finland, I had been willing to save from the general operation of the treaty all the ground already covered by the additional act to the treaty of Fredricshamn; but that I had no inclination to go a single step further. I deemed it my duty to oppose any exception to the general principles of the treaty, not commanded, as these were, by necessity, as tending to destroy, so far as it went, the equality which it was the function of those principles to establish. How much more must I resist the introduction of an article which was to open wide the door to all kind of exceptions, and which, if used to its full extent, would leave all the remaining general provisions of the treaty a dead letter. To grant or to seek favors in their commercial intercourse with other nations had heretofore been no part of the policy of the United States, and I would not suppose them disposed to change their course of conduct in order to exercise themselves the faculty implied in that article, or to qualify themselves to receive under it. Considering, therefore, that in its bearing upon the other parts of the treaty it could only prove injurious to the principle on which it was founded, and that it could not in itself be of the least practical benefit to my country, I proposed to supersede its necessity by adding to the exception already recognized in the *separate article* another, of which the tallow and candles of Russia should be the object. The Count yielded up his point, and it was agreed that he should produce a new separate article draughted in the sense of that to which I had already consented, but containing further a reserve in favor of the tallow and candles of Russia. At the close of this conference, in which all the difficulties in the way of a conclusion of the treaty had been surmounted, I expressed a wish that the invocation of the "Holy and Indivisible Trinity," placed at the head of Mr. Russel's treaty, might in the present be retrenched, as no longer suited to the great variety of religious opinions existing in my country in relation to the dogma which it consecrates. The Count did not approve of the change, but still promised to reflect upon it and to let me know the result. The next day I received a letter from him, a copy of which you will find enclosed, (No. 8,) inviting me to withdraw my proposal in relation to the invocation. Persuaded that this letter had not been written until after the Count had consulted the King upon the subject of it, and that it was therefore the personal wish of the King that it expressed, I thought it due to the spirit displayed by the King and his minister during the negotiation not to show myself inflexible upon a point to which, from respect to the prevailing opinion here, they were disposed to attach much importance, and I accordingly yielded, as you will see by the answer enclosed, (No. 9,) which I sent to the Count. With the Count's private letter I had received the new article he had promised me on the subject of deserters. Finding it conformable to the views I had expressed, it was, without any further change, inserted in the treaty.

Eleventh Conference.

On the 2d of July I had another conference with the Count to agree upon a *new* draught of the separate article. He produced an article which was still liable to some objections. Changes were made, and at last the article was adopted such as it is now inserted after the treaty.

Twelfth Conference.

At this conference, which took place on the 4th of July, we compared our copies of the treaty, and, after exchanging our full powers, signed and sealed the treaty.

J. J. APPLETON.

No. 1.

Memorandum handed to the Count of Wetterstedt on the 16th of May, 1827.

1°. Que la grande navigation (c'est à dire celle qui n'est point de cabotage) des deux parties contractantes sera traitée dans les ports lu'ne de l'autre, et dans ceux de leurs colonies, sur le même pied que la navigation nationale, tant pour la faculté générale d'importation et d'exportation, que pour les droits à payer sur les navires et les cargaisons dans l'un et l'autre cas.

2°. Que les produits du sol et de l'industrie de chacune des parties contractantes ne seront point assujéttis dans les territoires de l'autre ni dans ses colonies, à des droits plus hauts ou autres que ceux qui seront prélevés sur les produits de même nature venant de partout ailleurs.

No. 2.

Projet du Plenipotentiaire des Etats Unis d'Amérique.

Les Etats d'Amérique et sa Majesté le Roi de Suède et de Norvège également animés du désir d'étendre et de consolider les relations commerciales qui subsistent entre leurs territoires respectifs, et convaincus que ce but ne sauroit être mieux rempli qu'en les plaçant sur la base libérale d'une parfaite egalité et réciprocité, sont convenus en conséquence d'entrer en négociation pour un nouveau traité de commerce et de navigation, et ont nommé à cet effet des plenipotentiaires savoir:

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Lesquels, après avoir échangé leurs pleins pouvoirs respectifs trouvés en bonne et due forme, ont arrêté les articles suivans:

ARTICLE 1. Les citoyens et sujets de chacune des deux hautes parties contractantes pourront librement fréquenter toutes les côtes et territoires de l'autre, y résider et commercer en toute espèce de produits et de marchandises, y former des établissemens industriels et autres, et y jouiront de tous les droits, privilèges et exemptions relativement au commerce, à la navigation et à l'industrie dont jouissent ou jouiront les nationaux, à charge de se soumettre aux lois et aux reglemens auxquels ceux-ci sont assujétis.

Il est entendu, cependant, que le présent article n'est point applicable à la navigation de côte ou de cabotage d'un port des Etats Unis à un autre port desdits Etats, ni à la navigation d'un port de Suède ou de Norvège à un autre, ni à celle entre ces deux derniers pays, que chacune des deux hautes parties contractantes se réserve.

ARTICLE 2. Les bâtimens Suédois et Norvégiens et ceux de l'ile St. Barthelemy qui arriveront sur leur lest ou chargés dans les ports des Etats Unis d'Amérique, de quelque lieu qu'ils viennent, seront traités à leur entrée, pendant leur sejour et à leur sortie sur le même pied que les bâtimens nationaux venant du même lieu, par rapport aux droits de tonnage, de fanaux, de pilotage et de port, ainsi qu'aux vacations des officiers publics et à toute autre droit ou charge de quelque espèce ou dénomination que ce soit perçus au nom ou au profit du Gouvernement, des administrations locales ou d'etablissemens particuliers quelconques.

Et réciproquement les bâtimens des Etats Unis d'Amérique qui arriveront sur leur lest ou chargés dans les ports de Suède et de Norvège, de quelque lieu qu'ils viennent, seront traités, à leur entrée, pendant leur séjour et à leur sortie sur le même pied que les bâtimens nationaux venant du même lieu, par rapport aux droits de tonnage, de fanaux, de pilotage et de port, ainsi qu'aux vacations des officiers publics ou à tout autre droit ou charge de quelque espèce ou dénomination que ce soit perçus au nom ou au profit du Gouvernement, des administrations locales ou d'etablissemens particuliers quelconques.

Il en sera de même à l'ile St. Barthelemy où les bâtimens des Etats Unis d'Amérique qui y arriveront sur leur lest ou chargés, de quelque lieu qu'ils viennent, seront traités sur le même pied que les bâtimens nationaux venant du même lieu par rapport aux droits de tonnage, de fanaux, de pilotage et de port, ainsi qu'aux vacations des officiers publics ou à tout autre droit ou charge de quelque espèce ou dénomination que ce soit perçus au nom ou au profit du Gouvernement, des administrations locales ou d'etablissemens particuliers quelconques.

ARTICLE 3. Tout ce qui pourra légalement être importé dans les Etats Unis d'Amérique par bâtimens desdits Etats pourra également y être importé par bâtimens Suédois et Norvégiens ou de l'ile St. Barthelemy, de quelque lieu qu'ils viennent, sans payer d'autres ou plus hauts droits ou charges de quelque espèce ou dénomination que ce soit perçus au nom ou au profit du Gouvernement, des administrations locales ou d'etablissemens particuliers quelconques, que si l'importation avoit lieu en bâtimens nationaux.

Et réciproquement tout ce qui pourra légalement être importé dans les Royaumes de Suède et de Norvège par bâtimens Suédois ou Norvégiens ou de l'ile St. Barthelemy pourra également y être importé par bâtimens des Etats Unis, de quelque lieu qu'ils viennent, sans payer d'autres ou de plus hauts droits ou charges de quelque espèce ou dénomination que ce soit perçus au nom ou au profit du Gouvernement, des administrations locales ou d'etablissemens particuliers quelconques, que si l'importation avoit lieu en bâtimens nationaux.

Il en sera de même à l'ile St. Barthelemy où tout ce qui pourra être légalement importé par bâtimens Suédois ou Norvégiens ou de l'ile pourra l'être également par bâtimens des Etats Unis d'Amérique, de quelque lieu qu'ils viennent, sans payer d'autres ou plus hauts droits ou charges de quelque espèce ou dénomination que ce soit perçus au nom ou au profit du Gouvernement, des administrations locales ou d'etablissemens particuliers quelconques, que si l'importation avoit lieu en bâtimens nationaux.

ARTICLE 4. Tout ce qui pourra légalement, être exporté des Etats Unis d'Amérique par bâtimens des-

dits Etats, pourra également en être exporté par bâtimens Suédois et Norvégiens ou de l'ile St. Barthelemy, sans payer d'autres ou plus hauts droits ou charges de quelque espèce ou dénomination que ce soit perçus au nom ou au profit du Gouvernement, des administrations locales ou d'etablissemens particuliers quelconques que si l'exportation avoit lieu en bâtimens nationaux.

Et réciproquement tout ce qui pourra être légalement exporté des Royaumes de Suède et de Norvège par bâtimens Suédois et Norvégiens ou de l'ile St. Barthelemy pourra également en être exporté par bâtimens des Etats Unis d'Amérique, sans payer d'aûtres ou plus hauts droits ou charges de quelque espèce ou dénomination que ce soit perçus au nom du Gouvernement, des administrations locales ou d'etablissemens particuliers quelconques, que si l'exportation avoit lieu en bâtimens nationaux.

Il en sera de même à l'ile St. Barthelemy où tout ce qui pourra en être exporté par bâtimens Suédois ou Norvégiens ou de l'ile pourra également en être exporté par bâtimens des Etats Unis d'Amérique, sans payer d'autres ou plus hauts droits ou charges de quelque espèce ou dénomination que ce soit perçus au nom ou au profit du Gouvernement, des administrations locales ou d'etablissemens, particuliers quelconques, que si l'exportation avoit lieu en bâtimens nationaux.

ARTICLE 5. Chacune des deux hautes parties contractantes s'engage à ne donner dans ser achats, ou dans ceux qui seroient faits par des compagnies ou des agens agissant en son nom ou sous son autorité aucune préférence aux importations faites par ses bâtimens ou par ceux d'une nation tierce, sur celles faites dans les bâtimens de l'autre partie contractante.

ARTICLE 6. Les deux hautes parties contractantes s'engagent à ne pas établir sur la navigation entre leurs territoires respectifs, par les bâtimens de l'une ou de l'autre, des droits de tonnage ou autres de quelque espèce ou dénomination que ce soit, plus hauts ou autres que ceux qui seront établis sur toute autre navigation, excepté celle qu'elles se sont respectivement réservée par le premier article du présent traité.

ARTICLE 7. Il ne pourra pas être établi dans les Etats Unis d'Amérique sur les produits du sol ou de l'industrie des Royaumes de Suède et de Norvège et de l'ile St. Barthelemy aucune prohibition ou restriction d'importation ou d'exportation ni aucuns droits de quelque espèce ou dénomination que ce soit, qu'autant que ces prohibitions, ces restrictions et ces droits seroient également établis sur les objets de même nature provenant de toute autre contrée.

Et réciproquement il ne pourra pas être établi dans les Royaumes de Suède et de Norvège sur les productions du sol ou de l'industrie des Etats Unis d'Amérique aucune prohibition ou restriction d'importation ou d'exportation ni aucuns droits de quelque espèce ou dénomination que ce soit qu'autant que ces prohibitions, ces restrictions et ces droits seroient également établis sur les objets de même nature provenant de toute autre contrée.

Il en sera de même à l'ile St. Barthelemy où il ne pourra pas être établi sur les productions du sol ou de l'industrie des Etats Unis d'Amérique aucune prohibition ou restriction d'importation ou d'exportation ni aucuns droits de quelque espèce ou dénomination que ce soit qu'autant que ces prohibitions, ces restrictions et ces droits seroient également établis sur les objets de même nature provenant de toute autre contrée.

ARTICLE 8. Toute faculté d'entreposer et toutes primes et remboursemens de droits qui seroient accordés dans les territoires d'une des hautes parties contractantes à l'importation ou à l'exportation de quelque objet que ce soit seront également accordés aux objets de même nature produits du sol ou de l'industrie de l'autre partie contractante et aux importations et exportations faites dans ses bâtimens.

ARTICLE 9. Les citoyens ou sujets de l'une des hautes parties contractantes arrivant avec leurs bâtimens à l'une des côtes appartenantes à l'autre, mais ne voulant pas entrer dans le port, ou, aprés y être entrés ne voulant décharger aucune partie de leur cargaison auront la liberté de partir et de poursuivre leur voyage sans payer d'autres droits, impôts ou charges quelconques pour le bâtiment ou la cargaison, que les droits de pilotage, de quayage et d'entre tien des fanaux quand ces droits seront perçus, sur les nationaux dans les nêmes cas. Bien entendu cependant qu'ils se conformeront toujours aux réglemens et ordonnances concernant la navigation et les places ou ports dans lesquels ils pourront aborder, que seront en vigueur pour les nationaux, et qu'il sera permis aux officiers des douânes de les visiter, de rester à bord et do prendre telles précautions qui pourroient être nécessaires pour prévenir tout commerce illicite pendant que les bâtimens resteront dans l'enceinte de leur jurisdiction.

ARTICLE 10. Il est aussi convenu que les bâtimens de l'une des hautes parties contractantes, étant entrés dans les ports de l'autre, pourront se borner à ne décharger qu'une partie de leur cargaison selon que le capitaine ou propriétaire le desirera et qu'ils pourront s'en aller lebrement avec le reste sans payer de droits, impôts ou charges quelconques, que pour la partie qui aura été mise à terre et qui sera marquée et biffée sur le manifeste qui contrendra tourjours l'énumération des effets dont le bâtiment etoit chargé; lequel manifeste devra être présenté en entier à la douâne du lieu où le bâtiment aura abordé. Il ne sera rien payé pour la partie de la cargaison que le bâtiment remportera et avec laquelle il pourra continuer sa route pour un ou plusieurs autres ports du même pays, et y disposer du reste de sa cargaison, si elle est composée d'objets dont l'importation est permise, en payant les droits qui y sont applicables, ou bien il pourra s'en aller dans tout autre pays. Il est cependant entendu que les droits, impôts ou charges quelconques qui sont ou seront payables pour les bâtimens mêmes doivent être acquittés au premier port ou ils romproient le chargement ou en déchargeroient une partie, mais qu'aucuns droits, impôts ou charges pareils ne seront demandés de nouveaux dans les ports du même pays, ou, lesdits bâtimens pourroient vouloir entrer après, à moins que les nationaux ne soient sujets à quelques droits ultérieurs pour le même cas.

ARTICLE 11. Chacune des deux hautes parties contractantes accorde à l'autre la faculté d'entretenir dans ses ports et places de commerce, des consuls, vice-consuls, ou agens de commerce qui jouiront de toute la protection et recevront toute l'assistance nécessaires pour remplir duément leurs fonctions, mais il est expressément déclaré, que dans le cas d'une conduite illégale ou impropre envers les lois ou le Gouvernement du pays dans lequel lesdits consuls, vice-consuls, ou agens commerciaux résideroient, ils pourront être poursuivis et punis conformément aux lois, et privés de l'exercise de leurs fonctions par le Gouvernement offensé qui fera connaitre à l'autre ses motifs pour avoir agi ainsi; bien entendu cependant que les archives et documens relatifs aux affaires du consulat, seront à l'abri de toute recherche être soigneusement conservés, sous le scellé des consuls, vice-consuls, ou agens commerciaux, et de l'autorité du lieu ou ils resideroient.

Les consuls, vice-consuls, et agens commerciaux ou ceux qui seroient dûmens autorisés à les suppléer auront le droit comme tels de servir de juges et d'arbitres dans différens qui pourroient s'élever entre les capitaines et les equipages des bâtimens de la nation dont ils soignent les intérêts, sans que les

autorités locales puissent y intervenir, à moins que la conduite des équipages ou du capitaine ne troubleroit l'ordre ou la tranquillité du pays, ou que lesdits consuls, vice consuls, ou agens commerciaux ne requerroient leur intervention pour faire éxécuter ou maintenir leurs décisions. Bien entendu que cette espèce de jugement ou d'arbitrage ne sauroit pourtant priver les parties contendantes du droit qu'elles ont à leur retour de recourir aux autorités judiciaires de leur patrie.

ARTICLE 12. Dans le cas où quelque bâtiment de l'une des hautes parties contractantes aura échoué, fait naufrage, ou souffert quelqu'autre dommage sur les côtes de la domination de l'autre, il sere donné toute aide et assistance aux personnes naufragées ou qui se trouveront en danger, et il leur sera accordé des passeports pour retourner dans leur patrie. Les bâtimens et les marchandises naufragés ou leur produit s'ils ont été vendus seront restitués à leurs propriétaires ou ayant cause s'ils sont reclamés dans l'an et jour, en payant les frais de sauvetage que payeroient les nationaux dans les mémes cas. Et les compagnies de sauvetage ne pourront faire accepter leurs services que dans les mémes cas et après les mémes délais qui seroient accordés aux capitaines et aux équipages nationaux.

Les Gouvernmens respectifs veilleront d'ailleurs à ce que ces compagnies ne se permettent point de vexations ou d'actes arbitraires.

ARTICLE 13. Il est convenu que les bâtimens qui arriveront directement des Etats Unis à un port de la domination de sa Majesté le Roi de Suède et de Norvège, ou des ports de sa dite Majesté en Europe, à un port des Etats Unis, et qui seroient pourvus d'un certificat de santé donné par l'officier compétent à cet égard du port d'où les bâtimens sont sortis et assurant qu'aucune maladie maligne ou contagieuse n'existoit dans ce port, ne seront soumis à aucune autre quarantaine que celle qui sera nécessaire pour la visite de l'officier de santé du port où les bâtimens seroient arrivés après laquelle il sera permis à ces bâtimens d'entrer immédiatement et de décharger leurs cargaisons; bien entendu toutefois qu'il n'y ait en personne à bord qui ait été attaqué pendant le voyage d'une maladie maligne ou contagieuse, et que la contrée d'où lesdits bâtimens viendroient ne fût pas à cette époque si généralement infectée ou suspecte, qu'on ait rendu, avant leur arrivée, une ordonnance d'après laquelle tous les bâtimens venant de cette contrée seroient regardés comme suspects et en conséquence assujéttis à une quarantaine.

ARTICLE 14. Les articles deux, cinq, six, sept, huit, neuf, dix, onze, douze, treize, quatorze, quinze, seize, dix-sept, dix-huit, dix-neuf, vingt-un, vingt-deux, vingt-trois, et vingt-cinq du traité d'amitié et de commerce conclu à Paris le trois Avril, 1783, par les plenipotentiaires des Etats Unis d'Amérique et de sa Majesté le Roi de Suède, ainsi que les articles séparés un, deux, quatre, et cinq, qui furent signés le même jour par les mêmes plenipotentiaires sont remis en vigueur et rendus applicables à tous les pays sous la domination des hautes parties actuellement contractantes, et auront la méme force et valeur que s'ils etoient insérés textuellement dans le present traité. Bien entendu que les stipulations contenues dans les articles précités seront toujours censées ne rien changer aux conventions conclues, de part et d'autre, avec d'autres nations dans l'intervalle écoulé entre l'expiration dudit traité de 1783, et la remise en vigueur desdits articles par le traité de commerce et de navigation conclu par les hautes parties actuellement contractantes à Stockholm le 4 Septembre, 1816.

ARTICLE 15. Vu l'elorgnement des pays respectifs des deux hautes parties contractantes et l'incertitude qui en résulte sur les divers événemens qui peuvent avoir lieu, il est convenu qu'un bâtiment marchand appartenant à l'une d'elles qui se trouveroit destiné pour un port supposé bloqué au moment du départ de ce bâtiment ne sera cependant pas capturé ou condamné pour avoir essayé une première fois d'entrer dans ledit port, à moins qu'il ne puisse être prouvé que ledit bâtiment avoit puet dû apprendre en route que l'état de blocus de la place en question duroit encore: mais les bâtimens qui, après avoir été renvoyés une fois essayeroient pendant le méme voyage d'entrer une seconde fois dans le méme port bloqué durant la continuation de ce blocus se trouveront, alors sujets à être détenus et condamnés.

ARTICLE 16. Le présent traité sera en vigueur pendant années a partir du jour de l'échange des ratifications qui aura lieu à Washington dans l'espace de neuf mois ou plutôt s'y faire se peut, et si avant l'expiration de —— années l'une ou l'autre des hautes parties contractantes n'avoit pas annoncé à l'autre, par une notification officielle, son intention d'enfaire cesser l'effet, ce traité restera obligatoire une année ou delà, et ainsi ensuite, jusqu' à l'expiration des douze mois qui suivront une semblable notification à quelqu' époque qu'elle ait lieu.

Modifications proposées par le Plénipotentiaire des Etats Unis d'Amérique à la conference du 22 Juin, 1827.

ARTICLE 1.

Les citoyens et sujets de chacune des deux haute parties contractantes pourront librement fréquenter les territoires de l'autre, y résider et commercer en toute espèce de produits et marchandises et y jouiront de tous les droits privilèges et exemptions relativement au commerce dont jouissent ou jouiront

Contre-projet de Traité présenté le 20 Juin, 1827, par le Plénipotentiaire de sa Majesté le Roi de Suède et de Norvège.

Sa Majesté le Roi de Suède et de Norvège et les Etats Unis d'Amérique, également animés du désir d'étendre et de consolider les relations commerciales, qui subsistent entre leurs territoires respectifs, et convaincus, que ce but ne saurait étre mieux rempli, qu'en les plaçant sur la base d'une parfaite égalité et réciprocité, sont convenus, en conséquence, d'entrer en négociation pour un nouveau traité de commerce et de navigation, et ont nommé, à cet effet des plenipotentiaires, savoir:

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* * * * * *

lesquels, après avoir échangé leurs pleins pouvoirs, trouvés en bonne et dûe forme, ont arrété les articles suivans:

les nationaux, à charge de se soumettre aux lois et aux réglemens auxquels ceux-ci sont ou seront assujétis.

ARTICLE 2.

ARTICLE 1. Les bâtimens des Etats Unis d'Amérique, qui arriveront sur leur lest ou chargés dans les ports des Royaumes de Suède et de Norvège, de quelque lieu qu'ils viennent, serent traités à leur entrée, pendant leur séjour et à leur sortie, sur le même pied que les bâtimens nationaux venant du méme lieu, par rapport au droit de tonnage, de fanaux, de pilotage et de port, ainsi qu'aux vacations des officiers publics, ou à tout autre droit au charge, de quelque espèce ou dénomination que ce soit, perçus au nom ou au profit du Gouvernement, des administrations locales ou d'etablissemens particuliers quelconques.

Et réciproquement, les bâtimens Suédois et Norvégiens et ceux de l'ile de St. Barthelemy, qui arriveront sur leur lest ou chargés dans les ports des Etats Unis d'Amérique, de quelque lieu qu'ils viennent, seront traités à leur entrée, pendant leur séjour et à leur sortie, sur le méme pied que les bâtimens nationaux, venant du méme lieu, par rapport aux droits de tonnage, de fanaux, de pilotage et de port, ainsi qu'aux vacations des officiers publics et à tout autre droit ou charge, de quelque espèce ou dénomination que ce soit, perçus au nom ou au profit du Gouvernement, des administrations locales ou d'etablissemens particuliers quelconques.

ARTICLE 3.

* Supprimer le mot *des*

ARTICLE 2. Tout ce qui pourra légalement étre importé dans les Royaumes de Suède et de Norvège par *des** bâtimens Suédois ou Norvégiens ou de l'ile de St. Barthelemy, pourra également y étre importé par bâtimens des Etats Unis d'Amérique, de quelque lieu qu'ils viennent, sans payer d'autres ou de plus hauts droits ou charges, de quelque espèce ou dénomination que ce soit, perçus au nom ou au profit du Gouvernement, des administrations locales ou d'etablissemens particuliers quelconques, que si l'importation avait lieu en bâtimens nationaux.

Et réciproquement, tout ce qui pourra légalement étre importé dans les Etats Unis d'Amérique, par bâtimens desdits Etats, pourra également y ètre importé par bâtimens Suédois et Norvégiens, ou de l'ile de St. Barthelemy, de quelque lieu qu'ils viennent sans payer d'autres ou plus hauts droits ou charges, de quelque espèce ou dénomination que ce soit, perçus au nom ou au profit du Gouvernement, des administrations locales, ou d'etablissemens particuliers quelconques, que si l'importation avoit lieu en bâtimens nationaux.

†Supprimer ce paragraphe.

† Il est entendu toute fois, que par exception spéciale l'importation du sel sur des bâtimens des Etats Unis d'Amérique, dans les ports du Royaume de Suède, et réciproquement dans ceux des Etats Unis d'Amérique sur des bâtimens Suédois ne jouira pas des avantages généraux, ci-dessus mentionnés, et restera assujetie aux réglemens jusqu'ici existans.

ARTICLE 4.

ARTICLE 3. Tout ce qui pourra légalement étre exporté des Royaumes de Suède et de Norvège, par bâtimens Suédois et Norvégiens, ou de l'ile de St. Barthelemy, pourra également en étre exporté par bâtimens des Etats Unis d'Amérique, sans payer d'autres ou plus hauts droits ou charges, de quelque espèce ou dénomination que ce soit, perçus au nom ou au profit du Gouvernement, des administrations locales, ou d'etablissemens particuliers quelconques, que si l'exportation avoit lieu en bâtimens nationaux.

Et réciproquement, tout ce qui pourra légalement étre exporté des Etats Unis d'Amérique, par bâtimens desdits Etats, pourra également en étre exporté par bâtimens Suédois et Norvégiens, ou de l'ile de St. Barthelemy, sans payer d'autres ou plus hauts droits ou charges, de quelque espèce ou dénomination que ce soit, perçus au nom, ou au profit, du Gouvernement, des administrations locales, ou d'etablissemens particuliers quelconques, que si l'exportation avoit lieu en bâtimens nationaux.

ARTICLE 5.

* Ometre le reste de l'article.

ARTICLE 6.

Substituer 2, 3, et 4, à 1, 2, et 3.

ARTICLE 7.

ARTICLE 8.

Mettre 6e *article.*

ARTICLE 9.

†*Ometere les mots souliguér et y substituer les suivans: de la colonie de St. Barthelemy ou de tout autre endroit, quand l'importation ou exportation aura lieu dans ou hors les Royaumes de Suèdes et de Norvège; ou provenant de ces Royaumes ou de tout autre endroit quand l'importation ou l'exportation aura lieu dans hors la colonie de St. Barthelemy.*

Placer les *restrictions* après les *prohibitions.*

ARTICLE 10.

ARTICLE 11.

ARTICLE 4. Les stipulations des trois articles précédens, sont dans toute leur plénitude, applicables aux bâtimens des Etats Unis d'Amérique, qui serendront, chargés ou non chargés, dans la colonie de St. Barthelemy aux Indes Occidentales, soit des ports des Royaumes de Suède et de Norvège, soit de tout autre lieu quelconque, ou qui sortiront de la dite colonie, chargés ou non chargés pour se rendre, soit en Suède ou Norvège soit en tout autre lieu quelconque; et * il est expressement entendue que l'exception stipulée, dans l'article 2 du présent traité à l'égard de l'importation du sel, dans les ports du Royaume de Suède ne s'etendra point à l'ile de St. Barthelemy.

ARTICLE 5. I'l est expressément entendu, que les articles précedens 1, 2, et 3, ne sont point applicables à la navigation de côte ou de cabotage d'un port des Royaumes de Suède ou de Norvège à un autre, ou à celle entre ces deux derniers pays; ni à la navigation d'un port des Etats Unis d'Amérique à un autre port desdits Etats, navigation que chacune des deux hautes parties contractantes se réserve.

ARTICLE 6. Chacune des deux hautes parties contractantes s'engage à ne donner dans ses achats, ou dans ceux, qui seraient faits par des compagnies ou des agens agissant en son nom, ou sous son autorité, aucune préférence aux importations faites par ses bâtimens ou per ceux d'une nation tierce, sur celles faites dans les bâtimens de l'autre partie contractante.

ARTICLE 7. Les deux hautes parties contractantes s'engagent à ne pas établir sur la navigation entre leurs territoires respectifs, par les bâtimens de l'une ou de l'autre, des droits de tonnage ou autres, de quelque espèce ou dénomination, que ce soit, plus hauts ou autres, que ceux que seront établis sur toute autre navigation, excepté, celle qu'elles se sont respectivement reservée, par le 5e *article* du présent traité.

ARTICLE 8. Il ne pourra pas étre établi dans les Royaumes de Suède et de Norvège, ni dáns l'ile de St. Barthelemy sur les productions du sol ou de l'industrie des Etats Unis d'Amérique, aucune prohibition ou restriction d'importation ou d'exportation, ni aucuns droits, de quelque espèce ou dénomination que ce soit, qu'autant que ces prohibitions, ces restrictions et ces droits seraient également établis sur les objets de méme nature provenant† *de toute autre contrée.*

Et réciproquement, il ne pourra par étre établi dans les Etats Unis d'Amérique sur les productions du sol ou de l'industrie des Royaumes de Suède et de Norvège et de l'ile de St. Barthelemy, aucune prohibition ou restriction d'importation ou d'exportation ni aucuns droits, de quelque espèce ou dénomination que ce soit, qu'autant que ces *restrictions* ces *prohibitions* et ces droits seraient également établis sur les objets de méme nature provenant de toute autre contrée.

ARTICLE 9. Toute faculté d'éntrépôt, et toutes primes et remboursemens de droits, qui seraient accordés dans les territoires d'une des hautes parties contractantes, à l'importation ou à l'exportation de quelque objet que ce soit, seront également accordés aux objets de méme nature, produits du sol ou de l'industrie de l'autre partie contractante et aux importations et exportations, faites dans ses bâtimens.

ARTICLE 10. Les sujets ou citoyens de l'une des hautes parties contractantes arrivant avec leurs bâtimens à l'une des côtes appartenant à l'autre, mais ne voulant pas entrer dans le port, ou après y étre entrés, ne voulant décharges aucune partie de leur cargaison, auront la liberté departir et de poursuivre leur voyage sans payer d'autres droits, impôts ou charges quelconques pour le bâtiment ou la cargaison, que les droits de pilotage, de quayage et d'entretien de fanaux, quand ces droits sont perçus sur les nationaux dans les mémes cas. Bien entendu cependant qu'ils se conformeront toujours and regle-

mens et ordonnances concernant la navigation et les places ou ports dans lesquels ils pourront aborder, qui sont ou seront en vigueur pour les nationaux, et qu'il sera permis aux officiers des douánes de les visiter, de rester à bord et de prendre telles precautions, qui pourraient étre necessaires pour prévenir tout commerce illicite pendant que les bátimens resteront dans l'enceinte de leur jurisdiction.

ARTICLE 12.

ARTICLE 11. Il est aussi convenu que les bátimens de l'une des hautes parties contractantes, ètant entrés dans les ports de l'autre, pourront se borner à ne décharger qu'une partie de leur cargaison selon que le capitaine ou propriétaire le désirera, et qu'ils pourront s'en aller librement avec le reste sans payer de droits, impôts ou charges quelconques, que pour la partie, qui aura été mise à terre, et qui sera marquée et biffée sur le manifeste, qui contiendra l'énumération des effets, dont le bátiment étoit chargé, lequel manifeste devra étre présenté en entier à la douáne du lieu où le navire aura abordé. Il ne sera rien payé pour la partie de la cargaison, que la bátiment remportera et avec laquelle il pourra continuer sa route pour un ou plusieurs autres ports du méme pays, et y disposer du reste de sa cargaison, si elle est composée d'objets, dont l'importation est permise, en payant les droits, qui y sont applicables, ou bien il pourra s'en aller dans tout autre pays. Il est cependant entendu que les droits, impôts ou charges quelconques, qui sont ou seront payables pour les bátimens méme, doivent étre acquittés au premier port où ils rompraient le chargement, ou en déchargeraient une partie, mais qu'aucuns droits, impôts ou charges pareils ne seront demandés de nouveau dans les ports du mème pays, où lesdits bàtimens pour raient vouloir entrer après, à moins que les nationaux ne sorent sujets à quelques droits ultérieurs dans le méme cas.

ARTICLE 13.

ARTICLE 12. Chacune des hautes parties contractantes accorde à l'autre la faculté d'entretenir dans ses ports et places de commerce, des consuls, vice consuls, ou agens de commerce, qui jouiront de toute la protection et recevront toute l'assistance nécessaire pour remplir duement leurs fonctions; mais il est expressement déclaré, que, dans le cas d'une conduite illégale ou impropre envers les lois ou le Gouvernement du pays, dans lequel lesdits consuls, vice consuls, ou agens commerciaux résideraient, ils pourront étre poursuivis et punis conformément aux lois, et privés de l'exercice de leurs fonctions par le Gouvernement offensé, qui fera connoitre à l'autre ses motifs pour avoir agi ainsi, bien entendu cependant, que les archives et documens relatifs aux affaires du consulat seront à l'abri de toute recherche, et devront étre soigneusement conservés sous le scellé des consuls, vice consuls, ou agens commerciaux et de l'autorité de l'endroit où ils résideraient.

Les consuls, vice consuls, et agens commerciaux ou ceux, qui seraient dûement autorisés à les suppléer, auront le droit, comme tels, de servir de juges et d'arbitres dans les differens qui pourraient s'élever entre les capitaines et les équipages des bátimens de la nation, dont ils soignent les intérèts, sans que les autorités locales puissent y intervenir, à moins que la conduite des équipages ou du capitaine ne *troubleroit** l'ordre ou la tranquillité du pays ou que lesdits consuls, vice consuls, ou agens commerciaux ne *requerraient*† leur intervention pour faire exécuter ou maintenir leurs décisions. Bien entendu que cette espèce de jugement ou d'arbitrage ne sauroit pourtant priver les parties contendantes du droit qu'elles ont à leur retour de recourir aux autorités judiciaires de leur patrie.

* Substituer *troublát* à *troubleroit.*

† Substituer *requissent* à *requerraient.*

ARTICLE 14.

Cet article seroit celui dont S. E. a parlé dans la dernière conférence relativement à l'extradition réciproque des déserteurs.

ARTICLE 15.

ARTICLE 13. Dans le cas ou quelque bâtiment de l'une des hautes parties contractantes aura échoué, fait naufrage ou souffert quelque autre dommage, sur les côtes de la domination de l'autre, il sera donné toute aide et assistance aux personnes naufragées, ou qui se trouveraient en danger, et il leur sera accordé des passeports pour retourner dans leur patrie. Les bâtimens et les marchandises naufragés, ou leur produit, s'ils ont été vendus, seront restitués à leurs propriétaires ou ayant cause, s'ils sont reclamés dans l'an et jour, en payant les frais de sauvetage que payeraient les nationaux dans les mêmes cas. Et les compagnies de sauvetage ne pourront faire accepter leurs services que dans les mêmes cas et après les mèmes délais, qui seraient accordés aux capitaines et aux équipages nationaux. Les Gouvernemens respectifs veilleront d'ailleurs à ce que ces compagnies ne se permettent point de vexations ou d'actes arbitraires.

ARTICLE 16.

ARTICLE 14. Il est convenu, que les bâtimens qui arriveront directement des *pays** de sa Majesté le Roi de Suéde et de Norvège en Europe à un port des Etats Unis, ou des Etats Unis d'Amérique à un port de la domination de sa dite Majesté et qui seraient pourvus d'un certificat de santé, donné par l'officier compétent à cet égard du port d'où les bâtimens sont sortis, et assurant qu'aucune maladie† contagieuse n'existait dans ce port, ne seront soumis à aucune autre quarantaine que celle, qui sera nécessaire pour la visite de l'officier de santé du port où‡ *le bâtiment serait arrivé*, après laquelle il sera permis à ces bâtimens d'entrer immédiatement, et de décharger leurs cargaisons, bien entendu§ *toujours* qu'il n'y ait en personne à leur bord, qui ait été attaqué pendant le voyage d'une maladie maligne ou contagieuse, et que la contrée d'ou ils viendraient ne fut pas à cette époque si généralement infectée ou suspecte, qu'on ait rendu avant leur arrivée une ordonnance, d'après laquelle tous les bâtimens venant de cette contrée seraient regardés comme suspects et en conséquence assujéttis à une quarantaine.

* Substituer *territoires à pays*

† Ajouter *maligne ou.*

‡ Substituer le plurial au singulier.

§ Substituer *toutefois.*

ARTICLE 17.

ARTICLE 15. Les articles 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, et 25, du traité d'amitié et de commerce, conclu à Paris le 3 Avril, 1783, par les plénipotentiaires de sa Majesté le Roi de Suéde et des Etats Unis d'Amérique, ainsi que les articles séparés 1, 2, 4, et 5, qui furent signés le même jour par les mêmes plénipotentiaires, sont remis en vigueur et rendus applicables à tous les pays sous la domination des hautes parties actuellement contractantes, et auront la même force et valeur, que s'ils étaient insérés textuellement dans le présent traité. Bien entendu que les stipulations contenues dans les articles précités seront toujours censées ne rien changer aux conventions conclues de part et d'autre, avec d'autres nations dans l'intervalle écoulé entre l'expiration dudit traité de 1783, et la remise en vigueur desdits articles par le traité de commerce et de navigation conclu, par les hautes parties actuellement contractantes à Stockholm, le 4 Septembre, 1816.

ARTICLE 18.

ARTICLE 16. Vû l'eloignement des pays respectifs des deux hautes parties contractantes, et l'incertitude qui en résulte sur les divers événemens qui peuvent avoir lieu, il est convenu, qu'un bâtiment marchand appartenant à l'une d'elles qui se trouverait destiné pour un port supposé bloqué au moment du depart de ce bâtiment ne sera cependant pas capturé ou condamné pour avoir essayé une première fois d'entrer dans le dit port, à moins qu'il ne puisse être prouvé que ledit bâtiment avoit pû et dû apprendre en route que l'état de blocus de la place en question durait encore: mais les bâtimens qui, après avoir été renvoyés une fais essayeraient pendant le même voyage d'entrer une seconde fois dans le même port bloqué, durant la continuation de ce blocus, se trouverant alors sujets à être détenus et condamnés.

ARTICLE 19.

*Substituer aux mots soulignés les suivans : "*des neuf premières années.*"

ARTICLE 17. Le présent traité sera en vigueur pendant dix années, à partir du jourde l'échange des ratifications, et, si avant l'expiration* *de ces dix années*, l'une ou l'autre des hautes parties contractantes n'avoit pas annoncé à l'autre, par une notification officielle, son intention d'en faire cesser l'effet, ce traité restera obligatoire une année au delà, et ainsi de suite jusqu'à l'expiration des douze mois qui suivront une semblable notification, à quelque époque qu'elle ait lien.

ARTICLE 20.

ARTICLE 18. Le présent traité sera ratifié par les hautes parties contractantes, et les ratifications en seront échangées, à Washington dans l'espace de neuf mois après la signature ou plutôt si faire se peut.

No. 4.

J. J. Appleton to the Count of Wetterstedt.

STOCKHOLM, *le* 24 *Juin*, 1827.

Le soussigné, après avoir examiné le contre-projet de traité que votre excellence lui avoit remis, à la conférence du 20 de ce mois, a en l'honneur de lui dire à celle du 22, qu'il l'adoptoit avec quelques modifications qui découloient naturellement des principes sur lesquels il avoit été rédigé. Votre excellence admit ces modifications sauf une qui consistoit à retrancher l'exception de l'importation du sel en Suède par bâtimens Americains, et aux Etats Unis par bâtimens Suédois des dispositions générales du traité. Le soussigné s'efforça alors de déterminer votre excellence à ne pas persister dans une exception qui seroit au moins aussi désavantageuse à la Suède qu'aux Etats Unis, mais il ne put y parvenir. Persuadé cependant qu'après avoir examiné de nouveau la question, votre excellence reconnoitra la justesse des raisonnemens du soussigné, il croit devoir les lui reproduire en citant des faits à l'appui auxquels il n'avoit pu référer que d'une manière générale.

Si le soussigé ne se méprend pas sur les motifs qui ont porté les deux Gouvernemens à vouloir placer leur navigation sur la base d'une parfaite égalité, ils naissent d'une conviction que cette égalité en facilitant les échanges commerciaux entr'eux les augmentera et que la navigation de l'un et l'autre, employée à les effectuer s'accroitra dans une proportion correspondante. L'adoption de l'exception proposée par votre excellence, porterait atteinte à cette égalité et restrein droit les avantages généraux qu'on s'en propose sans aucun avantage particulier pour la Suède ainsi que le soussigné va le démonstrer.

La Suède tire la presque totalité de ses sels du Portugal et de la Méditerranée; cette importation sert de fret de retour à ceux de ses bâtimens qui fréquentent ces parages et qui par suite peuvent l'apporter dans ses ports à un trés bas fret. Les Etats Unis au contraire ne sont ni voisins de la Suède ni des lieux d'où elle tire le sel, le transport de cette marchandise en Suède seroit donc pour leurs bâtimens l'occasion d'un voyage spécial plus frayeux que lucratif, parce que leurs frais d'armement, salaire et nourriture des équipages leur reviennent, pour le temps nécessaire pour effectuer un tel voyage, à plus du double du fret qu'ils pourroient obtenir (un bâtiment Americain de 220 tx. coûte 2— écus de banque par mois) il est donc évident qu'ils n'entreprendront jamais ces voyages pour la perspective du fret à y faire. Ils ne les entreprendront pas non plus pour le fret à faire en retournant de Suède dans le midi de l'Europe parce qu'il n'est par plus avantageux, et ils ne les entreprendront pas non plus pour celui à faire de Suède aux Etats Unis parce qu'il est moins élevé que celui de Portugal ou de la Méditerranée aux Etats Unis, pour lesquels, ils trouvent toujours à charger dans ces parages, parce qu'outre une quantité considèrable de vins, huile, spiritueux, leur patrie en tire annuellement 1,653,130 boisseaux de sel du poids de 56 chaque, ce qui fait le chargement d'environ 400 navires de 100 tx. La concurrence pour l'importation du sel en Suède ne pourroit donc s'établir que par les bâtimens Americains qui se rendroient en Suède des ports de France ou d'Angleterre mais comme elle ne tire que très peu de sel de ces pays, elle ne doit pas craindre cette concurrence.

S'il est une marchandise que les Suédois peuvent porter avec plus d'avantage qu'aucune autre nation, c'est le sel, parce que c'est un objet d'un grand volume pour peu de valeur, et, comme ils tiennent les frets généralement plus bas que les autres nations; c'est un des articles qu'ils trouveront toujours à charger le plus facilement, parce que l'augmentation de la prime d'assurance qui résulte quelquefois dans les autres pays de l'emploi de leurs bâtimens sera toujours plus que compensée par le bas taux du fret.

La faculté de porter du sel aux Etats Unis en concurrence avec les nationaux donnera de l'extension à la navigation Suédoise, car ce qui empéchoit ses bâtimens de s'y rendre, c'étoit l'impossibilité de trouver du fret pour y aller, les négocians Suédois ne voulant pas y envoyer du fer pour leur compte et les négocians Américains employant de préférence leurs bâtimens, mais quand les bâtimens Suédois seront traités aux Etats Unis, quelque soient leurs chargemens, comme les nationaux, il n'en sera plus ainsi, et le sel entr'autres marchandises, sera, pour eux, un grand objet d'importation parce que la certitude de trouver aux Etats Unis des frets pour l'Europe leur permettra de le porter à aussi bas prix que les nationaux avec lesquels les bâtimens étrangers entrent déja en concurrence pour un dixième dans une importation qui est annuellement de 5,127,657 boisseaux de sel de 56 (le chargement d'environ 1,500 navires de 100 tx.) dont 4,006,302 viennent d'Europe et 892,813 des colonies Anglaises avec lesquelles le commerce est maintenant interdit par bâtimens Anglais et Americains; c'est le droit d'entrer en concurrence dans un commerce aussi immense que la Suède refuse, crainte de voir importer en Suède quelques cargaisons de sel par bâtimens Americains.

En résumant ce qui précède, le soussigné n'hésite pas à dire que la crainte, devoir les bâtimens Américains entrer en concurrence avec ceux de Suède pour importer du sel dans ce Royaume, est imaginaire, et que les Suédois refuseraient, pour leur navigation, l'avantage le plus positif que leur présente le principe de l'égalité, en se privant de la faculté de porter du sel aux Etats Unis. Il ne doute pas que votre excellence partagera cette conviction et se désistera de l'exception qu'elle avoit proposée et que le

soussigné n'a combattue que parce que ce serait une atteinte aux principes généraux de la libre navigation que les Etats Unis s'efforcent de promoter dans tous leur traités et auxquels ils n'hésitent pas à sacrifier souvent des avantages particuliers qu'ils pourraient recueillir, comme dans le cas présent, de restrictions à ces principes.

Le soussigné saisit avec empressement cette occasion pour renouveler à votre excellence les assurances de sa considèration la plus distinguée.

J. J. APPLETON.

A Son Excellence Monsieur le COMTE DE WETTERSTEDT, *Plénipotentiaire de sa Majesté le Roi de Suède et de Norvège pour la négociation d'un Traité de Commerce et de Navigation avec les Etats Unis d'Amérique.*

No. 5.

ARTICLE SÉPARÉ.

Comme l'importation des productions des Royaumes de Suède et de Norvège dans le Grand Duché de Finlande, et celle des productions de Finlande en Suède et en Norvège, sur les bâtimens des pays respectifs, par suite des rapports entre ces pays limitrophes et les anciennes liaisons, qui existent eux, se trouve reglée par des stipulations spéciales d'un traité encore en vigueur et dont le renouvellement forme un objet de negociation actuelle entre les Cours de Suède et de Russie, sans que les dites stipulations soyent lieus aux règlemens existens pour le commerce étranger en général, les deux hautes parties contractantes voulant écarter de leurs relations toute espèce d'équivogue ou de motif de discussion, sont tombis d'accord que les Art. 9 et 10 du présent traité ne seront point applicables aux exceptions dans les tarifs generaux des douanes et dans les règlemens de navigation qui sont ou pourront être faites dans les Royaumes de Suède et de Norvège, uniquement à l'égard du commerce de côte et de frontière sus mentionné.

No. 6.

NOUVEL ARTICLE.

Les deux hautes parties contractantes ayant par suites des principes sus mentionnés manifesté leur déser d'entretenir une bonne harmonie avec toutes les nations, par suite d'une politique franche et également amicale envors elles, s'engagent mutuellement de n'accorder aucun avantage spéciale à une autre nation, par rapport au commerce et à la navigation sans que cet avantage ni devienne immediatement réversible à l'autre partie contractante, que en jouera librement se la concession est gratuite, ou que en donnera une compensation équivalente se la concession est conditionelle.

No. 7.

Acte additionel au traité de paix de Fredrieshamn entre sa Majesté le Roi de Suède et de Norvège et sa Majesté l'Empereur de toutes les Russies fait et conclù à St. Petersbourg le 10 *Septembre*—29 *Août*, 1817.

ARTICLE 1. Les batimens de commerce Suédois et Norvégiens, ainsi que les bâtimens Russes et Finnois, pourront importer en Finlande toutes sortes d'objets de manufactures, denrées et productions Suédoises et Norvégiennes, qui sont le produit du sol ou de l'industrie Suédoise et Norvégienne, dont l'entrée est permise en général, en ne payant que la moitié des droits, auxquels ces mêmes objets seraient assujétis, s'ils venaient d'un autre pays sur des bâtimens nationaux. Le même avantage est accordé en Suède à toutes sortes de marchandises, denrées et productions Finnoises, qui viennent directement de ce pays et qui sont importées sur des vaisseaux Suédois ou Finnois.

Les objets, qui pourront exiger des modifications, ou exceptions spéciales, au principe général établi ci-dessus, seront réglés par des tarifs réciproques, dont les deux hautes parties contractantes se reservent de convenir incessanment.

ARTICLE 2. Toutes les productions du sol ou de l'industrie Suédoise et Norvégienne, dont l'entrée est en général défendue en Finlande, pourront néanmoins y être admises, lorsqu'elles viendront de Suède et de Norvège, et sans qu'elles soient assujéties à des droits plus forts, ou autres, que dix pour cent. de la valeur de la marchandise.

Les denrées et manufactures Finnoises, venant directement de Finlande, jouiront du même avantage en Suède.

L'eau-de-vie et le salpêtre sont cependent exceptés de cette permission générale d'importation, et ces deux articles ne pourront être importés, ni de Suède en Finlande, ni de Finlande en Suède.

ARTICLE 3. Les bâtimens Suédois, ouverts ou pontés, pourront fréquenter tous les ports de Finlande, sans payer d'autres droits de port et de batiment, que ceux qui existaient lorsque la Finlande était réunie à la Suède.

Il y aura à cet égard réciprocité parfaite en Suède, pour les batimens Finnois, ouverts ou pontés, et ces batimens pourront exporter d'un port de Suède, pour importer en un port de Finlande, le sel, le vin, les epiceries et les marchandises colonéales, dont l'importation est en général permise en Finlande, sans que pour lesdits articles et marchandises, il soit perçu, ni à leur sortie de Suède, ni à leur entrée en Finlande, des droits de douane plus forts ou autres, que si ces denrées venaient sur des batimens nationaux, directement du lieu même de leur production.

Il est expressément entendu, que les bâtimens ouverts, avant de pouvoir disposer de la cargaison, devront se présenter à une chambre de douane maritime, pour y acquitter les droits de douane, et qu'il ne sera fait aucune différence, dans ces droits, entre les batimens ouverts ou pontés.

Le goudron et la poix venant de Finlande pourront être importés en Suède et ré-exportés, sans payer aucun droit de douane.

Pour ce qui regarde les droits de pilote et de fanal, ils seront acquittés, d'après les ordonnances particulières, qui sont déja, ou pourront étre à l'avenir, en vigueur dans les deux pays.

Article 4. Les propriétaires de forges en Finlande pourront faire acheter et exporter annuellement de Suède, les mémes quantités de minerai et de fer de fonte, qui leur ont été accordées jusqu'ici, en observant toujours ce qui a été établi et usité, tant pour le contrôle à l'exportation, que pour le choix et la qualité de ces matières premières, c'est à dire, que l'exportation du fer de fonte, n'étant jamais permise, au de là de la quantité de neuf mille neuf cent quarante six et demi skeppund de Suède, par an, les propriétaires de forges seront aussi obligés de s'en tenir aux qualités que portent leurs privilèges, qui serviront de règle à cet égard; et pour l'exportation du minerai, elle ne dépassera jamais la quantité de vingt trois mille sept cent soixante sept skeppund, par an, et il sera pris des endroits et districts, où ce minerai a été puisé auparavant, savoir des mines de Sudermanie, dixneuf mille cinq cent cenquante six skeppund et de celles de Roslagen, quatre mille deux cent onze skeppund, ainsi que cele a été pratiqué jusqu'ici.

S'il arrive que les propriétaires des forges Finnoises ne trouvent pas convenable de faire usage chaque année, pendant la durée du présent traité, de la faculté qui leur a été accordée ci-dessus, jusqu'à la pleine concurrence des quantités stipulées, et que, par conséquent, ils fassent exporter moins de fer de fonte ou de minerai, qu'il n'a été indiqué ci-dessus, ce ne sera pas une raison pour eux d'augmenter, l'année suivante, l'exportation de ces matières premières, en faveur de la Finlande, mais il faudra toujours qu'on s'en tienne, pour chaque année, aux quantités ci-dessus déterminées.

Article 5. L'importation du bois de chauffage de Finlande en Suède restera permise, et les droits d'entrée et de sortie, soit à l'exportation de la Finlande, ou à l'importation en Suède, ne pourront un rix daler de banque de Suède, pour une corde de bois de bouleau, et trente deux schellings pour une corde de pin et de sapin.

Article 6. Les vaisseaux et bâtimens de commerce appartenant aux sujets de chacune des deux hautes parties contractantes, pourront importer du sel dans tour les ports de la domination de l'autre, en payant les mémes droits que les indigènes. Les bâtimens de commerce Suédois et Norvégiens auront en outre le droit d'entrepôt, pour cette marchandise, dans le port de St. Petersbourg et dans ceux de Livonie et de Courlande, sans étre assujétis por cela à aucun droit particulier.

Article 7. Les droits d'entrée pour l'importation en Suède du lin, du chanvre et des toiles qui viennent de Russie, seront réglés d'apriès les mémes principes qu'on adoptera en Russie, à l'égard de l'importation du sel, qui vient de Suède.

Article. 8. Le hareng, la morue sèche, l'alun et le rouge souffré pourront étre importés de Suède et de Norvège, dans les ports Russes de la Baltique, en ne payant que la moitié des droits fixés dans le tarif des douánes Russes pour lesdites marchandises.

La méme diminution de droits est accordé en Suède pour l'entrée du suif, et la Suède permet en outre l'importation des chandelles (de suif) moyennant un droit, tel qu'il sera fixé dans la taxe.

Article 9. Sa Majesté le Roi de Suède et de Norvège aura le droit de faire exporter annuellement des ports du Golfe de Finlande ou de la mer Baltique, sous la domination de sa Majesté l'Empereur de toutes les Russies, jusqu'à la concurrence de deux cent mille tschetverts de blé, libre de tout droit de sortie, et sans qu'il soit fait aucune restriction ou exception, pour les années, où l'exportation seroit en général prohibée. Ceux qui feront les envois de devront étre munis, comme par le passé, des preuves nécessaires, pour justifier, que les achats ont été faits, pour le compte de sa Majesté Suédoise ou en vertu de son autorisation.

S'il arrivait, que la quantité stipulée ci-dessus n'eût pas été exportée, avant la fin de l'année, cela ne pourra pas servir à augmenter l'exportation dublé en faveur de la Suéde, pour l'année suivante.

Article 10. Le commerce Russe aura le droit d'entrepôt à Stockholm, à Christiania et à Hammerfest, outre celui, dont il jouira, aux mémes conditions, que les autres nations, à Carlshamn, à Gothembourg et à Landscrona. En revanche, le commerce Suédois et Norvégien jouira du droit d'entrepôt à St. Petersbourg, Riga, Revel Abo et Helsingfors.

Article 11. Les rapports de proximite et d'anciennes liaisons, qui existent entre la Suède et la Finlande, ayant rendu nécessaire de permettre, ainsi qu'il est statué ci-dessus, soit l'entrée de différentes marchandises, qui sont d'ailleurs prohibées, soit une diminution de droits pour d'autres, dès qu'elles sont d'origine Finnoise, ou qu'elles viennent de Suède ou de Finlande, les Gouvernemens respectifs des deux pays se réservent d'établir les contrôles et la qualité des certificats nécessaires pour prévenir les abus et constater l'origine des marchandises, qui devront jouir des avantages stipulés.

Article 12. La Norvège pourra exporter des ports de la Mer Blanche, jusqú'à la concurrence de vingt cinq mille tschetverts de blé, en laissant à Archangel la cinquième partie en sus, de ce qu'elle aura exporté, sauf à exiger, d'après la facture, le remboursement des frais d'achat et de transport.

Article 13. Les vaisseaux Russes, venant de la Mer Blanche dans les ports de la Laponie, pourront vendre leurs marchandises à bord de leurs bâtimens, pendant quatre semaines, dans les villes, non seulement aux paysans, mais aussi aux bâtimens Norvégiens, et dans tout autre port de la Laponie aux bâtimens Norvégiens, pendant quinze jours.

Article 14. Les bâtimens de commerce Russe de la Mer Blanche pourront mettre leurs marchandises en entrepôt à Hammerfest en Norvège, sans payer aucun droit de douáne à l'importation, et en ne payant que deux pour cent de la valeur de la marchandise à la sortie.

Article 15. L'huile de Baleine, importée de Norvège dans les ports de l'Empire Russe, ne payera que la moitié des droits fixés dans le tarif Russe.

Article 16. Les deux hautes parties contractantes sont convenues, de limiter la durée du présent réglement commercial, au terme de huit ans, à dater du commencement de l'année prochaine 1818.

Article 17. Les ratifications du présent reglement de commerce seront échangées à Moscou, dans l'espace de deux mois, ou plutôt, si faire se peut.

En foi de quoi nous soussigné, en vertu de nos plein pouvoirs, avons signé le present acte additionnel au traité de Fredrieshamn, et y avons apposé le cachet de nos armes. Fait à St. Pétersbourg, [29 Août,] 10 Septembre, l'an de Gráce mil huit cent dixsept.

CHARLES AXEL, *Cte. de Löwenhielm.* [L. S.]
LE COMTE DE NESSELRODE. [L. S.]

Suivent les ratifications.

No. 8.

The Count of Wetterstedt to J. J. Appleton.

Particulière.] STOCKHOLM, *le* 1 *Juillet*, 1827.

MONSIEUR: Ce n'est qu'après avoir pu conférer demain avec mes collègues que je pourrai vous envoyer, monsieur, la rédaction définitive de l'article séparé. Vous recevrez celui pour l'extradition des matelots aujourd'hui; de manière que nous pourrons de suite commencer à copier le traité.

J'ai beaucoup refléchi depuis hier à l'omission de l'invocation généralement usitée à la tête des traités: "Au nom de la Très Sainte et Indivisible Trinité" et je crains, qu'en l'omettant, nous ne nous fassions attribuer des motifs plus personnels, que d'un interêt général. Il ne s'agit point ici ni du signataire, ni même de celui qui ratifie, il s'agit de la totalité d'un pays qui traité avec un autre. Pourquoi s'écarter alors d'un usage généralement reçu par les Puissances Chretiennes, usage consigné, à l'égard des Etats Unis d'Amérique dans le traité de 1816, contresigné alors par le President d'aujourd'hui. Si cette formule pouvort heurter quelques dogmes nouveaux, son omission, pour cette cause, ne manqueroit pas d'en blesser d'autres, qui pourroient s'appuyer sur des cas précédens et sur les convenances. Plus la liberté se propage dans les opinions religieuses, plus la tolérance doit être son guide, car sans cela, elle peut s'égarer aussi facilement dans sa marche indépendante que la servile superstition au milieu de ses bûchers. N'innovons rien, par consequent, surtout dans un acte, où l'individu qui le signe ne proclame aucune profession de foi, ne renonce à aucune opinion tout en conservant une ancienne formule, et, où il parle au nom de la generalité de ses concitoyens, des trinitaires comme des unitaires. Vouloir substituer à cette formule, une autre, qui pactisât avec les diverses croyances religieuses, seroit nous placer sur une ligne turque, qui ne convient nullement ni à la Scandinavie constitutionnelle, ni à la libre Amérique.

Pardonnez cette petite digression théologique, portant comme je l'espère, l'empreinte de la doctrine tolérante que je professe, mais, surtout ayant été dictée par la considèration très distinguée que je vous ai voué, monsieur, et dont je vous prie de recevoir les nouvelles assurances.

LE CTE. DE WETTERSTEDT.

No. 9.

J. J. Appleton to the Count of Wetterstedt.

STOCKHOLM, *le* 1 *Juillet*, 1827.

MONSIEUR LE COMTE: Je viens d'avoir l'honneur de recevoir votre lettre particulière, et je n'attends pour commencer à copier le traité que l'article pour l'extradition des matelots, sur les principes duquel nous sommes tombés hier d'accord, et que votre excellence se propose de me remettre dans le courant de la journée.

Sans me rendre entièrement pour ce qui regarde mon pays, aux raisons que votre excellence fait valoir pour que l'invocation usitée jusqu'ici ne soit point omise en tête du traité. J'ai trop le désir de réciproquer l'esprit de conciliation qui a animé votre excellence pendant tout lecours de la negociation pour me refuser le plaisir de vous en donner une preuve en me désistant de ma demande, et je m'y prête d'autant plus volontiers que le traité n'ayant point été redigé sous les yeux de mon Gouvernement, ce n'est point sur lui, mais sur son negociateur que pourra peser la responsabilité de tout ce qui ne tient qu'à sa forme.

Croyez, monsieur le Comte, que personne n'attache un plus haut prix que moi à votre estime, et que rien ne sauroit désormais ajouter au profond respect, avec lequel j'ai l'honneur d'être de votre excellence.

Le très humble et obeissant serviteur,

J. J. APPLETON.

20TH CONGRESS.] No. 460. [1ST SESSION.

PROVISIONS OF NINTH ARTICLE OF TREATY WITH SPAIN, OF FEBRUARY 22, 1819, RELATIVE TO LOSSES BY THE INVASIONS OF FLORIDA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES DECEMBER 18, 1827.

Mr. WICKLIFFE, from the Committee on the Judiciary, to whom the subject had been referred, made the following report:

By the resolution of this House, passed on the 11th instant, the Committee on the Judiciary were instructed to "inquire whether any further provisions by law be necessary to carry into effect the ninth article of the treaty, concluded on the 22d February, 1819, between his Catholic Majesty and the United States; and, further, to inquire into the propriety of extending the provisions of the act of the 3d of March, 1823, so as to embrace the losses occasioned by the invasions of Florida in 1812 and 1814." They have performed that duty, and are of the opinion that no further legislation is necessary to carry into effect the ninth article of said treaty; and that it is inexpedient to extend the provisions of the act of the 3d March, 1823, so as to embrace the losses occasioned by the invasions of Florida in 1812 and 1814. In this opinion

the committee derive great confidence from the reasoning contained in the report (made March 10, 1826, No. 112) from the Committee on Foreign Affairs, to whom this subject, by the order of the House at the 1st session of the 19th Congress, was referred, to which report they beg leave to refer.*

Wherefore, resolved, That the Committee on the Judiciary be discharged from the further consideration of the said resolution, and that the persons interested have leave to withdraw their papers and vouchers.

20TH CONGRESS.] **No. 461.** [1ST SESSION.

CONVENTION OF FRIENDSHIP, COMMERCE, AND NAVIGATION, WITH THE FREE HANSEATIC REPUBLICS OF LUBEC, BREMEN, AND HAMBURG.

COMMUNICATED TO THE SENATE DECEMBER 24, 1827.

To the Senate of the United States:

I transmit to the Senate, for their consideration and advice, a convention of friendship, navigation, and commerce, between the United States and the free Hanseatic Republics of Lubec, Bremen, and Hamburg, signed by the respective plenipotentiaries of the parties on the 20th instant at this city. A copy of the convention is likewise enclosed.

JOHN QUINCY ADAMS.

WASHINGTON, *December* 24, 1827.

CONVENTION OF FRIENDSHIP, COMMERCE, AND NAVIGATION, BETWEEN THE UNITED STATES OF AMERICA AND THE FREE HANSEATIC REPUBLICS OF LUBEC, BREMEN, AND HAMBURG.

The United States of America, on the one part, and the Republic and free Hanseatic city of Lubec, the Republic and free Hanseatic city of Bremen, and the Republic and free Hanseatic city of Hamburg, (each State for itself separately,) on the other part, being desirous to give greater facility to their commercial intercourse, and to place the privileges of their navigation on a basis of the most extended liberality, have resolved to fix, in a manner clear, distinct, and positive, the rules which shall be observed between the one and the other, by means of a convention of friendship, commerce, and navigation.

For the attainment of this most desirable object, the President of the United States of America has conferred full powers on Henry Clay, their Secretary of State; and the Senate of the Republic and free Hanseatic city of Lubec, the Senate of the Republic and free Hanseatic city of Bremen, and the Senate of the Republic and free Hanseatic city of Hamburg have conferred full powers on Vincent Rumpff, their Minister Plenipotentiary near the United States of America: who, after having exchanged their said full powers, found in due and proper form, have agreed to the following articles:

ARTICLE 1. The contracting parties agree that whatever kind of produce, manufacture, or merchandise of any foreign country can be, from time to time, lawfully imported into the United States in their own vessels, may be also imported in vessels of the said free Hanseatic Republics of Lubec, Bremen, and Hamburg, and that no higher or other duties upon the tonnage or cargo of the vessel shall be levied or collected, whether the importation be made in vessels of the United States or of either of the said Hanseatic Republics. And, in like manner, that whatever kind of produce, manufacture, or merchandise of any foreign country can be, from time to time, lawfully imported into either of the said Hanseatic Republics in its own vessels, may be also imported in vessels of the United States; and that no higher or other duties upon the tonnage or cargo of the vessel shall be levied or collected, whether the importation be made in vessels of the one party or of the other. And they further agree that whatever may be lawfully exported or re-exported by one party in its own vessels to any foreign country, may, in like manner, be exported or re-exported in the vessels of the other party. And the same bounties, duties, and drawbacks shall be allowed and collected, whether such exportation or re-exportation be made in vessels of the one party or of the other. Nor shall higher or other charges of any kind be imposed in the ports of the one party on vessels of the other than are, or shall be, payable in the same ports by national vessels.

ARTICLE 2. No higher or other duties shall be imposed on the importation into the United States of any article the produce or manufacture of the free Hanseatic Republics of Lubec, Bremen, and Hamburg; and no higher or other duties shall be imposed on the importation into either of the said Republics of any article the produce or manufacture of the United States, than are, or shall be, payable on the like article being the produce or manufacture of any other foreign country; nor shall any other or higher duties or charges be imposed by either party on the exportation of any articles to the United States or to the free Hanseatic Republics of Lubec, Bremen, or Hamburg, respectively, than such as are, or shall be, payable on the exportation of the like articles to any other foreign country; nor shall any prohibition be imposed on the importation or exportation of any article the produce or manufacture of the United States, or of the free Hanseatic Republics of Lubec, Bremen, or Hamburg, to or from the ports of the United States, or to or from the ports of the other party, which shall not equally extend to all other nations.

ARTICLE 3. No priority or preference shall be given, directly or indirectly, by any or either of the contracting parties, nor by any company, corporation, or agent, acting on their behalf, or under their authority, in the purchase of any article the growth, produce, or manufacture of their States, respectively, imported into the other on account of or in reference to the character of the vessel, whether it be of the

* See ante No 422.

one party or of the other, in which such article was imported; it being the true intent and meaning of the contracting parties that no distinction or difference whatever shall be made in this respect.

ARTICLE 4. In consideration of the limited extent of the territories of the Republics of Lubec, Bremen, and Hamburg, and of the intimate connexion of trade and navigation subsisting between these Republics, it is hereby stipulated and agreed that any vessel which shall be owned exclusively by a citizen or citizens of any or either of them, and of which the master shall also be a citizen of any or either of them, and provided three-fourths of the crew shall be citizens or subjects of any or either of the said Republics, or of any or either of the States of the Confederation of Germany, such vessel, so owned and navigated, shall, for all the purposes of this convention, be taken to be and considered as a vessel belonging to Lubec, Bremen, or Hamburg.

ARTICLE 5. Any vessel, together with her cargo, belonging to either of the free Hanseatic Republics of Lubec, Bremen, or Hamburg, and coming from either of the said ports to the United States, shall, for all the purposes of this convention, be deemed to have cleared from the Republic to which such vessel belongs, although, in fact, it may not have been the one from which she departed; and any vessel of the United States and her cargo, trading to the ports of Lubec, Bremen, or Hamburg, directly or in succession, shall, for the like purposes, be on the footing of a Hanseatic vessel and her cargo making the same voyage.

ARTICLE 6. It is likewise agreed that it shall be wholly free for all merchants, commanders of ships, and other citizens of both parties, to manage, themselves, their own business in all the ports and places subject to the jurisdiction of each other, as well with respect to the consignment and sale of their goods and merchandise, by wholesale or retail, as with respect to the loading, unloading, and sending off their ships; submitting themselves to the laws, decrees, and usages there established, to which native citizens are subjected; they being, in all these cases, to be treated as citizens of the Republic in which they reside, or at least to be placed on a footing with the citizens or subjects of the most favored nation.

ARTICLE 7. The citizens of each of the contracting parties shall have power to dispose of their personal goods within the jurisdiction of the other by sale, donation, testament, or otherwise; and their representatives, being citizens of the other party, shall succeed to their said personal goods, whether by testament or *ab intestato*, and they may take possession thereof, either by themselves or others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein said goods are shall be subject to pay in like cases; and if, in the case of real estate, the said heirs would be prevented from entering into the possession of the inheritance on account of their character of aliens, there shall be granted to them the term of three years to dispose of the same as they may think proper, and to withdraw the proceeds without molestation, and exempt from all duties of detraction on the part of the Government of the respective States.

ARTICLE 8. Both the contracting parties promise and engage formally to give their special protection to the persons and property of the citizens of each other, of all occupations, who may be in the territories subject to the jurisdiction of the one or the other, transient or dwelling therein, leaving open and free to them the tribunals of justice for their judicial recourse on the same terms which are usual and customary with the natives or citizens of the country in which they may be; for which they may employ, in defence of their rights, such advocates, solicitors, notaries, agents, and factors, as they may judge proper, in all their trials at law; and such citizens or agents shall have as free opportunity as native citizens to be present at the decisions and sentences of the tribunals in all cases which may concern them, and likewise at the taking of all examinations and evidence which may be exhibited in the said trials.

ARTICLE 9. The contracting parties, desiring to live in peace and harmony with all the other nations of the earth by means of a policy frank and equally friendly with all, engage mutually not to grant any particular favor to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same freely if the concession was freely made, or on allowing the same compensation if the concession was conditional.

ARTICLE 10. The present convention shall be in force for the term of twelve years from the date hereof; and further, until the end of twelve months after the Government of the United States, on the one part, or the free Hanseatic Republics of Lubec, Bremen, or Hamburg, or either of them, on the other part, shall have given notice of their intention to terminate the same; each of the said contracting parties reserving to itself the right of giving such notice to the other at the end of the said term of twelve years; and it is hereby agreed between them, that, at the expiration of twelve months after such notice shall have been received by either of the parties from the other, this convention, and all the provisions thereof, shall, altogether, cease and determine, as far as regards the States giving and receiving such notice; it being always understood and agreed that, if one or more of the Hanseatic Republics aforesaid shall, at the expiration of twelve years from the date hereof, give or receive notice of the proposed termination of this convention, it shall, nevertheless, remain in full force and operation, as far as regards the remaining Hanseatic Republics or Republic which may not have given or received such notice.

ARTICLE 11. The present convention being approved and ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by the Senates of the Hanseatic Republics of Lubec, Bremen, and Hamburg, the ratifications shall be exchanged at Washington within nine months from the date hereof, or sooner, if possible.

In faith whereof, we, the plenipotentiaries of the contracting parties, have signed the present convention, and have thereto affixed our seals.

Done, in quadruplicate, at the city of Washington, on the twentieth day of December, in the year of our Lord one thousand eight hundred and twenty-seven, in the fifty-second year of the Independence of the United States of America.

H. CLAY. [L. S.]
V. RUMPFF. [L. S.]

CONVENTION D'AMITIE, DE COMMERCE, ET DE NAVIGATION, ENTRE LES REPUBLIQUES LIBRES ET ANSEATIQUES DE LUBEC, BREMEN, ET HAMBOURG, ET LES ETATS UNIS D'AMERIQUE.

La République et ville libre et Anséatique de Lubec, la République et ville libre et Anséatique de Bremen, et la République et ville libre et Anséatique de Hambourg, (chacun de ces Etats pour soi séparément,) d'une part; et les Etats Unis d'Amérique, d'autre part; désirant accorder plus de facilités à leurs

relations commerciales, et établir les privilèges de leur navigation sur les bases de la liberalité la plus étenduc; sont convenus d'arréter d'une maniere claire, distincte, et positive, par une convention d'amitié, de commerce, et de navigation, les règles qui doivent être observées entre eux.

Pour atteindre ce but désirable, le Sénat de la République et ville libre et Anséatique de Lubec, le Sénat de la République et ville libre et Anséatique de Bremen, et le Sénat de la République et ville libre et Anséatique de Hambourg, ont muni de pleins pouvoirs, Vincent Rumpff, leur Ministre Plénipotentiaire près les Etats Unis d'Amérique; et le Président des Etats Unis d'Amérique a muni de pleins pouvoirs Henri Clay, leur Secrétaire d'Etat; lesquels, après avoir échangé leurs dits pleins pouvoirs, trouvés en bonne et due forma, ont arrété les articles suivans:

ARTICLE 1. Les parties contractantes conviennent que toutes sortes de productions, manufactures, ou marchandises, provenant de quelque pays étranger que ce soit, qui, de temps à autre pourront être légalement importées dans l'une desdites Républiques Anséatiques de Lubec, Bremen, et Hambourg par leurs propres bâtimens, pourront aussi y être importées par les bâtimens des Etats Unis; et qu'il ne sera imposé ni perçu sur le tonnage ou la cargaison du bâtiment, d'autres, ni de plus forts droits, soit que l'importation ait lieu par bâtimens de l'une desdites Républiques, soit par ceux des Etats Unis. Et pareillement, que toutes sortes de productions, manufactures, ou marchandises, provenant de quelque pays étranger que ce soit, qui, de temps à autre, pourront être légalement importées dans les Etats Unis, par bâtimens desdits Etats, pourront également y être importées par les bâtimens desdites Républiques Anséatiques; et qu'il ne sera imposé ni perçu, sur le tonnage ou la cargaison du bâtiment, d'autres, ni de plus forts droits, soit que l'importation ait lieu par bâtimens de l'une des parties, soit par ceux de l'autre. Elles conviennent, en outre que tout ce qui pourra étre légalement exporté ou ré-exporté, pour quelque pays étranger que ce soit, par les bâtimens de l'une des parties contractantes, pourra également en être exporté ou ré-exporté, par ceux de l'autre partié; et les mémes droits, primes et remboursemens de droits seront perçus et alloués, soit que l'exportation ou la ré-exportation ait lieu par bâtimens de l'une des parties, soit par ceux de l'autre. Il ne sera imposé dans les ports de l'une des deux parties, sur les bâtimens de l'autre, aucuns droits ou charges, de quelque nature qu'ils puissent étre, plus forts ou autres que ceux qui seront imposés dans les mémes ports sur les bâtimens nationaux.

ARTICLE 2. Il ne sera imposé d'autres, ni de plus forts droits sur l'importation dans les Républiques libre set Anséatiques de Lubec, Bremen, et Hambourg, des articles provenant du sol ou des manufactures des Etats Unis; et il ne sera imposé d'autres ni de plus forts droits sur l'importation dans les Etats Unis des articles provenant du sol ou des manufactures desdites Républiques, que ceux qui sont, ou seront imposés sur les mémes articles provenant du sol ou des manufactures de tout autre pays étranger. De méme, il ne sera imposé, par l'une des parties, sur l'exportation de quelque article que ce soit, pour les Républiques libres et Anséatiques, de Lubec, Bremen, et Hambourg, ou pour les Etats Unis, respectivement, d'autres, ni de plus forts droits que ceux qui sont ou seront imposés sur l'exportation des mémes articles pour tout autre pays étranger. De méme, il ne sera imposé sur l'importation ou sur l'exportation des articles provenant du sol ou des manufactures des Républiques libres et Anséatiques de Lubec, Bremen, et Hambourg, ou des Etats Unis, à l'entrée ou à la sortie des ports des Républiques Anséatiques, ou de ceux de l'autre partie, aucune prohibition que ne soit pas également applicable à toute autre nation.

ARTICLE 3. Il ne sera accordé, ni directement, ni indirectement, par l'une ou par l'autre des parties contractantes, ni par aucune compagnie, corporation, ou agent agissant en son nom, ou par son autorité, aucune priorité ou préférence quelconque, pour l'achat d'aucune production du sol ou de l'industrié de leurs Etats respectifs, importée, dans le territoire de l'autre, à cause, ou en consideration de la nationalité du navire qui aurait transporté cette production, soit qu'il appartienne à l'une des parties, soit à l'autre: l'intention bien positive des deux parties contractantes étant qu'aucune différence ou distinction quelconque n'ait lieu à cet égard.

ARTICLE 4. En considération de l'ètendue limitée des territoires des Républiques de Lubec, Bremen, et Hambourg, et de l'intime liaison commerce et de navigation subsistante entre ces Républiques; il est ici stipulé et convenue, que tout navire appartenant exclusivement à un ou plusieurs citoyens de l'une ou des autres desdites Républiques, et dont le capitaine sera aussi citoyen de l'une desdites Républiques; pourvu que les trois quarts de l'equipage se composent de citoyens ou sujets d'une ou de plusieurs desdites Républiques, ou d'un ou de plusieurs des Etats de la Confédération Germanique; ledit navire sera considéré, pour tous les objets de cette convention, comme navire appartenant à Lubec, Bremen, ou Hambourg.

ARTICLE 5. Tout bâtiment, ainsi que sa cargaison, appurtenant à l'une des Républiques Anséatiques de Lubec, Bremen, et Hambourg, et venant de l'un des ports des susdites Républiques aux Etats Unis, sera considéré, pour tous les objets de cette convention, comme venant de la République à laquelle il appartient, quoique, dans le fait, ce port ne soit pas celui d'où il aurait fait voile: et tout bâtiment des Etats Unis, ainsi, que sa cargaison, trafiquant, directement, ou successivement, avec les ports de Lubec, Bremen, et Hambourg, sera placé, pour ces mémes objets, sur le méme pieds qu'un bâtiment Anséatique, et sa cargaison, faisante le méme voyage.

ARTICLE 6. Il est, en outre, convenu, que les négocians, capitaines de navires, et autres citoyens des deux parties, pourront, eux-mémes, diriger librement leurs propres affaires, dans tous les ports et places soumis à la juridiction de chacune d'elles, tant pour ce qui a rapport à la consignation, et à la vente, engros et en détail, de leurs denrées et marchandises, que pour ce qui regarde le chargement, déchargement, et expédition de leurs bâtiments; en se conformant aux lois, décrets et usages y établis, auxquels les citoyens de l'etat sont assujettis; ils seront, dans tous ces cas, traités comme sujets de la République dans laquelle ils résideront; ou, du moins, ils seront placés sur le méme pied que les citoyens ou sujets de la nation la plus favorisée.

ARTICLE 7. Les citoyens de chacune des parties contractantes pourront disposer de leurs biens personnels, dans les limites de la juridiction de l'autre, par vente, donation, testament ou autrement; et leurs héritiers, étant citoyens de l'autre partie, succéderont auxdits biens personnels, soit en vertu d'un testament, soit *ab intestato;* ils pourront en prendre possession, soit en personne, soit par d'autres agissant en leur place; et ils en disposeront, à leur volonté en ne payant d'autres droits que ceux auxquels les habitans du pays où se trouvent lesdits biens, sont assujettis en pareille occasion. Et si, dans le cas de biens immeubles, lesdits héritiers ne pouvaient entrer en jouissance de l'héritage, à cause de leur qualité d'etrangers, il leur sera accordé un délai de trois ans, pour en disposer à leur gré, et pour en retirer le produit sans obstacle, et exempt de tous droits de détraction, de la part des Gouvernemens des Etats respectifs.

ARTICLE 8. Les deux parties contractantes promettene, et s'engagent formellement d'accorder leur

protection spéciale aux personnes et propriétés des citoyens de chacune d'elles, quelles que soient leurs occupations, qui pourraient se trouver dans les territoires soumis à leur juridiction, soit pour y voyager, soit pour y séjourner; leur accordant pleine liberté de recourrir aux cours de justice, pour leurs affaires litigieuses, aux mêmes conditions qui seront accordées, par l'usage, au citoyens du pays où ils se trouveront; et d'employer, dans leurs procés, pour la défense de leurs droits, tels avocats, avoués, notaires, agens ou mandataires qu'ils trouveront convenable de choisir; et lesdits citoyens, et leurs agens, jouiront de la méme liberté que ceux du pays d'assister aux decisions, et sentences des tribunaux, dans tous les cas où ils s'y trouveront intéressés, ainsi qu' à l'examen des témoins qui seraient appelés dans lesdits procés.

ARTICLE 9. Les parties contractantes désirant vivre en paix et harmonie avec toutes les nations de la terre, en observant envers chacune, également, une politique franche et amicale; s'engagent mutuellement à n'accorder aucune faveur particuliere à d'autres nations, en fait de commerce et de navigation, qui ne devienne aussitôt commune à l'autre partie; et celle ci jouira de cette faveur gratuitement, si la concession est gratuite, ou en accordant la méme compensation, si la concession est conditionnelle.

ARTICLE 10. La présente convention sera en vigueur pendant douze ans à dater de ce jour; et audela de ceterme, jusqu'à l'expiration de douze mois après que l'un ou l'autre des Gouvernement des Républiques Anséatiques de Lubec, Bremen, et Hambourg, d'une part, ou le Gouvernement des Etats Unis, d'autre part, aura annoncé à l'autre son intention de la terminer; chacune des parties contractantes se réservant le droit de faire à l'autre une telle déclaration, au bout des douze ans susmentionnés; et il est convenue entre elles, qu'à l'expiration de douze mois après qu'une telle déclaration de l'une des parties aura été reçue par l'autre, cette convention, et toutes les stipulations y contenues, cesseront d'être obligatoires, par rapport aux Etats qui donneront ou recevront cette déclaration: bien entendu et convenu que si l'une ou plusieurs desdites Républiques Anséatiques, à l'expiration de douze ans, à dater de ce jour, donnent ou reçoivent la déclaration de la cessation proposée de cette convention, ladite convention restera, néanmoins, en pleine force et effet par rapport à cella ou à celles des Républiques Anséatiques, qui n'aura, ou qui n'auront, ni donné ni reçu cette declaration.

ARTICLE 11. La présente convention étant approuvée et ratifiée par les Sénats des Républiques Anséatiques de Lubec, Bremen, et Hambourg, et par le President des Etats Unis, par, et avec l'avis et le consentement du Sénat desdits Etats, les ratifications en seront échangées à Washington dans l'espace de neuf mois, à dater de ce jour, ou plutôt, si faire se peut.

En foi de quoi les plénipotentiaires des parties contractantes ont signé la présente convention, et y ont apposé leurs sceaux.

Fait par quadruplicata, en la cité de Washington, le vingt Décembre, l'an de Gráce mil huit cent vingt-sept, et le cinquante deuxième de l'Independance des Etats Unis d'Amérique.

V. RUMPFF. [L. S.]
H. CLAY. [L. S.]

20TH CONGRESS.] No. 462. [1ST SESSION.

INDEMNITY FOR SLAVES CARRIED AWAY BY THE FORCES OF GREAT BRITAIN IN 1815.

COMMUNICATED TO THE SENATE, IN EXECUTIVE SESSION, DECEMBER 31, 1827.

To the Senate of the United States:

In compliance with a resolution of the Senate of the 14th instant, requesting a communication of the instructions to the American Minister at London for the negotiation of the convention of November 13, 1826, with Great Britain, for indemnity to the claimants under the first article of the treaty of Ghent, together with the letters of the minister accompanying and explaining the said convention, I transmit herewith a report from the Secretary of State, together with the documents desired.

JOHN QUINCY ADAMS.

WASHINGTON, *December* 24, 1827.

DEPARTMENT OF STATE, *Washington, December* 21, 1827.

The Secretary of State, to whom has been referred by the President of the United States a resolution of the Senate of the 14th instant, requesting "the President to lay before the Senate the instructions to the American Minister at London for the negotiation of the convention of the 13th November, 1826, with Great Britain, for indemnity to the claimants under the first article of the treaty of Ghent, together with the letter of the minister accompanying and explaining the said convention, or so much thereof as may be communicated without injury to the public interest," has the honor to submit to the President copies and extracts from the letters of instructions to the American Minister at London upon the subject embraced by the resolution, together with a copy of the letter of Mr. Gallatin, the minister who negotiated the convention in question, and which accompanied and explained the same; and the copy, likewise, of a correspondence between the British Minister here and this Department, which is deemed to be within the purview of the said resolution.

H. CLAY.

List of papers transmitted with the foregoing.

Mr. Clay to Mr. King, instructions, dated May 10, 1825. (Extract.)
Same to Mr. Gallatin, dated June 21, 1826.
Mr. Vaughan to Mr. Clay, dated April 12, 1826.
Mr. Clay to Mr. Vaughan, dated April 15, 1826.
Mr. Vaughan to Mr. Clay, dated April 17, 1826.
Mr. Clay to Mr. Vaughan, dated April 19, 1826.
Mr. Vaughan to Mr. Clay, dated September 20, 1826.
Mr. Clay to Mr. Vaughan, dated October 12, 1826.
Mr. Vaughan to Mr. Clay, dated October 13, 1826.
Mr. Clay to Mr. Gallatin, dated October 12, 1826. (Extract.)
Mr. Gallatin to Mr. Clay, dated November 13, 1826.

Extract of a letter from Mr. Clay to Mr. King, dated Department of State, Washington, May 10, 1825.

(For this letter see page 339 of this volume.)

Letter from Mr. Clay to Mr. Gallatin of the 21st of June, 1826.

(For this letter see page 343 of this volume.)

Mr. Vaughan to Mr. Clay.

WASHINGTON, *April* 12, 1826.

SIR: I have received instructions to make known to the Government of the United States the intentions of his Majesty's Government with regard to some points arising out of the commission under the convention of St. Petersburg of the 12th July, 1822.

I have to express the sincere regret of his Majesty's Government at finding themselves under the absolute impossibility of accepting the terms of compromise offered by the envoy from the United States in London in satisfaction of all claims arising under the abovementioned convention. The terms of that compromise are considered as wholly inadmissible; and for the grounds of that opinion I have only to refer you to the correspondence which has taken place between his Majesty's Government and Mr. King.

I am directed to declare to the Government of the United States that his Majesty's Government cannot consent to allow that the question of interest upon arrears of moneys which may be awarded to claimants should be referred to the arbitration of the commission, and also that the demand of interest itself is resisted, as it is not contained in the convention, and declared to be unfounded by the law officers of the Crown.

It is the earnest desire of his Majesty's Government that the labors of the commission should terminate speedily and amicably, convinced that, by adhering strictly to the convention, full and impartial justice will be administered to every claimant upon the British Government.

I have the honor to request that you will accept the assurances of my highest consideration.

CHAS. R. VAUGHAN.

Hon. HENRY CLAY, *&c., &c., &c.*

Mr. Clay to Mr. Vaughan.

DEPARTMENT OF STATE, *Washington, April* 15, 1826.

SIR: I have to acknowledge the receipt of the letter, under date the 12th instant, which you did the honor to address to me; and having submitted it to the President of the United States, I have his directions for the answer which I am now to communicate.

The proposal of a compromise, made by Mr. King, proceeded from a belief that the interests of both Great Britain and the United States would be promoted by fixing upon a gross sum, to be paid in lieu of the amount of the awards of a commission, whose progress had been attended with much difficulty, and whose duration was altogether uncertain. It was also believed that a compromise was conformable to the wishes of Great Britain. If the commission would proceed to execute, according to its true intent and meaning, the convention of St. Petersburg, the Government of the United States would prefer the aggregate amount of their adjudications to any sum on which the two Governments might have agreed by way of compromise, because that amount would express exactly the measure of indemnification which is due to the citizens of the United States under the decision of his Imperial Majesty, whilst a substituted sum could only be an estimate of it somewhat uncertain. In declining the proposal of Mr. King it would have corresponded with the friendly spirit in which it was conceived and brought forward if the British Government had stated what were its views of admissible terms of compromise. From the nature of the subject, in considering the terms of any compromise, absolute precision as to the exact amount of indemnity due is unattainable. The opinion of each party necessarily depends upon the view

which he happens to take of the facts and principles involved, and may be also effected, without his consciousness, by the bias of his own wishes and interests. It therefore often, if not always, happens that no compromise, in any case, can be effected until the parties have exchanged proposals, and thus attempted to reconcile conflicting interests. In contenting itself, as the British Government has done, with a simple negative of the offer of Mr. King, after having invited him to make it, without putting forward any other proposal, the Government of the United States has been disappointed in the fulfilment of a just expectation.

The declaration which you have been directed to make, that his Britannic Majesty's Government cannot consent to allow that the question of interest should be referred to the arbitration of the commission, has been received with surprise. By the fifth article of the convention it is provided that, "in the event of the two Commissioners not agreeing in any particular case under examination, or of their disagreement upon any question which may result from the stipulations of this convention, then and in that case they shall draw by lot the name of one of the two arbitrators, who, after having given due consideration to the matter contested, shall consult with the Commissioners, and a final decision shall be given conformably to the opinion of the majority of the two Commissioners, and of the arbitrator so drawn by lot. And the arbitrator, when so acting with the two Commissioners, shall be bound in all repects by the rules of proceeding enjoined by the fourth article of this convention upon the Commissioners, and shall be vested with the same powers, and be deemed, for that case, a Commissioner."

The Commissioners have disagreed in several cases, in which the American Commissioner has offered to designate an arbitrator in the mode provided by that article, and the British Commissioner has refused his concurrence. One of those cases is the question of interest to which you refer; but it is not the only case. The scheme of the commission is, that, in all decisions whatever arising under the convention, there shall be at least two voices, that is to say, those of the two Commissioners themselves if they can agree, and, if they cannot, those of one of the Commissioners and one of the arbitrators. The convention nowhere gives any countenance to the idea that the decision of one Commissioner in any case under examination is to be absolute and definitive. But if the refusal of the British Commissioner to give effect to the fifth article by casting lots for the arbitrator is upheld and justified, the decision of that Commissioner is, in effect, final and conclusive, and the commission is no longer mixed, (American and British,) but becomes simply and purely a British commission. If, as you are instructed to declare, interest is not contained in the convention, it needed no declaration of the law officers of the Crown that it was unfounded. Whether it be comprehended in the convention or not, as a part of the indemnity for which it stipulates, properly belongs to the Commissioners to determine. They are divided on that question—one entertaining the opinion that it is, and the other that it is not, a part of the indemnity. Here is the precise contingency for which the office of arbitrator is created in the convention. We are prepared to show, if it were proper now to enter on the discussion, that interest is a fair and just component part of the indemnification which the convention stipulated, and that, without interest, it would fall far short of the intention of his Imperial Majesty's decision. If the refusal of the British Commissioner to co-operate in the designation of an arbitrator is to be sanctioned in this instance, his refusal in every other case of disagreement between him and the American Commissioner may be equally supported, which would be equivalent to the dismission altogether of the American Commissioner, and an exclusive transfer of the whole business of the commission to the sole determination of the British Commissioner. It is therefore necessary to inquire whether the British Government means to assume, as a general principle, that the British Commissioner has a right, in all cases of disagreement between him and his associate, to refuse his concurrence to the appointment of an arbitrator; and if not, what is the principle for which they do contend, with its limitations; and, also, whether they mean to justify his refusal in cases of disagreement which have actually occurred other than that on the point of interest.

Concurring entirely in the sentiment expressed by you, that the labors of the commission should be speedily brought to an amicable conclusion, the American Government has seen, with approbation, the readiness which their Commissioner has displayed, in every instance in which he has unfortunately disagreed with his associate, to proceed to the appointment of an arbitrator. Should other disagreements arise between them in the future progress of the commission, he will, no doubt, continue to manifest the same disposition. And the hope is confidently indulged that, upon reconsideration, the good faith which ought ever to characterize the execution of national engagements will induce the British Government to cause the fulfilment of the fifth article according to the plain import of both its spirit and the terms in which it is expressed.

I pray you to accept assurances of my high consideration.

H. CLAY.

Right Hon. CHARLES R. VAUGHAN,
Envoy Extraordinary and Minister Plenipotentiary from Great Britain.

Mr. Vaughan to Mr. Clay.

WASHINGTON, *April* 17, 1826.

SIR: I had the honor on the 12th instant to acquaint you with the decision of his Majesty's Government upon certain points arising out of the convention of St. Petersburg. I should have confined myself to that communication, which I made in compliance with instructions from his Majesty's Government, but I cannot refrain from taking notice of some observations contained in your note of the 15th instant.

I cannot acquiesce in the latitude which you are disposed to give to the powers of the Commissioners under the convention of St. Petersburg, and I do not think that the refusal of the British Commissioner to have recourse to an arbitrator has been exercised in a manner to justify the apprehension which you express of the course of investigation likely in future to be followed by the commission. Upon inquiry I find that the British Commissioner has, in three instances only, refused to have recourse to drawing lots for an arbitrator. In the one instance, the commission was required to admit a claim after the definitive list was closed; in another, he refused to submit to arbitration the claim for slaves carried from Dauphin island; and on the third occasion he would not consent to allow the claim for interest to be decided by arbitration in the commission, in which he has been justified by the decision of his Majesty's Government.

I am led to believe, from your note of the 15th instant, that you are under an impression that the offer of compromise lately made by Mr. King, in satisfaction of all claims arising under the convention of St Petersburg, had been invited by his Majesty's Government. On a reference to the correspondence with Mr. King on that occasion you will not find any manifestation of a wish on the part of his Majesty's Government that such an offer should be made, which, as it appears to me, originated in a conviction, very justly entertained by Mr. King, that it would be equally agreeable to both Governments.

I request that you will do me the honor to accept the assurances of my highest consideration.

CHAS. R. VAUGHAN.

Hon. HENRY CLAY, *&c., &c., &c.*

Mr. Clay to Mr. Vaughan.

DEPARTMENT OF STATE, *Washington, April* 19, 1826.

SIR: Although there is not much utility in prolonging the correspondence recently commenced between us, if, as I have understood you, the instructions which you have received from your Government are restricted to the single object which you communicated in your former note, to prevent any misinterpretation of my silence the note which you did the honor to address to me on the 17th instant demands some remarks.

Far from being disposed to expand the powers of the Commissioners under the convention of St. Petersburg, the Government of the United States only desires a strict and faithful execution of its positive stipulations. It cannot consent that one party, in a tribunal so constituted as that the voices of both ought to be equally heard, should assume the sole power of deciding any particular case under its examination. Such an assumption would have been inadmissible if the convention had not foreseen the possibility of a disagreement between the two members of that tribunal; but, anticipating the contingency, it has, with a wise forecast, made ample provision for it. That provision is a reference to the arbitration of the convention of their disagreement upon any question resulting from its stipulations. In the refusal, therefore, to refer the question of interest, and the other questions on which the Commissioners have divided, to arbitration, the Government of the United States has seen, with regret, an attempt to contract the stipulations of the convention within limits inconsistent with its plain and manifest import. The convention, expounded according to its true intention, carries within itself the means of its certain and unobstructed execution. When the Commissioners happen, unfortunately, to disagree in any case under their consideration, the remedy is specified. But if the Government of the United States could acquiesce in the course which has been pursued, the effect would be to remit the parties back to the state in which they stood when the appeal was made to the umpirage of the Emperor of Russia, and to revive discussions which, having then led to no reconcilement of their views, were supposed to be terminated by the imperial decision, and the convention made to give it complete operation. If, as you suppose, the number of instances is not great in which the British Commissioner has refused to consent to the reference to the arbitration of the convention, one of them, nevertheless, comprehends every claim to indemnity which can arise under the convention, and another includes all the slaves belonging to citizens of Louisiana, to which the highest average price has been affixed. What may be the future course of the British Commissioner can only be anticipated from the past; and the American Government is not prepared to express its willingness that the execution of the convention should proceed upon the unequal condition of allowing that the British Commissioner may, at any moment, arrest its progress by interposing his refusal to give effect to the fifth article. But it is prepared to say, and I am directed by the President to repeat to you, that the American Commissioner is ready diligently to proceed with the labors of the commission, and, in the event, which has happened, and which, unfortunately, may again happen, of the two Commissioners not agreeing in any particular case under examination, or of their disagreement upon any question which may result from the stipulations of the convention, to cast lots for an arbitrator in the mode for which it expressly provides. And the hope is yet indulged that the British Government, faithful to its solemn engagements, and respectful to the memory of the august and lamented personage out of whose decision they sprung, will concur with that of the United States in communicating to the Commissioners the wish that they would refer all cases of disagreements. But if his Britannic Majesty's Government should adhere to the declaration which you have announced, I must then repeat the inquiry contained in my last note, whether the British Government means to assert, as a general principle, that the British Commissioner has a right, in all cases of disagreement between him and his associate, to refuse his concurrence to the appointment of an arbitrator; and if not, what is the principle for which they do contend, with its limitations? And also whether they mean to justify his so refusing in cases of disagreement which have actually occurred other than that on the point of interest?

My former note was not intended to convey the idea that a compromise was invited, in the first instance, by the British Government; but it was intended to say, and the correspondence between Mr. Canning and Mr. King fully bears out, that the British Government did expressly invite the American Minister to specify a sum which would be satisfactory to the United States by way of compromise. He promptly, and without condition, suggested a sum. And I must continue to think that a spirit of frank and friendly negotiation required that, in rejecting as inadmissible the sum so specified, the British Government ought to have stated a sum which would correspond with its own views.

I have the honor to renew assurances of my distinguished consideration.

H. CLAY.

Right Hon. CHARLES R. VAUGHAN,
Envoy Extraordinary and Minister Plenipotentiary from Great Britain.

Mr. Vaughan to Mr. Clay.

WASHINGTON, *September* 20, 1826.

SIR: The correspondence which took place between us in the month of April last, relative to the refusal of the British Government to admit the claim of interest upon the sums which may be awarded by

the Commissioners under the convention of St. Petersburg, having been submitted by me to the consideration of his Majesty's Government, I have been lately put in possession of the view which has been taken of some of the leading points contained in that correspondence, which I think that it is my duty to communicate to you.

In the first place, his Majesty's Government has observed that in the notes which I have had the honor to receive from you, dated the 15th and the 19th of April last, an erroneous construction has been put upon the conduct of the British Commissioner at Washington, and upon the motives of the Government for approving that conduct.

His Majesty's Government do not think it necessary to reply to the alleged assumption by the British Commissioner of the *sole* right of deciding in certain cases proposed for arbitration within the commission by his American colleague, as no such right is assumed by the British Commissioner.

I have to assure you that his Majesty's Government are prepared to execute, in all their extent, the stipulations of the convention of 1822, and to admit the reference to arbitration by the commission of all points which fall within the provisions of that instrument. It is because the points proposed by the American Commissioner do *not* fall within the provisions of the convention that the British Government decline to acquiesce in the proposed reference of those points to arbitration.

The words of the convention are, (article 5,) "In the event of the disagreement of the two Commissioners upon any question which may *result from the stipulations* of this convention," &c.

Now, the question of *interest* on moneys awarded as indemnity under the convention cannot be said to fall within this description, which evidently applies only to such questions as are either specified in the convention, or are essentially part of its stipulations.

The question of interest certainly is not specified in the convention; as little *can it be* affirmed to be of the essence of the convention, to which, in fact, it is totally extraneous.

The commission under the convention of St. Petersburg was established for one specific purpose, namely, the adjudication of certain prescribed objects, and within certain prescribed limits. Neither the one party nor the other can be permitted to exceed those limits by assuming to himself the power of introducing into such instrument an arbitrary extension of its objects, nor can the British Government admit, as if it were a mere construction of doubtful terms, the interpolation of a claim totally new, and notoriously never in the contemplation of the framers of that instrument.

The mode of reasoning adopted in your correspondence would go to bring within the jurisdiction of the commission, and to subject to reference to decision by a commission of arbitration, any the most unforeseen and extravagant demand that could be set up by one party against the other.

It seems quite clear to the British Government that the Commissioners are competent to act only under the instrument by virtue of which they are appointed, and that nothing can be subject of reference to arbitration under the commission which is not of the jurisdiction of the commission.

Each Commissioner must undoubtedly judge for himself what subjects are, and what are not, of the competence of the commission. It is a power which both Commissioners have exercised; for, if in the instance now in question, the *British* Commissioner has objected to a reference to arbitration proposed by his colleague, the American Commissioner has done the like with respect to the proposal of the British Commissioner to refer to arbitration the question of the propriety of submitting, or not submitting, to the inspection of the public the list of deported slaves furnished by the British Admiralty.

It is thought to be a sufficient reply to the interrogations contained in your notes that each party has equally claimed and acted upon what you term the "assumption by the British Commissioner of the *sole* right of deciding on certain points."

With regard to the demand of the Government of the United States respecting slaves taken away from Dauphin island, reference need only be made to the terms of the convention of July 12, 1822, and to those of the treaty of Ghent, to show that demand to be totally unfounded.

The award of the Emperor of Russia, prefixed to the convention, runs thus: "The United States are entitled to claim from Great Britain a just indemnification for all the slaves that the British forces may have carried away from the places and territories of which the treaty of Ghent stipulates the restitution."

Now, that treaty provides that "all territories, places, and possessions whatsoever, taken by either party from the other during the war, shall be restored without delay, and without carrying away any slaves or other private property."

The places herein alluded to can, of course, be such possessions only as essentially belonging to, not merely occupied by, one party were captured by the other; no other construction is to be sustained.

To maintain, therefore, this claim, it must be shown that Dauphin island was an *American possession* at the moment of its capture by the British forces. But it is notorious that it was not so, and that it did not become so until the year 1819, when it was formally ceded to the United States by Spain.

To show that Dauphin island was, in 1814, considered by us as Spanish, it is only necessary to advert to the instructions issued in July of that year to the British officers engaged in hostilities against the United States, especially enjoining them not to infringe the neutrality of that territory so long as the Spanish Government should remain at peace with the United States.

The British forces did, in fact, take possession of the island, not as belonging to the United States, but merely as a position occupied at the time by the American forces.

To show that that territory was equally considered Spanish by the Americans themselves, it is only necessary to refer to the papers of some of the claimants presented to the Board of Commissioners, in which they actually urge as an aggravation of their grievances "that in going to Pensacola (in West Florida) to demand restoration of their slaves from the British commander they considered themselves in a neutral territory, and subject to the protection of the Spanish Government."

No subsequent transfer of the spot so occupied by Spain, its lawful owner, to the United States, can affect retrospectively the undoubted title of Spain at a period previous to such transfer.

The convention provides compensation for matters taken from places which *were* American property *at the time of such taking*, not from any places which may subsequently have become so.

I have thought it my duty to announce to you the opinions entertained by his Majesty's Government upon certain points treated of in the correspondence which I had the honor to hold with you in the month of April last upon the subject of the convention of St. Petersburg. I am particularly instructed, when doing so, to assure you that his Majesty's Government entertain an unabated and anxious desire to bring to as speedy a termination as possible the commission under that convention, and a confident hope is entertained that, in furtherance of this object, any differences of opinion which may arise between the respective parties, as to references to arbitration, may be set aside for consideration hereafter, and may

not be suffered to obstruct the course of the investigation, or to preclude the settlement of the claims successively presented to the board.

I have the honor to request that you will accept the assurances of my highest consideration.

CHAS. R. VAUGHAN.

Hon. HENRY CLAY, *&c., &c., &c.*

Mr. Clay to Mr. Vaughan.

DEPARTMENT OF STATE, *Washington, October* 12, 1826.

SIR: I have the honor to acknowledge the receipt of your note, under date the 20th ultimo, communicating the view which has been taken by the British Government of some of the leading points of the correspondence between us, in the month of April last, relating to the execution of the convention at St. Petersburg, in 1822, for carrying into effect the decisions of his Imperial Majesty the late Emperor of Russia.

The President learns, with extreme regret, that the British Government perseveres in its approbation of the refusal of the British Commissioner to refer the controverted question of interest to the arbitration for which the convention provides, as proposed by the American Commissioner; and that it, moreover, not only approves of his rejection of the claim to indemnity for the slaves taken away from Dauphin island, but sanctions his refusal also to refer to the same arbitration the decision of that claim as was likewise proposed by the American Commissioner. And the President finds himself altogether unable, from the observations contained in your note, to reach the conclusions to which the British Government has brought itself. If, as stated, any erroneous construction had been put by him upon the conduct of the British Commissioner, and upon the motives of his Britannic Majesty's Government in approving it, the President would have been happy to have been made sensible of it, and he would instantly have corrected it. It never was contended on our part, in the correspondence referred to, that the British Commissioner assumed, in terms, the sole power of deciding cases brought before the commission, but that such was the effect of his refusal to submit them to arbitration upon the allegation of their not being comprehended within the convention. And if, as has happened, he has refused to refer every case on which he and his colleague have differed to arbitration, and his Government sanctions this non-execution of the convention, the result is not that his sole voice decides all such cases, provided there is acquiescence on our side, it is difficult to understand what is the result.

The British Government now professes to be willing to admit the reference to arbitration of all points which fall within the provision of the convention, and alleges that the reference is refused of those proposed to be referred by the American Commissioner because they do not fall within that instrument. And it seeks to justify, in respect to the particular question of interest, the refusal to arbitrate it because it is alleged that interest on moneys awarded as indemnity under the convention cannot be said to fall within the description which evidently applies only to such questions as are either specified in the convention or are essentially part of its stipulations. And it asserts that the question of interest is not specified in the convention, nor is it of the essence of the convention, to which, in fact, it is extraneous.

The American Government, no more than that of his Britannic Majesty, desires the reference of any question arising on any point that does not come within the convention; and it is upon the full conviction that interest is so included that it cannot admit the propriety of the refusal to arbitrate it. It is certain that the subject of interest, *eo nomine*, is not specified in the convention, but neither is principal. The convention was framed to secure the just indemnity awarded by the imperial decision, but neither that instrument nor the imperial decision proceeds to what, perhaps, was considered unnecessary to enumerate the items which should compose that just indemnity. His Imperial Majesty confided, and, no doubt, thought he had safely confided, to the justice and intelligence of the representatives of two highly commercial nations the ascertainment of the component parts of a just indemnity for long-standing injuries. If a justification for the rejection of one of those component parts is to be found in the omission of the convention expressly to specify it, the same justification exists for the rejection of every other component part.

It is true that the commission, under the convention of St. Petersburg, was constituted for a specified purpose, which was to give effect to the imperial decision in favor of the claim of the United States to "a just indemnification for all private property which the British forces may have carried away; and, as the question relates to slaves more especially, for all the slaves that the British forces may have carried away from places and territories of which the treaty stipulates the restitution in quitting these same places and territories." In ascertaining the rights of the United States and the duties of the commission we must, therefore, look both to the imperial decision and the convention of St. Petersburg. The decision is the substratum; the convention is the instrument or means only of effectuating it. And if, as is readily admitted, neither party is entitled to exceed the limits which the decision and the convention, its offspring, prescribe, so is neither party authorized to curtail or circumscribe those limits. In determining whether the imputation to the United States of a wish to interpolate a claim totally new be just or not, there must be a solution of the question, of what is a just indemnification, according to the true intent of the imperial decision? And before the British Government could be justified in making such an imputation, it ought to have been prepared to show that the sufferers in the loss of productive property transported now nearly twelve years ago in contravention to the provisions of the treaty of Ghent, will have received a just indemnification for their losses by now obtaining the value of their property, at the moment of its illegal transportation, without interest or any compensation in the nature of damages. This has been neither shown nor can be proved. In lieu of proofs, the British Government contents itself with asserting that the claim of interest was notoriously never in the contemplation of the framers of the convention. This assertion, whether founded upon their intention as deducible from the instrument, or extraneous to it, cannot be admitted.

Your note proceeds to allege that the mode of reasoning adopted in those which I had the honor to address to you in April last, would go to bring within the jurisdiction of the commission, and to subject to reference to decision by a commission of arbitration, any the most unforeseen and extravagant demand that could be set up by one party against the other. What part of the reasoning of those notes deserves to be

thus characterized it is not easy to understand. They claimed only the fair execution of the convention. It was stated in them, and the offer was made to prove, whenever the British Government should be willing to enter on the discussion, that interest was fairly demandable. And any wish on the part of the Government of the United States was disclaimed to extend the provisions of the convention beyond its fair import. If, indeed, any unfounded claim should be preferred under the convention by a citizen of the United States, the British Government has adequate security for its rejection in the integrity and intelligence of the tribunal which is to pronounce upon it. The probability is much greater of the loss of just demands, by the defect of proof from the lapse of time and the difficulty in substantiating them, than that the British Government should be subjected to the payment of any that are unjust.

The doctrines contained in your note would lead to withdraw from the jurisdiction of the commission every claim, however just, and however manifestly it might fall within the meaning of the convention. According to these doctrines, whenever the British Commissioner rejects a claim, if he also refuse to refer it to arbitration, there is an end of it. The ready suggestion is always at hand, that it does not fall within the terms of the convention. If, as may be asserted, the United States have a security against injustice in the intelligence and uprightness of the British Commissioner, the answer is, that whatever may be the degree of the confidence of their Government in his profession of those qualities, that was not the only security which had been stipulated. It was a security resulting from a tribunal of two or three, according to contingencies, and not one for which the convention provides.

The Government of the United States has never objected to the right of each Commissioner judging for himself what subjects are, and what are not, within the competence of the commission. It has objected only to the assumption of a right, on the part of the British Commissioner, to judge both for himself and for his American colleague, and to his making his sole decision final and conclusive without resorting to the arbitrator who was to be called upon "in the event of the two Commissioners not agreeing in *any* particular case under examination, or of their disagreement upon *any* question which may result from the stipulations of the convention." With respect to the instance adduced to prove that each Commissioner has exercised the right to refuse a reference to arbitration, it is to be observed that the proposal of the British Commissioner to refer the question of the propriety of submitting, or not submitting, to the inspection of the public, the list of deported slaves, was an abstract proposal, there being then no case under examination to which it attached itself. At a subsequent period of the proceedings of the board, the American Commissioner offered to refer that, and every other question on which he and his colleague might disagree, to the arbitration of the convention. So that it is perfectly true that the British Commissioner has, in every case in which his colleague has proposed a reference, refused it; whilst that colleague has been ready to co-operate in referring every question of disagreement that has arisen or may arise between them.

In respect to the question of the slaves taken away from Dauphin island, it is with unaffected surprise that the President perceives that the British Government has extended its approbation of the conduct of the British Commissioner to his refusal to refer the disagreement between him and his associate in respect to those slaves. Had the American Commissioner refused, upon the offer of his colleague, to refer the question whether that island was or was not an American possession, or a part of the territory of the United States, he would have been as much justified as in refusing to refer a question raised about our title or possession of Tangier island, in the Chesapeake bay, or any other portion of the acknowledged territory of the United States. The provision of the treaty of Ghent to which the imperial decision refers is correctly quoted by you. That provision gives to one party the right to demand, and makes it the duty of the other to surrender, all territories, places, and *possessions* whatsoever, taken during the war. There is no qualification or limitation in respect to title upon which the surrender was to depend. The concurrence of two facts was all that was necessary: first, that it was a territory, place, or possession; and secondly, that it was taken by one party from the other during the war. The usual language employed in stipulations in treaties of peace, founded on the *status quo ante bellum*, is, that the surrender of territory for which they provide shall be of those places *belonging to one party* which have been captured by the other during the war. That language is liable to the objection that, in executing the stipulation, it leaves open to controversy the question whether a particular place, taken during the war, does or does not belong to the party from whom it was taken and who demands the surrender. It is perfectly well known to the American negotiators of the treaty of Ghent that the phraseology of the first article of the treaty of Ghent was carefully and expressly arranged to cut off all subsequent controversies about the *right* of the United States to the territories, places, and possessions of which it stipulates the surrender; and if it be not competent to effect that purpose, the English language does not supply words which could accomplish it. It is, therefore, not conceded that the places alluded to can be, of course, such possessions only as essentially belonging to, not merely occupied by, one party were captured by the other. If the possessions mentioned in the treaty are to be expounded as meaning those only to which the party claiming their restoration had a right, how can Great Britain, after having restored, in virtue of that stipulation, the establishment at the mouth of the Columbia river, on the Pacific Ocean, now set up any title to it?

It is sufficient, therefore, in vindication of the claim to indemnity for the slaves taken away from Dauphin island, to show, without any regard whatever to the title to that island, that it was in the possession of the United States and taken from them during the war; and this is expressly admitted by your note.

In respect to our title, the British Government appears to entertain some misconceptions about its source, the correction of which, it is hoped, will lead to the immediate acknowledgment of the validity of the demand to indemnity, which they now contest. Our title, then, is not derived, as appears to be supposed, from the treaty of Washington, concluded with Spain in 1819, but from the treaty with France of the 30th April, 1803, by which Louisiana was ceded to the United States. The limits of Louisiana extended east as far as the river Perdido, between the bay of Mobile and the bay of Pensacola, comprehending, of course, the bay of Mobile with all its waters, islands, and dependencies. Dauphin island is situated at the mouth of the bay of Mobile. As far back as in February of the year 1804 the Congress of the United States legislated on the subject, and authorized the President of the United States to erect the shores, waters, and inlets of the bay and river Mobile, and of the other rivers, creeks, inlets, and bays, emptying into the Gulf of Mexico, east of the river Mobile, and west thereof to the Pascagoula, inclusive, into a separate district for the enforcement of the revenue laws of the United States.

Under this act possession of the bay of Mobile was taken by the President of the United States, Fort Boyer was erected at the mouth of the river Mobile, and Dauphin island was also occupied by the forces

of the United States. That fort was reduced, and the island taken possession of, by the British arms during the late war; and both were surrendered to the United States in virtue of the first article of the treaty of Ghent.

This explanation, which it is hoped cannot fail to prove entirely satisfactory to the British Government, accounts for the expressions referred to by your note, in the papers of some of the claimants presented to the Board of Commissioners, in which they state that, in going to *Pensacola*, they considered themselves in a neutral territory and entitled to the protection of the Spanish Government. Pensacola, being situated east of the river Perdido, was no part of Louisiana, but belonged to Spain as a part of Florida, until the cession of it to the United States by the treaty before mentioned of 1819. To the reasoning of your note, which is founded on the error of which the correction is now made, it is not necessary to reply.

In conclusion, you will perceive from these views, entertained on the two points of which your note treats, that the Government of the United States believes—

1st. That the interest, which is claimed as a part of the indemnity, to which the imperial decision extends, is not extraneous to the convention of 1822, but is essentially comprehended within it; and,

2d. That both the possession and the right to Dauphin island were with the United States; that the possession was taken from them by the British forces during the war, and was restored on the return of peace; and, consequently ,that there is no pretext for withholding compensation for those slaves which were carried away from it in violation of the treaty of Ghent.

The President indulges, therefore, the hope that the good faith which should ever characterize the fulfilment of all national engagements will induce the British Government to remove the impediments which have hitherto obstructed the execution of the convention of St. Petersburg, by directing a reference to the arbitration for which it provides of all questions on which the two Commissioners have already disagreed or may hereafter disagree.

I avail myself of this occasion to tender you the homage of my high consideration.

H. CLAY.

Rt. Hon. C. K. VAUGHAN, *Envoy Extraordinary and Minister Plenipotentiary from Great Britain.*

Mr. Vaughan to Mr. Clay.

WASHINGTON, *October* 13, 1826.

SIR: I have the honor to acknowledge the receipt of your note in answer to the statement which I made to you of the opinions entertained by his Majesty's Government upon some points of the correspondence which took place between us, in the month of April last, respecting the commission under the convention of St. Petersburg.

I have nothing to add to the opinions which I have already laid before you, as those which are entertained by his Majesty's Government with regard to the claim for interest, nor do I feel myself competent to decide upon the validity of the claim to indemnification for slaves taken from Dauphin island, which you state to have been taken possession of, together with a certain portion of the province of West Florida, by the United States in 1804. You seem to be of opinion that it is sufficient, in vindication of that claim, to show that the island was in possession of the United States, and taken from them during the war without any reference to the validity of the title to that territory, in the possession of which, by the United States, it is generally understood, that Spain did not acquiesce; and that it did not pass into the dominion of this country until the cession of the Floridas in 1819.

I cannot acquiesce in your declaration that the doctrines contained in my note tend to withdraw from the jurisdiction of the commission any claim, however just, because the British Commissioner may refuse to submit it to arbitration, "the ready suggestion" being always at hand, that it does not fall within the terms of the convention.

I must remind you that both Commissioners have exercised their discretion in refusing to refer disputed points to arbitration. In the two instances in which the British Commissioner refused, he did so because he was convinced that the terms of the convention did not authorize the commission to decide either upon the claim of interest or upon the indemnification for slaves taken from Dauphin island; and the British Government coincided in the view which he had taken of the powers with which the commission was invested by the convention.

In the instance which has been given of refusal on the part of the American Commissioner to refer to arbitration the propriety of submitting to the inspection of the public the list of deported slaves furnished by the British Admiralty, you are pleased to consider the proposal as an abstract one, no case being then under examination. That question, however, was agitated in the commission at the moment when the claimants were arranging the evidence in support of their demands. The instances are three in number in which the Commissioners have refused arbitration, and I cannot assent to the blame which, it seems to me, is implied by your observation that the British Commissioner has in every case refused to arbitrate, while the American Commissioner has been ready to refer every question of disagreement to arbitration that has arisen or may arise between them.

I regret that there should be any difference of opinion upon the manner in which our respective Governments are inclined to understand the convention of St. Petersburg.

It appears to the British Government that it was not in the contemplation of the framers of the convention to grant interest upon the sum which might be awarded as compensation, nor do I think that any usages of commerce are to be made applicable by inference to political engagements. I am sure that you will agree with me in acknowledging that no allusion is made to the granting of interest in any part of the convention. I was justified, therefore, in observing that the admission of that question to decision by the commission would subject equally to their decision any other unforeseen and extravagant demand. I agree with you that neither party is at liberty to extend or circumscribe the limits of the convention. In ascertaining those limits strict adherence must be observed to the words of the convention; nor can I admit any latitude in construing the powers of the commission by a reference to what may be supposed to be the meaning of the decision of the Emperor of Russia.

I have ventured to offer these observations upon the remarks which you have made upon my last

note; and I request that you will do me the honor to accept the renewed assurances of my highest consideration.

CHAS. R. VAUGHAN.

Hon. HENRY CLAY, *&c., &c., &c.*

Extract of a despatch from Mr. Clay, Secretary of State, (No. 9,) to Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary to Great Britain, dated October 12, 1826.

(For this extract see page 345 of this volume.)

Letter from Mr. Gallatin to Mr. Clay, dated London, November 13, 1826.

(For this letter see page 353 of this volume.)
(For the convention transmitted with said letter see page 355.)

20TH CONGRESS.] No. 463. [1ST SESSION.

LIGHT-HOUSES, LIGHT-VESSELS, BUOYS, ETC., ON BAHAMA BANKS, ETC., WITHIN THE JURISDICTION OF BRITISH GOVERNMENT, OPPOSITE THE COAST OF FLORIDA.

COMMUNICATED TO THE SENATE JANUARY 4, 1828.

To the Senate of the United States:

In compliance with a resolution of the Senate of the 19th of last month, I communicate herewith a report from the Secretary of State, with copies of the correspondence with the British Government, relating to the establishment of light-houses, light-vessels, buoys, and other improvements to the navigation within their jurisdiction, opposite to the coast of Florida, referred to in the resolution.

JOHN QUINCY ADAMS.

WASHINGTON, *January* 4, 1828.

DEPARTMENT OF STATE, *Washington, January* 3, 1828.

The Secretary of State, to whom has been referred a resolution of the Senate of the 19th ultimo, requesting "the President of the United States to lay before the Senate any information obtained from the British Government, with regard to the establishment of light-houses, light-vessels, buoys, and other improvements to the navigation within their jurisdiction, opposite the coast of Florida, or so much thereof as may be communicated without injury to the public interest," has the honor to submit to the President the copies and extracts of letters accompanying this report, which will supply the information required by the resolution in question.

H. CLAY.

List of documents accompanying the report of the Secretary of State of January 3, 1828.

Letter.—Mr. Clay to Mr. King, dated November 15, 1825.
Extract.—Mr. Brent to Mr. Gallatin, dated June 27, 1826.
Extract.—Mr. Gallatin to Mr. Clay, dated December 9, 1826.
Extract.—Same to same, dated January 4, 1827.
Letter.—Mr. Gallatin to Mr. Canning, dated January 3, 1827.
Letter.—Mr. Canning to Mr. Gallatin, dated January 11, 1827.
Letter.—Mr. Gallatin to Mr. Clay, dated June 8, 1827.
Letter.—Same to Viscount Dudley, dated June 7, 1827.
Letter.—Same to same, (private,) dated June 7, 1827.
Letter.—Mr. Gallatin to Mr. Clay, dated August 11, 1827.
Letter.—Viscount Dudley to Mr. Gallatin, dated August 11, 1827.

Mr. Clay to Mr. King.

No. 9.] DEPARTMENT OF STATE, *Washington, November* 15, 1825.

SIR: Your predecessor, in conformity with a resolution of the House of Representatives, and instructions consequent upon it, opened a negotiation with the British Government for the purpose of obtaining

a cession of a part of the island of Abaco, to enable the Government of the United States to erect a light house. In July, 1824, Mr. Rush had an interview with Lord Melville and Mr. Huskisson on that subject; in the course of which they stated the unwillingness of their Government to cede any part of the island of Abaco, but professed no indisposition to exist on the part of Great Britain to establish any necessary aids to navigation in that quarter if the United States would designate the proper sites, and provided their vessels would pay the necessary fees towards keeping them up, in all cases where their vessels derived benefit from them, whilst making voyages in that direction. Mr. Rush justly supposed that great if not insuperable difficulties would arise in the collection of those fees, but engaged to refer the proposal to his Government. A promise was made to him to reduce it to writing, that he might in that more precise form transmit it; but it has never been received in that shape.

The very great and often afflicting disasters which occur in the navigation of the seas near the Cape of Florida and the Bahamas, and which are in some degree owing to the want of the proposed light and other facilities, induce the President to wish that you would again bring this matter before the British Government. These disasters are not limited to the vessels of the United States, but are experienced by those of other nations trading in the Gulf of Mexico. Several have recently occurred to French vessels, as well as to those of the United States. Shortly after the acquisition of East Florida the attention of the Government of the United States was directed to the object of affording to navigation all the assistance which could be rendered by lights erected at suitable points and distances on the Florida coast, and other proper aids. Accordingly lights have been directed to be built at the Dry Tortugas, Sambo keys, and at Carysford reef. The channel between the Tortugas and the main land has been directed to be indicated by buoys. Other lights are contemplated at proper points on the coast near Cape Florida and Cape Carnaveral. When all these works shall be completed, there will be a chain of lights along the Florida coast, so that a vessel may almost constantly have one in view. Their effect may be more distinctly seen by glancing at the accompanying map, on which you will see marked, in red colors, the lights, either in a progress of execution or contemplated within the jurisdiction of the United States, which the interests of navigation require. Vessels bound out of the Gulf, after making the Dry Tortugas, generally steer along the Gulf Stream, near the coast of Florida, and to these the lights and other facilities constructed, or contemplated by the American Government, will afford material advantage. When they are bound into the Mexican Gulf they are compelled to avoid the Gulf Stream on account of its force, and they almost invariably endeavor to make the point of Abaco island, designated on the map as "the Hole of the Rock," or, as it is more commonly called, "the Hole in the Wall." The land lies low, and the approach to it is difficult, especially in the night, or in wet or hazy weather, so that vessels are often compelled to lie on and off for some time before it can be discerned. Much time is consequently lost, and many wrecks have taken place near that spot. The advantages, therefore, of a light erected there are evident; and somewhere about the spot which is colored in yellow would, it is believed, be a suitable site. That would, however, be best determined by a previous survey.

After a vessel has made "the Hole in the Wall" she directs her course to the Stirrup key, (also noted in the map.) At that point it would be very serviceable to have a floating light placed. Having reached it, she next steers along the banks for Orange key. It is desirable that there should be buoys or beacons erected to mark the channel along those banks. At the Orange key, also, there should be placed a light-vessel. On this subject I refer you more particularly to a letter from the Governor of Bahama to Commodore Porter, of April 24, 1824, which accompanies the report from this Department, addressed to the House of Representatives, hereafter mentioned.

You will make these explanations to the British Government. It is presumed that when they take into consideration what has been done by that of the United States, at their expense, the benefits of which are shared, free from charge, by the vessels of all nations navigating those seas, they will cause the proposed light at the Hole in the Wall, floating lights at the Stirrup key and Orange key, and the buoys or beacons along the banks between the Stirrup key and the Orange key, to be built at their own expense. Their own vessels are interested no less than those of the United States in the erection of the works. But they are called for so imperiously by the safety of commerce, and by the feelings of humanity, that the President does not wish them to be defeated or delayed by any disagreement between the two Governments about the inconsiderable expense of accomplishing the object. If, therefore, the British Government should continue to decline making the cession contemplated by the resolution of the House of Representatives, (which you will not press,) and should continue to insist upon the United States sustaining a part of the burden of building and keeping up the works now suggested, you are authorized to assure it that the Government of the United States will defray such reasonable proportion of the expense as shall be hereafter mutually agreed upon between the two Governments. What that should be cannot, it is supposed, be ascertained and determined until the works are finished, or at least until proper estimates are made.

To put you further in possession of the subject of this note, I transmit herewith a copy of a report from this Department, of the 23d December, 1824, with the accompanying documents; and also a copy of a report of the Committee of Foreign Affairs of the House of Representatives, 20th January, 1825, founded upon the negotiation which had previously taken place between Mr. Rush and the British Government.

I am your obedient servant,

H. CLAY.

Extract of a letter from Mr. D. Brent to Mr. Gallatin, dated June 27, 1826.

"Herewith I have the honor to transmit to you, by direction of Mr. Clay, the copy of a letter which he wrote to Mr. King, on the 15th of November last, concerning a negotiation which Mr. Rush had been instructed to open with the British Government, for the purpose of obtaining a cession of a part of the island of Abaco, to enable the Government of the United States to erect a light-house upon it, together with the copy of a report from this Department to the House of Representatives, dated 23d December, 1823, and of one from the Committee of Foreign Affairs to the same House, of the 20th January succeeding, on the same subject, which will make you acquainted with it in all its parts. It is the wish of the Secretary that you should prosecute this interesting business to a conclusion, taking it up where it may have been left by Mr. King, and which you will ascertain from Mr. John A. King. I regret that we cannot furnish you with a copy of the sketch or map with which Mr. King was furnished; though I presume you will find the original with the papers of the legation at London."

Mr. Gallatin to Mr. Clay.

[Extract.]

No. 34.] LONDON, *December* 9, 1826.

"Constant attendance to the subjects of the pending negotiations has not left me time, since Mr. Canning's return to London, to make an official application respecting the light-houses on the British side of the channel of Bahama. In a private conversation with Lord Melville he said that the British Government was quite disposed, and thought it just, to erect, at their own expense, all such as might be deemed necessary. Of this they must judge for themselves; but our suggestions will have considerable weight; and I beg that if there is any additional information on that subject, it may be transmitted as soon as possible."

Mr. Gallatin to Mr. Clay.

[Extract.]

No. 49.] LONDON, *January* 4, 1827.

"I have the honor to enclose the copy of a note I addressed yesterday to Mr. Canning, respecting the light-house and other contemplated improvements on the British side of the Strait of Florida."

Mr. Gallatin to Mr. Canning.

[Enclosure.]

JANUARY 3, 1827.

The undersigned, minister of the United States, has been instructed to call again the attention of his Majesty's Government to the subject of the light-house, floating-lights, and buoys, which are necessary for the safety of the navigation through the channel between Florida and the Bahama Banks.

Light-houses have been directed by the United States to be built at the Dry Tortugas, at Sambo keys, and at Carysford reef. The channel between the Tortugas and the main land has been directed to be indicated by buoys. Other light-houses are contemplated at proper points on the coast near Cape Florida and Cape Carnaveral. When all these works shall be completed, there will be a chain of lights along the Florida coast, so that a vessel may, almost constantly, have one in view.

To vessels bound from the Gulf of Mexico, northward, those improvements will be of material advantage; but vessels bound from the north to the Gulf of Mexico are compelled, in order to avoid the Gulf Stream, to sail along the eastern side of the channel, and close by the several banks, keys, and low lands which bound it on that side. The improvements, heretofore suggested as necessary there, were a light-house on the point of Abaco island, called "the Hole of the Rock," or "the Hole in the Wall," floating lights at the Stirrup key and Orange key, and buoys or beacons along the banks between those two keys.

Whether these or other places shall, on further investigation, be deemed most eligible, the great and general utility of lights and other facilities in that most frequented and dangerous channel to the navigation of the United States, of Great Britain, and of the whole commercial world, is universally acknowledged.

The Government of the United States, at the same time that they were making provision for lighting their own side, had, in the first instance, applied to that of Great Britain for a cession of a part of the island of Abaco, on which to erect a light-house at their own expense. This was declined; but a disposition was evinced, on the part of his Majesty's Government, to establish the necessary aids to navigation in that quarter; and Mr. Rush had some conversation on the subject with Lord Melville and Mr. Huskisson, in which the question appears to have been agitated, whether the United States should contribute to the expense of erecting and supporting those improvements.

It is presumed that on a question of this kind, taking into consideration what has been done by the United States, the benefits of which are shared, free from charge, by vessels of all nations navigating those seas, Great Britain will feel disposed to erect and support, at her own expense, the light-house and other improvements necessary on her side of the channel; and the undersigned, in a transient conversation with Lord Melville, understood this to be his lordship's opinion.

Nothing definitive has as yet been concluded; but those works are called for so imperiously by the safety of commerce, and by the feelings of humanity, that neither Government can permit them to be defeated or delayed by any disagreement about the inconsiderable expense of accomplishing the object.

The undersigned prays, therefore, Mr. Canning, his Majesty's Principal Secretary of State for Foreign Affairs, to take this subject into his consideration, and to have the goodness to communicate to him the decision of his Majesty's Government upon it.

The undersigned has the honor, &c.,

ALBERT GALLATIN.

Mr. Canning to Mr. Gallatin.

FOREIGN OFFICE, *January* 11, 1827.

Mr. Secretary Canning presents his compliments to Mr. Gallatin, and, in acknowledging the receipt of his note of the 3d instant, on the subject of the lights necessary for the safety of the navigation between Florida and the Bahama Banks, has the honor to acquaint Mr. Gallatin that a copy of his note

has been transmitted to the Admiralty for the consideration of that department. Mr. Canning, in making this communication to Mr. Gallatin, requests that he will accept the assurance of his high consideration.

Mr. Gallatin to Mr. Clay.

No. 84.] LONDON, *June* 8, 1827.

SIR: Although the Admiralty, as I was informed near three months ago by Lord Melville, had made a favorable report on the subject of lights necessary for the safety of the navigation of the Bahama Banks, no official communication has been made to me of the intentions of the Government on the renewed application of the United States. This may be accounted for by the change of ministry. It was, at all events, necessary to call again the attention of the Foreign Department to the subject; and I have accordingly addressed to Lord Dudley the note dated yesterday, of which a copy is enclosed. Although, in writing to him officially, I must take it for granted that he was well acquainted with the grounds of the application, fearing that, holding the office only *ad interim*, he might not have paid, or pay, sufficient attention to the subject, I have, in the private note, (also enclosed,) given him a brief outline of the object in view, and suggested the reason why a speedy decision was desirable. I understood Lord Melville's opinion to be, that the lights on British ground ought to be erected at the sole expense of Great Britain; but when he informed me that the report was made, and in favor of erecting the lights, he added, that he had not there touched the question of expense, which he did not consider as having been referred to him, or belonging to his department.

I have the honor, &c.,

ALBERT GALLATIN.

Mr. Gallatin to Viscount Dudley.

[Enclosed in Mr. Gallatin's No. 84.]

UPPER SEYMOUR STREET, *June* 7, 1827.

The undersigned, minister of the United States of America, had the honor to address a note, on the 3d of January last, to his Majesty's Principal Secretary of State for Foreign Affairs, on the subject of the lights necessary for the safety of the navigation between Florida and the Bahama Banks.

An answer was given, dated 11th of the same month, informing the undersigned that a copy of his note had been transmitted to the Admiralty for the consideration of that department.

No subsequent communication having been made to the undersigned, relating to his note above mentioned, he begs leave to bring it again under the consideration of Lord Viscount Dudley, his Majesty's Principal Secretary of State for Foreign Affairs, and to pray that he may be made acquainted with the view entertained of the subject by his Majesty's Government.

The undersigned requests Lord Dudley that he will accept the assurance of his high consideration.

ALBERT GALLATIN.

Mr. Gallatin to Viscount Dudley.

[Enclosed in Mr. Gallatin's No. 84.]

Private.] UPPER SEYMOUR STREET, *June* 7, 1827.

Mr. Gallatin presents his compliments to Lord Dudley, and begs to call his attention to the official note which he had the honor to address to him this day on the subject of certain light-houses.

The whole navigation, whether British or American, bound to either North America or Europe, from Jamaica, Cuba, and every part of the main, north, west, and south of those islands, must pass through the Straits of Florida, and will enjoy the benefit of the lights erected, and ordered to be erected, along the coast of that peninsula by the United States.

The British navigation bound to the same places in the Gulf of Mexico, from the British North American colonies and from the United States, will participate in the benefit of the lights on Abaco and the Bahama Banks, for the erection of which, by Great Britain, the application is now made.

It is a subject of common interest, and which seems to call for as speedy a decision as consists with due deliberation, every season of delay being attended with numerous shipwrecks and with losses of lives as well as of property. Mr. Gallatin was informed, near three months ago, that the Admiralty had made a favorable report.

Mr. Gallatin prays Lord Dudley to accept the assurance of his high regard and distinguished consideration.

ALBERT GALLATIN.

Mr. Gallatin to Mr. Clay.

No. 106.] LONDON, *August* 11, 1827.

SIR: I have the honor to enclose Lord Dudley's answer to my notes on the subjects of light-houses and buoys on the Bahama Banks. You will perceive that the British Government concurs with that of the United States in the expediency of erecting light-houses, floating lights, and buoys, on the British side of the channel, between the Bahama Banks and Florida, and that directions have been given for taking the preliminary steps towards carrying that measure into effect.

I have the honor, &c.,

ALBERT GALLATIN.

Lord Dudley to Mr. Gallatin.

[Enclosed in Mr. Gallatin's No. 106.]

FOREIGN OFFICE, *August* 11, 1827.

The undersigned, his Majesty's Principal Secretary of State for Foreign Affairs, has the honor to acquaint Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, that, upon the receipt of his note of the 7th of June, the undersigned lost no time in forwarding it to the Departments to which Mr. Gallatin's former notes on the same subject had already been referred.

The undersigned has now the honor to inform Mr. Gallatin that his Majesty's Government concur with the Government of the United States in the expediency of erecting light-houses, floating lights, and buoys, on the British side of the channel, between the Bahama Banks and Florida, and that directions have already been given for taking the necessary preliminary steps towards carrying the proposed measure into effect.

The undersigned requests Mr. Gallatin to accept the assurances of his high consideration.

DUDLEY.

20TH CONGRESS.] No. 464. [1ST SESSION.

FREE NAVIGATION OF THE RIVER ST. LAWRENCE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 7, 1828.

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives of the 17th of last month, I transmit to the House a report from the Secretary of State, and the correspondence with the government of Great Britain, relative to the free navigation of the river St. Lawrence.

JOHN QUINCY ADAMS.

WASHINGTON, *January* 7, 1828.

DEPARTMENT OF STATE, *Washington, January* 5, 1828.

The Secretary of State, to whom has been referred a resolution of the House of Representatives of the 17th ultimo, requesting the President of the United States to communicate to that House, "if not, in his opinion, incompatible with the public interest, the correspondence of this Government with that of Great Britain relative to the free navigation of the river St. Lawrence," has the honor to submit to the President the accompanying papers, being extracts and copies of letters and documents connected with that subject, and explanatory of the same.

H. CLAY.

List of papers accompanying the report of the Secretary of State of the 5th January, 1828.

Extract.—Mr. Adams to Mr. Rush, dated June 23, 1823.
Extract.—Mr. Rush to Mr. Adams, dated August 12, 1824.
Extract.—Mr. Clay to Mr. Gallatin, dated June 19, 1826.
Extract.—Mr. Clay to Mr. Gallatin, dated August 8, 1826.
Extract.—Mr. Gallatin to Mr. Clay, dated September 21, 1827.
Extract.—Mr. Gallatin to Mr. Clay, dated October 1, 1827.
B. Protocol 18.
N. Protocol 24.

Extract of a letter from Mr. Adams to Mr. Rush, dated Department of State, Washington, June 23, 1823.

"With regard to the *right* of that portion of our people to navigate the river St. Lawrence to and from the ocean, it has never yet been discussed between us and the British Government. I have little doubt that it may be established upon the sound and general principles of the law of nature; and if it has not been distinctly and explicitly asserted in negotiation with the British Government hitherto, it is because the benefits of it have been, as the committee remark, *tacitly* conceded, or because the *interest*, now become so great, and daily acquiring additional moment, has, it may almost be said, originated since the acknowledgment of our independence by the treaty of 1783.

"The memorial from the committee of the inhabitants of Franklin county, New York, is perfectly correct, when it asserts this right upon the principles asserted at the period when our right to the navigation of the Mississippi was in question; and so far as the right, *by the law of nature*, was maintained

on the part of the United States, in that case, so far is the Government of the United States bound to maintain, for the people of the Territory of Michigan, and of the States of Illinois, Indiana, Ohio, Pennsylvania, New York, and Vermont, the natural right of communicating with the ocean, by the only outlet provided by nature, from the waters bordering upon their shores.

"We know that the possession of both the shores of a river at its mouth has heretofore been held to give the right of obstructing or interdicting the navigation of it to the people of other nations inhabiting the banks of the river above the boundary of that in possession of its mouth. But the exclusive right of jurisdiction over a river originates in the social compact, and is a right of sovereignty. The right of navigating the river is a right of nature, preceding it in point of time, and which the sovereign right of one nation cannot annihilate as belonging to the people of another.

"This principle has been substantially recognized by all the parties to the European alliance, and particularly by Great Britain, at the negotiation of the Vienna Congress treaties. It is recognized by the stipulations of those treaties which declare the navigation of the Rhine, the Necker, the Main, the Mozelle, the Maese, and the Scheldt, free to *all* nations. The object of those stipulations, undoubtedly, was to make the navigation of those rivers effectively free to all the people dwelling upon their banks, and to abolish all those unnatural and unjust restrictions by which the people of the interior of Germany had, before that time, been deprived of their natural outlet to the sea, by the abuse of that right of sovereignty which imputed an exclusive jurisdiction and property over a river to the State possessing both shores at its mouth. There is no principle of national law upon which those articles of the Vienna Congress treaties could be founded which will not apply to sustain the right of the people of this Union to navigate the St. Lawrence river to the ocean.

"These ideas are suggested to you to be used, first, in conference with the British Minister of Foreign Affairs, and afterwards, if necessary, in correspondence with him. The manner and the time of presenting them will be best judged of by your discretion. By the two acts of Parliament, of 3d Geo. 4, chs. 44 and 119, the navigation of the St. Lawrence from our territories to the ocean is, in fact, conceded to us. By the first, from the ocean to Quebec; and by the second, from any part of our territories to the same port. But a discretionary power is given to the colonial Government in Canada to withdraw the latter of these concessions by excepting any of the Canadian ports from those to which our vessels are by the act made admissible; and the duties imposed by the act upon all those of our exports which could render the trade profitable are prohibitory."

Extract of a despatch (No. 10) from Mr. Rush to Mr. Adams, dated London, August 12, 1824.

"The act of Parliament of the 5th of August, 1822, having immediate relation to the commercial intercourse between the United States and the British continental possessions in their neighborhood, I naturally regarded it, as your instructions to me had done, in connexion with the act of June 24, 1822. This brought under consideration our claim to the navigation of the river St. Lawrence. Between this question and the questions of commercial intercourse under the act of June, 1822, the British plenipotentiaries were constantly unwilling to acknowledge any connexion. Nevertheless, looking to your instructions, and as well to the reason of them as to their authority, I treated the two questions as belonging to one and the same general subject. They asked whether, taking the two acts of Parliament together, the United States did not already enjoy the navigation of this river? I said that they did; by the act of June 24, 1822, they enjoyed it from the ocean to Quebec; and by that of August 5, 1822, from any part of the territories of the United States to Quebec. But from the fact of the colonial Governments in Canada being invested with a discretionary power to withdraw the latter of these concessions, by excepting any of the Canadian ports from those to which our vessels were made admissible, it followed that our enjoyment of the navigation of this river was rendered contingent upon British permission. This was a tenure not reconcilable, in the opinion of the Government of the United States, with the growing and permanent wants of their citizens in that portion of the Union or with the rights of the nation. It was due to both these considerations that it should stand upon a different tenure, and the time had arrived when it was desirable that the two nations should come to an understanding upon a question of so much importance.

"The British plenipotentiaries next asked whether any question was about to be raised on the right of Great Britain to exclude altogether vessels of the United States from trading with British ports situated upon the St. Lawrence or elsewhere in Canada? I replied that I was not prepared absolutely to deny such a right in Great Britain, to whatever considerations its exercise might be open. I remarked, also, that it seemed already to have been substantially exercised by this act of the 5th of August, 1822, for, by its provisions, only certain enumerated articles were allowed to be exported from the United States into Canadian ports, and duties were laid upon these articles which might be said to amount to a prohibition. I added, that although the foregoing act had not laid any duty on the merchandise of the United States descending the St. Lawrence with a view to exportation by sea, yet that an act of the preceding year did, viz: upon their timber and lumber, which made it highly expedient that the relative rights of the parties to the use of the waters of this great stream should be ascertained. I here went into a review of the footing upon which the trade between the United States and the Canadas stood, under the stipulations of the treaty of 1794. The memorial from the inhabitants of Franklin county, in the State of New York, and the report of the committee of the House of Representatives upon that document, furnished me with the necessary lights for executing this duty, as well as for pointing out the injurious and burdensome operation of the act of the 5th of August, 1822. The latter act had superseded all the former conditions of this intercourse. With these conditions the citizens of the United States had been, I said, content, and it was believed that they had been found, on experience, satisfactory on both sides. The treaty stipulations of 1794 were among the articles of that instrument declared, when it was made, to be permanent; and so mutually beneficial had appeared to be their operation, that both parties continued, in practice, to make them the rule of their conduct for some years after the war of 1812, until, by the acts of Parliament just recited, Great Britain chose to consider the intervention of that war as putting an end to their validity. This state of things, by remitting each party to their anterior and original rights, rendered it manifestly incumbent upon the Government of the United States now to attempt to settle, by convention or in some other manner, with Great Britain, the true nature of the tenure by which they held the navigation of this stream. Such was the character of the remarks by which I illustrated the propriety of adding to the two articles which I had offered for the regulation of the commercial inter-

course between the United States and the British colonies, whether continental or insular, a third article relating exclusively to the navigation of the St. Lawrence. A third article will be found, accordingly, in this connexion, as part of our projet, already referred to as annexed to the protocol of the third conference. Its stipulations were, that the navigation of the St. Lawrence, in its whole length and breadth, to and from the sea, should be at all times equally free to the citizens and subjects of both countries, and that the vessels belonging to either party should never be subject to any molestation whatever by the other, or to the payment of any duty for this right of navigation. After this unequivocal provision, it concluded with a clause that, regarding such reasonable and moderate tolls as either side might claim and appear to be entitled to, the contracting parties would treat at a future day, in order that the principles regulating such tolls might be adjusted to mutual satisfaction.

"I deemed it most advisable to ingraft upon the article this principle respecting tolls, although it was not particularly mentioned in your despatch. In pursuing into their details some of the general principles which you had laid down, I was left under the impression that our title to navigate this river, independently of the consent of Great Britain, could be made out with more complete and decisive strength under the qualified admission of the claim to toll. The writers on public law had generally so treated the subject, and in some of the modern treaties of high authority in our favor on the general question the admission was also to be seen. I refer particularly to the fifth article of the treaty of peace of the 30th of May, 1814, between the allied Powers and France, where, after providing for the free navigation of the Rhine to all persons, it is agreed that principles should be laid down, at a future Congress, for the collection of the duties by the States on its banks, in the manner most equal and favorable to the commerce of all nations. In adverting to the claim of toll as a question only for future discussion, and one that might be of like interest to both parties, (the British navigation of this river being obliged, in some parts, to pass close to our bank,) and, moreover, where the claim, if advanced on either side, was to be made dependent on sufficient cause being shown for it, I did not believe that I was losing sight of any principle of value to the United States in this controversy. The clause, I hope, will be found to have been too guarded in its terms to be open to such a risk.

"There was another point on which I felt more uncertainty. The navigation of this stream, although I believed it could be demonstrated to be the just right of the people of the United States, could not draw after it all its benefits to them without a concurrent right of stopping at some point or port where both of its banks fell within the colonial territory of Great Britain. Upon what footing was I to treat this latter and subordinate question? Your instructions had not dealt with it, and I felt myself at a loss. It could scarcely be doubted but that, our right to navigate the river being established, Britain would, as matter of international comity, and as an arrangement advantageous also to herself, allow us a place of entry for our vessels and deposit for our produce somewhere on its shores. She has so largely of late years been extending the warehousing system to all other nations for their convenience and her own, that it might well be presumed she would not exclude the United States from a participation in it at Quebec or elsewhere at a suitable port in Canada. Yet I felt it to be a point of some delicacy, and therefore thought that it would be most judicious to leave it wholly untouched in my proposal. Another reason operated with me for this silence. As far as I was able to carry my investigations into the point, I found much ground for supposing that the right to the navigation of a river, under the strong circumstances which marked that of the United States to the navigation of the St. Lawrence, would involve, as an incident, the right of innocent stoppage somewhere on the shores—an incident indispensable to the beneficial enjoyment of the right itself. By the seventh article of the treaty of Paris, of 1763, the free navigation of the Mississippi was granted to Great Britain, but without any clause securing to British vessels the privilege of stopping at New Orleans, then a French port, or at any other port or place on any part of the shores. Yet the historical fact appears to have been, that Britain did use New Orleans as a place for her vessels to stop at, and this without any subsequent arrangement with France upon the subject. The case becomes still stronger, if afterwards, when New Orleans fell into the hands of Spain, the British continued to use it for the same purpose, contrary, at first, to the remonstrances of the Spanish Governor of that town, which is also believed to have been the fact. I abstained, however, from asserting in this negotiation the subordinate right in question.

"On the principal question of our equal right with the British to the entire and unobstructed navigation of this river I dwelt with all the emphasis demanded by its magnitude. I spoke of it as a question intimately connected with the present interest of the United States, and which assumed an aspect yet more commanding in its bearing upon their future population and destinies. Already the immense region which bordered upon the lakes and northern rivers of the United States were rapidly filling up with inhabitants, and soon the dense millions who would cover them would point to the paramount and irresistible necessity for the use of this great stream as their only natural highway to the ocean. Nor was the question one of magnitude to this part of the Union alone. The whole nation felt their stake in it; the middle and the north more immediately; but all the rest by the multiplied ties and connexions which bound up their wants, their interests, and their sympathies with the middle and the north. It was under such a view of the immediate and prospective value of this navigation to us that I first presented it to the notice of the British plenipotentiaries as a question *of right*. I told them they must understand this to be the sense in which I had drawn up the article upon the subject, and that it was the sense in which I felt myself bound, as the plenipotentiary of the United States, to urge its adoption.

"I approach an interesting part of this negotiation when I come to make known in what manner the British plenipotentiaries received this disclosure. They said that, on principles of accommodation, they were willing to treat of this claim with the United States in a spirit of entire amity; that is, as they explained, to treat of it as a *concession* on the part of Great Britain, for which the United States must be prepared to offer a full equivalent. This was the only light in which they could entertain the question. As to the claim *of right*, they hoped that it would not even be advanced; persisted in, they were willing to persuade themselves it would never be. It was equally novel and extraordinary. They could not repress their strong feelings of surprise at its bare intimation. Great Britain possessed the absolute sovereignty over this river in all parts where both its banks were of her territorial dominion. Her right, hence, to exclude a foreign nation from navigating it was not to be doubted, scarcely to be discussed. This was the manner in which it was at first received. They opposed to the claim an immediate, positive, unqualified resistance.

"I said that our claim was neither novel nor extraordinary. It was one that had been well considered by my Government, and was believed to be maintainable on the soundest principles of public law. The question had been familiar to the past discussions of the United States, as their State papers,

which were before the world, would show. It had been asserted, and successfully asserted, in relation to another great river of the American continent flowing to the south, the Mississippi, at a time when both of its lower banks were under the dominion of a foreign Power. The essential principles that had governed the one case were now applicable to the other.

"My reply was not satisfactory to the British plenipotentiaries. They combatted the claim with increased earnestness, declaring that it was altogether untenable, and of a nature to be totally and unequivocally rejected. Instead of having the sanction of public law, the law and the practice of nations equally disclaimed it. Could I show where was to be found, in either, the least warrant for its assertion? Was it not a claim plainly inconsistent with the paramount authority and exclusive possession of Great Britain? Could she for one moment listen to it?

"I remarked that the claim had been put forward by the United States because of the great national interests involved in it; yet that this consideration, high as it was, would never be looked at but in connexion with the just rights of Great Britain. For this course of proceeding both the principles and practice of my Government might well be taken as the guarantee. The claim was, therefore, far from being put forward in any unfriendly spirit, and would be subject to a frank and full interchange of sentiments between the two Governments. I was obviously bound, I admitted, to make known, on behalf of mine, the grounds on which the claim was advanced—a duty which I would not fail to perform. I stated that we considered our right to the navigation of this river as strictly a *natural right*. This was the firm foundation on which it would be placed. This was the light in which it was defensible on the highest authorities, no less than on the soundest principles. If, indeed, it had ever heretofore been supposed that the possession of both the shores of a river below had conferred the right of interdicting the navigation of it to the people of other nations inhabiting its upper banks, the examination of such a principle would at once disclose the objections to it. The exclusive right of jurisdiction over a river could only originate in the social compact, and be claimed as a right of sovereignty. The right of navigating the river was a right of nature, preceding it in point of time, and which the mere sovereign right of one nation could not annihilate as belonging to the people of another. It was a right essential to the condition and wants of human society, and conformable to the voice of mankind in all ages and countries. The principle on which it rested challenged such universal assent that, wherever it had not been allowed, it might be imputed to the triumph of power or injustice over right. Its recovery and exercise had still been objects precious among nations, and it was happily acquiring fresh sanction from the highest examples of modern times. The parties to the European alliance had, in the treaties of Vienna, declared that the navigation of the Rhine, the Necker, the Mayne, the Moselle, the Maese, and the Scheldt, should be free to all nations. The object of these stipulations was as evident as praiseworthy. It could have been no other than to render the navigation of those rivers free to all the people dwelling upon their banks; thus abolishing those unjust restrictions by which the people of the interior of Germany had been too often deprived of their natural outlet to the sea by an abuse of that right of sovereignty which claimed for a State happening to possess both the shores of a river at its mouth the exclusive property over it. There was no principle of national law upon which the stipulations of the above treaties could be founded which did not equally apply to the case of the St. Lawrence. It was thus that I opened our general doctrine. It was from such principles that I deduced our right to navigate this river, independent of the mere favor or concession of Great Britain, and, consequently, independent of any claim on her side to an equivalent.

"I abstain from any further recapitulation to you of the principles which I invoked, or of the authorities to which I referred, for a reason to be now mentioned. It will be seen by the first protocol that our agreement had been to carry on the negotiation by conference and protocol. This, the more usual mode at all times, was conceived to be peculiarly appropriate where the subjects to be handled were so various and their details in some instances so extensive. It was recommended, also, and this was of higher sway with me, by the example of the negotiation of 1818, in the course of which some of the same subjects had been discussed with this Government. Nevertheless, each party had reserved, under this agreement, the right of annexing to the protocol any written statement that might be considered necessary as matter either of record or of explanation. In your instructions to me respecting this claim to the navigation of the St. Lawrence, a question wholly new as between the two nations, you had adverted to my presenting it in writing if necessary, and I determined, under all the circumstances, that I should not properly come up to my duty unless by adopting this mode. The question was not only new, but of the greatest moment. I saw also, from the beginning, that it would encounter the most decided opposition from Great Britain. In proportion as her plenipotentiaries became explicit and peremptory in denying it, did it occur to me that it would be proper on my part to be unequivocal in its assertion. This could be best done upon paper. This would carry the claim distinctly to the archives of this Government, rather than trust it to foundations more uncertain and fugitive. It would explain, as well as record, the sense in which it was inserted on the protocol. Another motive with me for this course, and scarcely a secondary one, was, that it would serve to draw from Great Britain, in the same form, a precise and full avowal of the grounds on which she designed to oppose the claim. On a question so large, and which, from all that I perceived to mark its first opening between the two Governments, could hardly fail to come under discussion again hereafter, it appeared to me that it would be more acceptable to my Government to be in possession of a written document which should embody the opinions of this Government, than to take the report of them from me under any form less exact or authentic.

"I accordingly drew up a paper on the subject, which, under the right reserved, I annexed (marked B) to the protocol of the eighteenth conference, and so it stands amongst the papers of the negotiation. The British plenipotentiaries continued to urge their animated protests against this proceeding on my part; not that they could divest me of my privilege of recording my sentiments in the shape of this written statement, but that they earnestly pressed the propriety of my abandoning altogether any claim to the navigation of this river as a claim of right, which shut them out from treating of it upon other bases. But having taken my determination under other estimates of my duty, I did not depart from it.

"The paper which I drew up aimed at presenting a broad but intelligible outline of the principal reasons in support of our claim. These were such as you had set before me, and as I judged to be immediately deducible from them. Under the latter I included the argument on the Mississippi question, used by an illustrious individual, then the organ of our Government in its intercourse with foreign States. I considered this argument as virtually comprehended in your instructions by the reference which they contained to it; the questions in both cases, so far as each drew support from the deep foundations of the law of nature, being the same. Of this luminous State paper I followed the track, adopting its own language, whenever this could be done, as the safest, the most approved, the most national. The only

view of the subject not elicited on that occasion, which I ventured to take up, was one pointed out by the locality of the St. Lawrence. I will briefly explain it.

"The exclusive right possessed by Great Britain over both banks of this river was won for her by the co-operation of the people who now form the United States. Their exertions, their treasure, their blood, were profusely embarked in every campaign of the old French war. It was under this name that the recollection of that war still lived in the United States—a war which, but for the aid of New England, New York, and Pennsylvania, if of no more of the States, would probably not have terminated when it did, in the conquest of Canada from France. If these States were at that epoch a part of the colonial empire of Great Britain, it was, nevertheless, impossible to obliterate the recollection of historical facts, or exclude the inferences that would attach to them. The predecessors of the present inhabitants of those States had borne a constant and heavy burden in that war, and had acquired, simultaneously with the then parent State, the right of descending this stream on the hypothesis, assumed for the moment, of their not having possessed it before—a right of peculiar importance to them from their local position and necessities. It was to this effect that I noticed a title, by *joint acquisition*, as also susceptible of being adduced for the United States to the navigation of this river. There was at least a strong natural equity in it which would come home to the people of the United States, impressing them with new convictions of the hardship of now refusing them the use of this stream as an innocent pathway to the ocean. But as I had not your elucidations of this view of the subject, I was careful to use it only in subordination to the argument of natural right. The latter I treated as sufficient in itself to make out our title, and repudiated the necessity of resorting to any other. I will own, however, that my disposition to confide in the argument founded upon joint acquisition was increased by the analogy which it appeared to me to bear to the course of reasoning pursued with Great Britain by my predecessor in this mission in relation to the fisheries. If our title to a full participation with Britain in the fisheries, though they were within the acknowledged limits and jurisdiction of the coasts of British America, was strengthened by the fact of the early inhabitants of the United States having been among the foremost to explore and use the fishing grounds, why was the analogous fact of their having assisted to expel the French from the lower shores of the St. Lawrence to be of no avail? I had believed in the application and force of the argument in the one instance, and could not deny it all the consideration that it merited in the other.

"The necessity of my recounting to you the British argument in answer to our claim is superseded by my being able to transmit it to you in their own words upon paper. It is sufficiently elaborate, and was drawn up with great deliberation. It is annexed (marked N) to the protocol of the twenty-fourth conference. The intention avowed by the British plenipotentiaries, at the nineteenth conference, of obtaining for its doctrines, before it was delivered to me, the full sanction of their highest professional authorities on matters relating to the law of nations, may serve to show the 'gravity and importance,' to repeat their own expression, which the question had assumed in their eyes. I have, otherwise, reasons for knowing that their argument was prepared under the advice and assistance of five of the most eminent publicists of England. With all the respect due to a paper matured under such auspices, I am not able to look upon it as impugning the argument which, under your direction and following the course of others before me, I had become the organ of making known on behalf of the United States.

"In several instances the British paper has appealed to the same authorities that are to be found in mine. It is in the application of them only that the difference is seen. In other parts the difference is made to turn upon words rather than substance. But an error that runs throughout nearly the whole of their paper consists in attributing to mine a meaning which does not belong to it. This applies especially to the particular description of right which we claim; how far it is one of mere innocent utility; how far a right necessary to us and not injurious to Britain; how far a right which, if not falling under the technical designation of absolute, is, neverthless, one that cannot be withheld. These are all qualifications which were not overlooked in my exposition of the doctrine—a light, however, in which the British paper does not appear to have regarded it. But as each document is now of record, and will be judged by the terms which it has used, and the construction that justly attaches to them, I will not enlarge upon this head.

"The British paper deals with our claim as standing upon equal footing with a claim to the use of the roads, canals, or other artificial ways, of a country; forgetting that the case in dispute is that of a natural stream, forming the only natural outlet to the ocean—the stream itself being common, by nature, to both countries. Commenting upon the acquired title of the United States which I had put forward under the restriction described, their paper argues that the same ground would justify a correlative claim by Great Britain to the use of the navigable rivers and all other public possessions of the United States which existed when both countries were united under a common Government! By a like misapplication of obvious principles, it argues that our claim would also justify Britain in asking a passage down the Mississippi or the Hudson, though neither the one nor the other touch any portion of the British territories; or that it might equally justify a claim, on her side, to *ascend*, with British vessels, the principal rivers of the United States as far as their draught of water would admit, instead of depositing their cargoes at the appointed ports of entry from the sea! On doctrines such as these, I could only say to the British plenipotentiaries that I was wholly unable to perceive their application to the argument, unless the United States had been advancing a claim to the navigation of the river Thames, in England.

"Their argument also assumes that the treaty stipulations of 1794 exclude all idea of a right, on our side, to the navigation of this river, forgetting that if, under those stipulations, vessels of the United States were interdicted the navigation of British rivers between their mouths and the highest port of entry from the sea, so, on the other hand, British vessels were interdicted the navigation of the rivers of the United States beyond the highest ports of entry from the sea; and, also, that the whole terms of the international intercourse in that quarter were, by this compact, such as at the time satisfied both parties, without impairing the rights which either possessed independent of the compact, and which only remained in suspense during its existence. This observation suggests another to which their argument is open, in parts which they press as of decisive weight. It alleges that because, by the general treaty of Vienna, the Powers whose States were crossed by the same navigable rivers engaged to regulate, by common consent, all that regarded their navigation; because Russia held by treaty the navigation of the Black Sea; and because of the many instances, capable of being cited, where the navigation of rivers or straits that separated or flowed through the territories of different countries was expressly provided for by treaty; that, because of these facts, the inference was irresistible, that the right of navigation, under such circumstances, depended upon *common consent*, and could only be claimed *by treaty*. Here, too, it seems to have been forgotten that it is allowable in treaties, as well as oftentimes expedient for greater

safety and precision, to enter into stipulations for the *enjoyment* or *regulation* of pre-existing rights; that treaties are, in fact, expressly declared, by the writers upon the laws of nations, to be of two general kinds: those which turn on things to which we are already bound by the law of nature, and those by which we engage to do something more. In their quotation, also, of the note from the first volume of the Laws of Congress, containing an intimation that the United States could not be expected to yield the navigation of the Mississippi without an equivalent, they seem wholly to have overlooked, besides the other points of that note, that it was made at a period when it was well known that no part of that river touched the territories of a foreign Power, and when, therefore, its exclusive navigation belonged to the United States, as much so as the Delaware or the Potomac.

"The foregoing are some of the remarks upon the British paper which I submitted at the conference after receiving it. The first impressions that I had of my duty in regard to it, and, consequently, my first determination, was to reply to it at large, in writing, annexing my reply to the protocol. But, on more reflection, I deem it most proper to abstain, at present, from this step. As a view of the whole subject, given out under the immediate eye and authority of this Government, and with extraordinary care, it appeared to me that the British paper ought to come under the knowledge of my own Government before receiving a formal or full answer from any source less high. If it be thought to require such an answer, a short delay could be nothing to the advantage of its being afforded, either through me or my successor in this mission, under the light of further instructions from home. The pause seemed the more due, not only from the newness of the discussion between the two Governments, but because I may not, at this moment, be sufficiently apprised of all the modifications under which mine may desire it to be presented in a second and more full argument. I hope that this forbearance on my part will be approved, as having been, under the exigency, the most circumspect and becoming course. I gave the British plenipotentiaries to understand that the written argument on the side of the United States must not be considered as closed, but, on the contrary, only as opened."

Extract of a letter from Mr. Clay to Mr. Gallatin.

No. 1.] DEPARTMENT OF STATE, *Washington, June* 19, 1826.

"3. The navigation of the St. Lawrence from the territories of the United States to the sea.

"The Government of the United States have seen, with very great surprise and regret, the manner in which the assertion of this right of navigation through Mr. Rush, during the former negotiation, was met and resisted by the British plenipotentiaries. The President has respectfully and deliberately examined and considered the British paper which was delivered in by them, and which is annexed to the protocol of the twenty-fourth conference, and he has been altogether unable to discern, in its reason or its authorities, anything to impeach the right of the United States, or to justify the confidence with which the exclusive pretensions of Great Britain are brought forward and maintained. What is the right claimed by the United States? The North American lakes are among the largest inland seas known on the globe. They extend from about the 41st to the 49th degree of north latitude, stretch over sixteen degrees of longitude, and thus present a surface, altogether, of upwards of eighty-three thousand square miles. Eight States of this Union (three of them among the largest in it) and one Territory border on them. A population already exceeding two millions, and augmenting beyond all example, is directly and deeply interested in their navigation. They are entirely enclosed within the territories of the United States and Great Britain, and the right to their navigation, common to both, is guarantied by the faith of treaties, and rests upon the still higher authority of the law of nature. These great lakes are united by but one natural outlet to the ocean, the navigation of which is common to all mankind. That outlet, along a considerable part of its course, forms a common boundary between the territories of the United States and Great Britain, and to that extent the right of navigating it is enjoyed by both. The United States contend that they are invested with a right to pass from those lakes, the incontested privilege of navigating which they exercise, through that natural outlet to the ocean—the right of navigating which by all nations none presumes to question. The right asserted, in other words, is, that their vessels shall be allowed, without molestation, to pursue their trackless way on the bosom of those vast waters, gathered together, in no inconsiderable degree, in their own territory, through that great channel of the St. Lawrence, which nature itself has beneficently supplied, to the ocean, in which they are finally deposited. They ask that the interests of the greater population and the more extensive and fertile country above shall not be sacrificed, in an arbitrary exertion of power, to the jealousy and rivalry of a smaller population, inhabiting a more limited and less productive country below. The United States do not claim a right of entry into British posts situated on the St. Lawrence against British will, and to force their productions into the consumption of British subjects. They claim only the right of passing those ports and transporting their productions to foreign markets or to their own open and willing to receive them; and, as incident and necessary to the enjoyment of that right, they claim the privileges of stoppage and transhipment at such places within the British jurisdiction, and under such reasonable and equitable regulations, as may be prescribed or agreed upon.

"Such is the right, the assertion of which shocked the sensibility of the British plenipotentiaries. The impartial world will judge whether surprise most naturally belonged to the denial or to the assertion of the right.

"If the St. Lawrence is regarded a strait, as it ought to be, connecting navigable seas, there would be less controversy. The principle on which the right to navigate straits depends is, that they are accessorial to those seas which they unite, and the right of navigating which is not exclusive, but common to all nations, the right to navigate the seas drawing after it that of passing the straits. Let that principle be applied to the present case. The United States and Great Britain have, between them, the exclusive right of navigating the lakes. The St. Lawrence connects them with the ocean. The right to navigate both (the lakes and ocean) includes that of passing from one to the other through the natural link. Is it reasonable or just that one of the two co-proprietors of the lakes should altogether exclude his associate from the use of a common natural bounty, necessary to the enjoyment of the full advantages of them? But if that vast mass of water, collected from a thousand tributary sources in the immense reservoirs of the North American lakes, and cast by them into the Atlantic Ocean through the channel of the St. Lawrence, is to be considered, in its transit through that great channel, as a river, the name which accident has conferred, and not a strait, the right of the United States to navigate it is believed to be,

nevertheless, clearly and satisfactorily maintainable. In treating this subject, there is, throughout the whole of the British paper, a want of just discrimination between the right of passage, claimed by one nation, through the territories of another, on land, and that on navigable water. The distinction, it is true, is not always clearly adverted to in the writers on the public law, but it has a manifest existence. In the former case the passage can hardly ever take place, especially if it be of numerous bodies, without some detriment or inconvenience to the State, or its citizens, whose territory is traversed. If the country be in a forest state there is a destruction of timber, if not of soil. If in a cultivated, the fields are trodden down and dilapidated, and the use of the roads more or less impairs them. In both there is danger of collisions between the native and foreign citizens. But a passage on land through the territory of another, whenever it is innocent, cannot be lawfully refused. It is to be granted by a neutral to a belligerent army, if no serious injury is likely to accrue to him. As the right of judging whether the passage be or be not innocent must abide somewhere, expediency suggests that it should be exercised by the sovereign of the soil. But his judgment and decision must be regulated by reason and justice, and, of course, the passage cannot be rightfully refused upon grounds merely arbitrary. How stands the case of a passage on navigable water? In that, no injury is done to timber or soil, to cultivation or to roads; no dangerous collisions between the inhabitants and the foreigners arise; not a trace is left by the passenger behind. In the passage of the St. Lawrence, for example, the vessel is wafted on the same water which first floats it from the territories of the United States to the ocean. It is true, as is alleged by the British paper, that this water washes the quays of Montreal and Quebec, passes under the walls of a principal fortress, and, also, through the *finest* settlements of Canada, and extends along a space of near six hundred miles within the dominions of his Britannic Majesty. But when the American vessel shall have arrived at the ocean, to which she is supposed to be bound, she will have inflicted no injury upon those quays; the guns of the fortress will have been silent; those fine settlements of *Canada*, and that space of six hundred miles (not exactly, as is asserted, extending through the heart of a British colony) will have remained unmolested. She will have left no traces of injury behind her; her voyage itself will not have made on the inhabitants the impression of a passing dream; and, like the water on which she was borne, she will have sought her trackless and innocent course to the ocean, to reach which Great Britain would be as much justified in claiming a power to prevent the one as the other.

"Nor ought the cases of rivers which rise and debouche altogether within the territorial limits of the same nation to be confounded with those which, having their sources and navigable portions of their bodies in States above, finally discharge themselves within the limits of other States below. In the former instance there is no basis on which a right in common can rest. The navigation of those rivers, ordinarily, can only be desired for purposes of commerce or intercourse with the nation to whose territories, in their whole extent, they are confined. And as every nation, strictly, has a right to interdict all foreign commerce, and to exclude all foreigners from its territories, as is done in a considerable degree by China, it follows that every one has a right, generally, to prohibit an entry into such rivers, or the use of its artificial roads. This right of prohibition exists where the direct object of the visit of foreigners is social or commercial. The end being forbidden, the means necessary to its accomplishment may be rightfully withheld. But if an innocent passage is demanded for purposes unconnected with the commerce or society of the State through which it is required, it cannot justly be denied. In the enjoyment of this right of passage, the use of the territories in which it is exerted is merely collateral. If it be for purposes of lawful war, the end carries the means, and the neutral cannot deny the passage without weighty considerations.

"But the right of the inhabitants of the upper bank of a river to the use of its navigation in its passage to the sea, through the territories of another Sovereign, stands upon other and stronger ground. If they were to bring forward the pretension to trade, or open other intercourse with the nation inhabiting the banks below, against its consent, they would find no support or countenance in reason, or in the law of nature. But it is inconceivable upon what just grounds a nation below can oppose the right of that above to pass through a great natural highway into the sea, that it may trade or hold intercourse with other nations by their consent. From the very nature of such a river, it must, in respect to its navigable uses, be considered as common to all the nations who inhabit its banks, as a free gift flowing from the bounty of Heaven, intended for all whose lots are cast upon its borders; and in this latter respect it is clearly distinguishable from canals and works of art, from the use of which, being erected at the expense of one, all others may be excluded. The right to prohibit the use of natural channels, deduced, in the British paper, from that of the exclusive nature of those of an artificial kind, would establish the power, if it were practicable, to forbid the enjoyment of the showers of rain, which are equally dispensed by the Author of all Good, because the gardener may lawfully deny the employment of his watering vessels in the irrigation of any grounds but his own. The land may be divided through which a river passes, or which composes its bed, by artificial lines of demarcation, but the water itself is incapable of such a division. It is confluent and continuous; and that portion of the floating mass which is now in the territorial dominion of the lower nation was yesterday under that of the nation above, and, contemning alike the authority of all, will, to-morrow, be in that ocean to which the presumptuous sway of no one has as yet been lawfully extended. The incontestable right which one nation has to trade with others, by their consent, carries along with it that of using those navigable means necessary to its enjoyment which the bounty of nature has provided for all, in respect to seas, and in regard to rivers, for the nations who inhabit them.

"The British paper inquires if the American Government can mean to insist on a demand involving such consequences as it describes, without being prepared to apply, by reciprocity, the principle on which the demand rests in favor of Great Britain. The American Government has not contended, and does not mean to contend, for any principle the benefit of which, in analogous circumstances, it would deny to Great Britain. Accordingly, with respect to that branch of the Columbia which rises north of the parallel 49°, (should that parallel be mutually agreed to as the boundary between the territories of the two Powers,) a case analogous to that of the St. Lawrence will be presented. And you have been hereinbefore instructed, in the event of that branch being navigable within the British territory, to stipulate for the right of navigating the Columbia to the ocean in behalf of British subjects. In regard to the Mississippi, (the example put by the British plenipotentiaries,) if further exploration of the country shall develop a connexion between that river and Upper Canada similar to that which exists between the United States and the St. Lawrence, the American Government, always faithful to principles, would be ready to apply to the Mississippi the doctrines which it now holds in regard to its great northern rival. It is not necessary to discuss all the extreme cases which may be fancifully suggested, such as a foreign claim to pass the Isthmus of Darien, to drive a trade

between Europe and distant India through two oceans; or that of passing through England to trade with France or other portions of the European continent. Examples of that kind belong to the species of sophistry which would subvert all principles by pushing their assumed consequences into the regions of extravagant supposition.

"The British paper denies that the engagements of Paris in 1814, and at Vienna in the following year, between the Powers of Europe, in respect to the navigation of rivers, give any countenance to the natural right asserted by this Government. It is difficult to conceive what other principle than that of a strong sense of the injustice of withholding from nations whose territories are washed by rivers the privilege of their navigation dictated those engagements. The clause cited in the paper under consideration is not in the nature of an original grant, but appears to be founded on a pre-existing (and which could be no other than a natural) right. 'The Powers whose States are separated or crossed by the same navigable river *engage* to regulate, by common consent, all that regards its navigation.' The regulation is not of the right, but of the *use* of the right of navigation. And if the consent of the local sovereign is necessary to give validity to the regulation, so is that of the Sovereign, above or below, whose territories are crossed by the same river; and it is not stipulated that their use of the right of navigation was to remain in abeyance until the manner of its enjoyment was regulated by the consent of all the interested Powers. On the contrary, it cannot be doubted that it was the understanding of the great Powers at Vienna that all the States concerned in the navigation of the Rhine, and the other enumerated rivers, were to be forthwith let into the enjoyment of them, whether it was previously regulated or not by common consent. Without such an understanding, it is manifest that any one of the States, by withholding its assent to proposed regulations, upon real or ostensible grounds of objection, might indefinitely postpone, if not altogether defeat, the exercise of the recognized right. The fact of subjecting the use of a right to treaty regulations, as was proposed at Vienna to be done with the navigation of the European rivers, and as was also done in the case of the Danube, and other instances cited, does not prove that the origin of the right is conventional, and not natural. It often happens to be highly convenient, if not sometimes indispensable, to guard against collisions and controversies by prescribing certain rules for the use of a natural right. The law of nature, though sufficiently intelligible in its great outlines and general purposes, does not always reach every minute detail which is called for by the complicated varieties and wants of modern navigation and commerce; and hence the right of navigating the ocean itself, in many instances, principally incident to a state of war, is subjected, by innumerable treaties, to various regulations. These regulations (the transactions at Vienna relative to the navigation of the European rivers, and other analogous stipulations) should be regarded only as the spontaneous homage of man to the superior wisdom of the paramount Lawgiver of the Universe, by delivering his great works from the artificial shackles and selfish contrivances to which they have been arbitrarily and unjustly subjected.

"The force of the example in the definitive treaty of peace of 1783, between Great Britain and the United States, by which they stipulated that the navigation of the river Mississippi, from its source to the ocean, shall forever remain free and open to both parties, is not weakened by any observations in the British paper. A stronger case need not be presented of the admission of the principle that a State, whose territories are washed by a river, cannot be justly excluded from its navigation to the ocean by an intervening Power. Spain held the entire right bank of the Mississippi from its source to the ocean, and the left bank from the ocean up to the 31st degree of north latitude, from which point, to its source, the residue of the left bank, it was supposed, belonged to the United States and Great Britain in severalty. Spain, with respect to the mouth of the Mississippi, thus stood, in 1783, in the same relation to the United States and to Great Britain as Great Britain now does in regard to the mouth of the St. Lawrence to the United States. What was the law of that position of Spain, as solemnly declared by both the present contending parties? It was, that the navigation of the river Mississippi, from its source to the ocean, *shall* forever remain free and open to them both. If Great Britain, by the success of the war terminated in the treaty of 1763, was enabled to extort from France a concession of the free navigation of the Mississippi, as is asserted in the British argument, her condition was not the same in 1783. Yet, amidst all her reverses, without consulting Spain, she did not scruple to contract with the United States for their reciprocal freedom of navigating the Mississippi, from its source to the ocean, through Spanish territory, and passing the finest settlements and the largest city of Louisiana, as well as all the Spanish fortresses of the lower Mississippi. Is Great Britain prepared to promulgate a law for Spain to which she will not herself submit in analogous circumstances?

"It is not thought to be necessary further to extend observations on the British paper upon which I have been commenting. If others, in the course of your negotiation, should be required, they will readily present themselves to you. It is more agreeable to turn from a protracted discussion which, although we are entirely confident of having the right on our side, if we are to judge from the past, may terminate by leaving each party in possession of the same opinion which he entertained at its commencement to the consideration of some practical arrangement which, if possible, shall reconcile the views of both. A river, it is manifest, may pass through the territories of several Powers in such manner as that, if each were to interdict the others its navigable use within his particular jurisdiction, every one of them might be deprived of all the advantages of which it could be susceptible. And if the United States were disposed to exert within their jurisdiction a power over the St. Lawrence similar to that which is exercised by Great Britain, British subjects could be made to experience the same kind of inconvenience as that to which American citizens are now exposed. The best and, for descending navigation, the only channel of the St. Lawrence between Barnhart's island and the American shore is within our limits; and every British boat and raft, therefore, that descends the St. Lawrence comes within the exclusive jurisdiction of the United States. The trade of the upper province is, consequently, in our power, and a report to the Legislature of New York, under the date of March 28, 1825, (of which a copy is now put into your possession,) concludes by recommending an application to Congress to exercise the power thus possessed by us in retaliation for the act of the British Parliament of August 5, 1822, entitled 'An act to regulate the trade of the provinces of Lower and Upper Canada.' If the recommendations of that report were not adopted by the General Assembly of New York, and if Congress has hitherto forborne to place Canadian navigation under any restrictions in their transit through our territory, it has been because of an unwillingness to follow an unfriendly example, and from a hope that mutual and candid explanations with Great Britain might remove all existing causes of hardship and complaint. Prior to the passage of the British act of Parliament of 1822, and from the first settlement of the territory of the United States bordering on the lakes and the St. Lawrence, their citizens had met with no difficulty in the disposal of the surplus produce of their industry, consisting chiefly of pot and pearl ashes, lumber, salted provisions, and flour, at

the markets of Montreal and Quebec. It was there sold, not for domestic consumption, but for subsequent exportation, by sea, to distant markets, principally British West India colonies. This trade was reciprocally beneficial; the American citizen finding his advantage in a ready sale of his produce, the British subject his in the commission, storing, and other incidental transactions; and British navigation enjoying the exclusive benefit of re-transporting the produce to its final destination. This trade had increased to such an extent that the single article of lumber, transported down the St. Lawrence in the year 1821, amounted, in value, to $650,000, without bringing into the estimate the portion of that article which found its way through Lake Champlain and the Sorrel to Montreal and Quebec. This beneficial and innocent trade, so far as it dealt in the principal articles of flour and lumber, was almost entirely destroyed by the duties imposed in the act of Parliament of August, 1822, which in effect, if not in form, are prohibitory.

"Should not the mutual interests of the two countries, in respect to this trade, independent of any considerations of right in the navigation of the St. Lawrence, produce an arrangement satisfactory to both parties? It is a little remarkable that the opposition to such an arrangement proceeds from the party having the greatest interest in making it; that the United States, as has been already stated, is simply to sell a surplus produce of labor. The place of its consumption is the West Indies. If it can be disposed of short of that place, at Montreal or Quebec, the citizens of the United States would be content. But, if they cannot sell it in those cities; if Great Britain, by the imposition of duties, which it will not bear, prevent a sale, they then desire to exercise the privilege of passing out the St. Lawrence, and seeking a market wherever they can find it. Some portion of the produce which would take that natural direction is now transported through the great canal which unites the Hudson and Lake Erie. When the canal designed to connect the great canal with the St. Lawrence, at or near Oswego, which is in considerable progress, shall be completed, other portions of American produce will seek the market of the city of New York, instead of that of the Canadian capitals. If another canal, which is projected, shall ever be cut, that which is proposed to unite the St. Lawrence to Lake Champlain, the interest of this country in the navigation of the St. Lawrence will be still further diminished. Contrast this state of our interest in the trade in question with that of Great Britain. It will not be denied that the two British cities of Montreal and Quebec would be much benefitted by the prosecution of the trade. The British tonnage enjoys, and if the navigation of the St. Lawrence were freely thrown open to us, would probably continue to enjoy, the monopoly of the exportation of our produce, either as British or American property, to foreign possessions. That produce serves to swell the list of articles of general commerce in which Great Britain, more than other nation, is concerned, and ministers directly to the wants of British colonies. If it enters somewhat into competition with similar produce of Canadian origin, that consideration should be neutralized by the fact that the British West India colonist enjoys the benefit of the competition. For it cannot be supposed to be a part of British policy to shut up the American supply, that one British colonist may thereby sell to another British colonist, at a price somewhat higher than he otherwise could do, without the remotest prospect of its reduction from [for] any length of time that the exclusion and the monopoly might exist. Without extending the comparison further, it must be evident that Great Britain is more, or at least as much, interested in the trade as we are. Our loss is not that of the entire value of the articles which are prevented from reaching a market under the operation of the British laws, but of the difference only in value, if there be any, between those articles and the substitutes on which our labor exerts itself in consequence of the existence of that impediment. With this view of the matter, I have prepared two articles, which accompany these instructions, under the designation of A and B, and which may be successively proposed by you during the progress of the negotiation. By the first, the navigation of the St. Lawrence, up and down, from and to the ocean, is declared to belong to the citizens of the United States; and the ports of Montreal and Quebec are open to the importation and disposal of their lumber, pot and pearl ashes, flour, and salted provisions brought from the lake and St. Lawrence country. The privilege is limited to these articles, because they are all produced in that quarter, which it is important should have that vent; and which, not being supposed to be wanted in those cities for the consumption of either Canada, are subsequently exported from those places of entrepot to foreign countries. From that cause, it would be unreasonable that they should be liable to pay any higher or other duties than similar articles of Canadian origin. There is another reason for the limitation: we could not insist upon a general and indiscriminate admission into those ports of *all* produce and manufactures of the United States free of duty, without being prepared to allow, as the equivalent, an admission into our northern territories of all British produce and manufactures on the same terms. But such an admission of British produce and manufactures, if not unconstitutional, would be very unequal as it respects the lake country and other parts of the United States. The first article also provides for a right of deposit at Montreal and Quebec, or such other place as the British Government may designate. Possibly the British Government may require a reciprocal privilege of introducing from the Canadas into the United States free from duty, and there disposing of Canadian lumber, pot and pearl ashes, flour, and salted provisions. Such a privilege would be of essential benefit to the upper province, in opening to it, through the canals of the State of New York, the market of the city of New York. Should such a stipulation be required, you may agree to it, with a provision that the inhabitants of Canada shall be subject to the payment of the same tolls, ferriages, and other charges, in all respects, as citizens of the United States from time to time are or shall be liable to pay. You may also agree to add furs and peltries to the list of articles which each party may introduce into the territories of the other free from duty. This would be a stipulation very advantageous to Great Britain, in opening a shorter and better route to the ocean for those articles than that through the St. Lawrence.

"By the second article, our rights of navigation, and to a place of deposit simply is stipulated, without the privilege of introducing into the Canadas any articles whatever of American produce. Both articles secure to British subjects the right freely to navigate the St. Lawrence, where the channel is within our exclusive jurisdiction. The first would secure all that we can ask; the second the least that we can take.

"We could not rightfully object to a refusal to allow sales of American produce free of duty within British jurisdiction, however unfriendly it would be. But, in that case, there ought to be no limitation of the articles of our export or import trade. On the supposition of such a refusal, the Canadas would be strictly entrepots, and not places of consumption of the objects of our trade, in either of its directions; and, therefore, there should be no restriction as to what we should or should not export or import.

"Between the maximum and the minimum, which those two articles present, there are several intervening modifications, of which I will now specify some that present themselves, and to which, if you cannot do better, you are authorized to agree:

"1. It may be proposed to limit the right of deposit to Quebec;

"2. The sale of our produce may be limited to the port of Quebec; and,

"3. The list may be increased of the articles which we may be allowed to sell at either or both of those cities, free of duty, so as to include all or other articles of the growth, produce, or manufactures of the United States, with the permission to import into the United States similar produce of Canadian origin, without any corresponding privilege of introducing into them British, *European*, or other foreign manufactures.

"If you should find the British Government unwilling to agree to either of the two preceding articles, with or without the modifications, or some of them, above mentioned, you will decline entering into any arrangement upon the subject of the navigation of the St. Lawrence, and take any counter proposals which they may offer for reference to your Government. Neither the third article of the treaty of 1794, nor that which was proposed by either party at the negotiation of the convention of 1815, nor that which was offered by Lord Castlereagh in March, 1817, would serve as a proper basis to regulate the right which we claim to the navigation of the St. Lawrence. Without adverting to any other, decisive objections to the third article of the treaty of 1794 are that it comprehended the Indians on both sides of the boundary between the territories of the United States and Great Britain, and left Great Britain at full liberty to impose whatever duties her policy might dictate upon our produce entering the Canadian ports. The act of Parliament of August, 1822, would not be contrary to the stipulations of that article. The latter objection equally applies to both the American and British projects of an article, which were proposed, but neither of which was agreed to, in the negotiation of 1815, as well as to that of Lord Castlereagh. Nor, would the United States find any protection against the exercise of the power of imposing duties, by agreeing to the ordinary stipulation in commercial treaties, restricting the duties imposed to the rate at which similar articles are liable when imported from other countries. Because, in point of fact, no article similar to those which are imported from our northern territory into Canada is introduced there from any foreign country. No foreign country stands in a similar relation to Canada that the northern parts of the United States do. And Great Britain would not, therefore, be restrained from imposing duties upon our produce, which should even be prohibitory in their effect, by their operation upon similar produce of other countries.

"Whilst Great Britain may be unwilling to enter into any treaty stipulations acknowledging our right to the navigation of the St. Lawrence, she may not be indisposed to consent, by her own voluntary act, to repeal all prohibitory and other duties imposed on American produce, so as to admit it into the ports of Montreal and Quebec on the same terms as the same kind of produce is received from Upper Canada. Such an equal admission of our produce would, in a great measure, supersede the necessity of discussing and settling at this time our right to the navigation of the St. Lawrence, and of considering the regulations which the interests of both parties might require in the practical exercise of the right. Our citizens would enjoy in those cities a ready and certain market for their produce, to obtain which, would be the primary object of securing to them the navigation of the St. Lawrence. It is because we cannot demand such an admission and privilege of selling our produce as a matter of right, and because Great Britain may decline the concession of it, although manifestly beneficial to herself, that we desire to have this interest placed upon some solid and permanent foundation. But, if you should be unable to obtain the British assent to either of the articles proposed, with or without any of the modifications of them which have been suggested, it would then be satisfactory to have the assurance of the British Government that our produce, or, at least, the principal articles of it which have been mentioned, shall be received at Montreal and Quebec on the same terms as the like kinds of Canadian produce are there received. And you may, in turn, assure the British Government that the President will recommend to Congress to reciprocate any British acts of liberality and good neighborhood in regard to the admission and sale of American produce in the Canadas, by acts of equal liberality and good neighborhood on our side, in respect to the admission and sale of Canadian produce in the United States. It is within the competency of the mutual legislation of the two countries to remove many of the existing causes of complaint, without either party conceding or renouncing rights which there might be an unwillingness to admit or surrender.

"By an act of the British Parliament, passed on the 5th of July, 1825, entitled 'An act to regulate the trade of the British possessions abroad,' inland importation is allowed into the Canadas from the United States, in vessels, boats, or carriages belonging to them, of any goods which might be lawfully imported by sea; but such goods must be brought to a port or place of entry, and are to pay the same duties as if they were imported by sea. They may be warehoused at Quebec, only, for exportation, without paying duty, under certain restrictions; but then the collectors and comptrollers of the port are empowered to declare, in a written notice, to be by them promulgated, 'what sorts of goods may be so warehoused.'—(See 28th, 29th, 30th, 31st, 32d, 33d, and 34th sections, &c., of the act.) Under this authority, it would be competent to those officers to exclude, at their pleasure, from the privilege of warehousing our most valuable productions. If, by British legislation, (on the supposition that you cannot prevail on the British Government to regulate by compact, the navigation of the St. Lawrence, in the manner which has been herein proposed,) the privilege of warehousing our produce was placed on a more stable footing, and we were allowed to export it in our own vessels, it would be a considerable improvement of the existing state of things.

"During the negotiation between Mr. Rush and the British plenipotentiaries, a desire was manifested by the latter to couple together the disputed points under the fifth article of the treaty of Ghent, and the right asserted by the United States to the free navigation of the St. Lawrence; and, on the supposition of those two subjects being so blended, the British plenipotentiaries stated that they were even prepared to make offers of compromise and settlement, founded 'on a most liberal and comprehensive view of the wishes and interests of the United States.'—(See pages from 80 to 86 of the pamphlet, and protocols of the seventeenth and eighteenth conferences.) These offers were to be made on the basis of the United States waiving their right to the navigation of the St. Lawrence, which, however, Great Britain was willing to grant to them on a full equivalent; and that equivalent, it is to be inferred, was expected, by the British plenipotentiaries, to be furnished in the disputed territory to which the fifth article of the treaty of Ghent relates. What those offers were they declined to communicate to Mr. Rush, although invited to do so, in order that he might transmit them to his Government. The Government of the United States cannot consent to renounce a right which they conceive belongs to them by the highest species of title. If, as the British Government professes to believe, the right has no just foundation, why does it insist upon its renunciation? Nor can this Government agree to barter away any portion of the territorial sovereignty of Maine, or the proprietary rights of the Commonwealth of Massachusetts, for the navigation of a river

in which neither of them has any direct interest. If the question of the navigation of the St. Lawrence could be accommodated in a manner satisfactory to both parties, so as to let the citizens of the United States into the practical and beneficial enjoyment of it, their Government would be willing that the arrangement should be equally silent in regard to the admission on the one side, or the abandonment on the other, of the right as claimed and denied by the parties, respectively. It is not easy to comprehend why the British plenipotentiaries withheld the communication to Mr. Rush of the very liberal offers which, according to their account of them, they were charged to make. When they appeared disposed to yield to the separation of the two subjects, as urged by Mr. Rush, they still declined to make this proposal of compromise in respect to the northeastern boundary. Under a belief that no prejudice can result to either party from a full communication and a fair consideration of those offers, in respect to either or both questions, you will invite a disclosure of them for reference home. It is obvious that no instructions adapted to them can be given until they are known; nor can we come under any preliminary obligation as the price of their communication. If they are ever intended by Great Britain to be brought forward, the sooner it is done the better for the economy of time and the speedy settlement of the questions, should they prove acceptable to this Government. Had they been communicated to Mr. Rush the delay would have been avoided, which must now take place from your transmitting them to the United States and receiving from hence the necessary instructions, if the offers should be made known to you."

Extracts of a letter from Mr. Clay to Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary to Great Britain, dated Lexington, August 8, 1826.

"Your letter, under date of New York, on the 29th of June last, having been duly received at the Department of State, and submitted to the President, was subsequently transmitted to me at this place, and I now have the honor to address you, agreeably to his directions.

"He is very desirous of an amicable settlement of all the points of difference between Great Britain and the United States on just principles. Such a settlement alone would be satisfactory to the people of the United States, or would command the concurrence of their Senate. In stating, in your instructions, the terms on which the President was willing that the several questions pending between the two Governments might be arranged, he yielded as much to a spirit of concession as he thought he could, consistently with the interests of this country. He is, especially, not now prepared to authorize any stipulations involving a cession of territory belonging to any State in the Union, or the abandonment, express or implied, of the right to navigate the St. Lawrence, or the surrender of any territory south of latitude forty-nine on the Northwest Coast."

"III. The navigation of the St. Lawrence.—Both the articles, A and B, unquestionably assume that the United States have the right to the navigation of that river, independent of Great Britain. Nor can the President consent to any treaty by which they should renounce that right, expressly or by implication. If a sense of justice should not induce Great Britain to acknowledge our right, some hope has been indulged that she might find a motive to make the acknowledgment, in the power which we possess, on her principles, of controlling the navigation of the St. Lawrence within our limits. If she could be brought to consent to neither of those articles, your instructions did not look to any other treaty stipulations on the subject of the navigation of the St. Lawrence; and what they say with respect to practical arrangements, in other forms, was intended to refer to separate acts of the two parties. You are, indeed, authorized to take for reference any counter proposals which may be made by Great Britain, because it is possible that some other reconciliation of the interests of the two Powers, than any which has occurred here, may present itself to the British Government; and because, if that were not very likely, such a reference would be still due in courtesy to the other party. Although it is desirable, at present, for the inhabitants of the United States, on the St. Lawrence, to enjoy the liberty of trading at Montreal and Quebec, in their lumber and other articles of produce, charged with no higher duties than similar Canadian commodities, it would be unsafe to assert that, at no time, now or hereafter, would the right of freely navigating the St. Lawrence, with a convenient place of deposit, be available without the liberty of trading with either of those places. Such a right would open to our navigation a new theatre of enterprise, and if the British colonial markets should be shut against us in consequence of high duties, others equally advantageous might be sought and found. If the British Government should decline agreeing to either of the two articles, A and B, but be willing to receive our produce at Montreal or Quebec, either free of duty, or with such reduced rates as might enable it to sustain a competition with Canadian produce, two modes of accomplishing this object present themselves—one by treaty, and the other by acts of separate regulation. Between them there is no very decided preference. The latter was suggested in your instructions as being that which would be most likely to be attainable, and because it would not involve any abandonment of the rights of either party. If it be liable to the objection that either party may, at pleasure, put an end to it, the mutual interest which recommends its adoption would afford a guarantee of its durability. But you are authorized to consider your instructions enlarged so as to comprehend both modes of effecting the object, taking due care that, if that by treaty should, in the progress of the negotiation, seem to you best, the treaty stipulation shall either expressly reserve the right of the United States to the navigation of the St. Lawrence, in its whole extent, or at least shall be so framed as not to be susceptible of the interpretation that they have abandoned that right. It is believed that the British Government may be made to comprehend that the privilege of introducing the produce of Upper Canada, as proposed in your instructions, into the United States, and thereby securing the shorter and better route through the State of New York, will be an equivalent for that which we desire in the enjoyment of the markets of Montreal and Quebec. With respect to the right to the navigation of Lake Michigan, on which you suppose the British may insist, the President can see no legitimate purpose for which they should desire it. It cannot be wanted by them either to reach their own dominions or those of any foreign country, and stands, therefore, on other grounds than that on which we claim the right to navigate the St. Lawrence; and they are not allowed to trade with the Indians situated within our limits. The same observations are applicable to Lake Champlain."

Extract of a letter from Mr. Gallatin to Mr. Clay, dated London, September 21, 1827.

"The British plenipotentiaries will not entertain any proposition, respecting the navigation of the St. Lawrence, founded on the right claimed by the United States to navigate that river to the sea.

"Although it may prove hereafter expedient to make a temporary agreement without reference to the right, (which I am not authorized to do,) I am satisfied that, for the present at least, and whilst the intercourse with the British West Indies remains interdicted, it is best to leave that by land or inland navigation with the North American British provinces to be regulated by the laws of each country, respectively. The British Government will not, whilst the present state of things continues, throw any impediment in the way of that intercourse if the United States will permit it to continue."

Mr. Gallatin to Mr. Clay.

LONDON, *October* 1, 1827.

SIR: I had, at an early stage of the negotiations, ascertained, not only that no arrangement, founded on a recognition of the right of the river St. Lawrence to the sea, was practicable, but that there was a sensibility on that subject which rendered it preferable not to approach it till all others, and particularly that of the colonial intercourse, had been disposed of. It was, therefore, only after it had been distinctly ascertained, at the interview of the 13th instant, [ultimo,] with Mr. Huskisson and Lord Dudley, that there was no chance left of the intercourse with the British West Indies being opened, and after the principles of the convention respecting the northeast boundary had been substantially agreed to, that I brought forward the question officially at our conferences. I did it without any hope of succeeding, but because this negotiation being the continuation of that of 1824, I apprehended that to omit altogether this subject might be construed as an abandonment of the right of the United States.

To my first suggestion, the British plenipotentiaries replied that, however well disposed Great Britain might be to treat with the United States respecting the free navigation of the river St. Lawrence as a question of mutual convenience, yet the views of the British Government being the same now as they were in 1824, and they being prohibited by express instructions from entering into any discussion respecting the free navigation of that river, if claimed as heretofore by the United States on the ground of right, they could not entertain any proposition to that effect if now made by me.

It is sufficiently obvious that the determination of the British plenipotentiaries not to enter into any discussion of the subject was applicable to themselves, and could not prevent my offering any proposition, or annexing to the protocol any argument in the support of it, which I might think proper. But it appeared to me altogether unnecessary, if not injurious, to commit my Government, by presenting any specific proposal with the certainty of its being rejected; or to make this Government commit itself still further, by reiterating its positive refusal to treat on the ground of a right on the part of the United States. I therefore made the entry which you will see in the protocol of the twentieth conference, and which is sufficient for the object I had in view. You had, by your despatch of August 8, 1826, in conformity with my own wishes, so far enlarged my instructions as to authorize me to judge which method would be the most eligible for the purpose of obtaining, at all events, the admission of American produce at Quebec or Montreal free of duty—whether that by treaty or that by acts of separate legislation. The alternative was not within my reach, as any provision reserving the right of the United States to the free navigation of the St. Lawrence, either expressly or by implication, was, in the present temper of this Government, out of the question. But had it been in my power to select the mode, I would have resorted to that suggested in the original instructions, being fully satisfied that we may with confidence rely on the obvious interest of Great Britain to remove every restriction on the exportation of American produce through Canada, and need not resort to any treaty stipulation short of at least a liberty, in perpetuity, to navigate the river through its whole extent.

Whatever motives may have induced the measures which gave rise to the first complaints of our citizens, a different policy now prevails. In consequence of the extension of the warehousing system to the ports of Quebec, Montreal, and St. John's, places of deposit are, in fact, allowed for every species of American produce free of duty in case of exportation, which is all that in that respect we could ask as a matter of right. The navigation between Montreal and Quebec, either to the sea or from the sea, has not been granted; and it is precisely what cannot now be obtained by a treaty stipulation without what would be tantamount to a disclaimer of the right.

But I do not think that, in practice, this will be much longer denied. There is certainly a disposition, not evinced on former occasions, to make the navigation free, provided it was not asked as a matter of right, and generally to encourage the intercourse between the United States and the adjacent British provinces. This change of disposition is undoubtedly due, in part, to the wish of obtaining supplies for the West India colonies, whilst the intercourse between these and the United States remains interdicted. But it also must be ascribed to more correct views of what is so clearly the interest, and ought to be the policy, of Great Britain in that quarter. It is certainly an extraordinary circumstance, that the great importance of the American inland commerce to her own navigation and to the prosperity of Canada should not have been sooner strongly felt and particularly attended to; that the obstacles to an intercourse, by which American produce is exported through Quebec in preference to the ports of the United States, should have arisen on the part of Great Britain and not of the United States.

It is therefore to that mode of attaining the object in view that I have turned my attention. The considerations which recommend the policy of removing, by their own acts, the practical inconveniences which still embarrass the intercourse have been stated, generally, to the British plenipotentiaries, but with more force and more in detail to Lord Dudley, and to other members of the Cabinet. In an interview I had to-day with his lordship, after having expressed my regret that no arrangement could at this time be made on that subject, and after having urged the *other* reasons which should induce Great Britain no longer to prevent the navigation of the American raft, boats, and vessels between Montreal and Quebec; that if she persisted in denying it, although I had no authority to say such was the intention of my Government, yet it seemed a natural consequence, and ought not to be considered as giving offence, that the United States should adopt corresponding measures in regard to the navigation of the river St.

Lawrence within their own limits. Lord Dudley, who had appeared to acquiesce in my general remarks, made no observation on the last suggestion.

But what is somewhat remarkable is, that he and several of the other ministers with whom I have conversed have expressed a doubt whether I was not mistaken in asserting that the navigation of the river was interdicted to our boats between Montreal and Quebec.

Upon the whole, I have great hopes that, setting aside the abstract question of right, and though no arrangement by treaty should take place, our citizens will ere long, and through the acts of Great Britain alone, enjoy all the benefits of the navigation which they could obtain even if the right were recognized. Should this expectation be disappointed, it is probable that a sufficient remedy will be found in the power to retaliate above St. Regis.

I have the honor to be, &c.,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State, Washington.*

B.

American paper on the navigation of the St. Lawrence—18th Protocol.

The right of the people of the United States to navigate the river St. Lawrence to and from the sea has never yet been discussed between the Governments of the United States and Great Britain. If it has not been distinctly asserted by the former in negotiation hitherto, it is because the benefits of it have been tacitly enjoyed, and because the interest, now become so great and daily acquiring fresh magnitude, has, it may almost be said, originated since the acknowledgment of the independence of the United States in 1783. This river is the only outlet provided by nature for the inhabitants of several among the largest and most populous States of the American Union. Their right to use it, as a medium of communication with the ocean, rests upon the same ground of natural right and obvious necessity heretofore asserted by the Government in behalf of the people of other portions of the United States in relation to the river Mississippi. It has sometimes been said that the possession by one nation of both the shores of a river at its mouth gives the right of obstructing the navigation of it to the people of other nations living on the banks above; but it remains to be shown upon what satisfactory grounds the assumption by the nation below of exclusive jurisdiction over a river thus situated can be placed. The common right to navigate it is, on the other hand, a right of nature. This is a principle which, it is conceived, will be found to have the sanction of the most revered authorities of ancient and modern times; and if there have been temporary occasions when it has been questioned, it is not known that the reasons upon which it rests, as developed in the most approved works upon public law, have ever been impugned. As a general principle, it stands unshaken. The dispute relative to the Scheldt, in 1784, is, perhaps, the occasion when the argument drawn from natural right was most attempted to be impeached. Here the circumstances were altogether peculiar. Amongst others, it is known to have been alleged by the Dutch that the whole course of the two branches of this river which passed within the dominions of Holland was *entirely artificial;* that it owed its existence to the skill and labor of Dutchmen; that its banks had been reared up at immense cost, and were in like manner maintained. Hence, probably, the motive for that stipulation in the treaty of Munster, which had continued for more than a century, that the lower Scheldt, with the canals of Sas and Swin, and other mouths of the sea bordering upon them, should ke kept closed on the side belonging to the States. But the case of the St. Lawrence is totally different. Special, also, as seemed the grounds which the Dutch took as against the Emperor of Germany in this case of the Scheldt, and although they also stood upon a specific and positive compact of long duration, it is nevertheless known that the public voice of Europe on this part of the dispute preponderated against them. It may well have done so, since there is no sentiment more deeply and universally felt than that the ocean is free to all men, and the waters that flow into it to those whose home is upon their shores. In nearly every part of the world we find this natural right acknowledged, by laying navigable rivers open to all the inhabitants of their banks; and wherever the stream entering the limits of another society or nation has been interdicted to the upper inhabitants, it has been an act of *force* by a stronger against a weaker party, and condemned by the judgment of mankind. The right of the upper inhabitants to the full use of the stream rests upon the same imperious wants as that of the lower; upon the same intrinsic necessity of participating in the benefits of this flowing element. Rivers were given for the use of all persons living in the country of which they make a part, and a primary use of navigable ones is that of external commerce. The public good of nations is the object of the law of nations, as that of individuals is of municipal law. The interest of a part gives way to that of the whole; the particular to the general. The former is subordinate; the latter paramount. This is the principle pervading every code, national or municipal, whose basis is laid in moral right, and whose aim is the universal good. All that can be required under a principle so incontestable, so wise, and, in its permanent results upon the great fabric of human society, so beneficent, is, that reasonable compensation be made whenever the general good calls for partial sacrifices, whether from individuals in a local jurisdiction, or from one nation considered as an integral part of the family of nations. This is, accordingly, done in the case of roads, and the right of way in single communities, and is admitted to be just, in the form of moderate tolls, where a foreign passage takes place through a natural current kept in repair by the nation holding its shores below. The latter predicament is not supposed to be that of the St. Lawrence at this day, since it is not known that any artificial constructions, looking simply to its navigation, have yet been employed, either upon its banks or in keeping the channel clear. This has been the case, in connexion with other facilities and protection afforded to navigation, with the Elbe, the Maese, the Weser, the Oder, and various other rivers of Europe that might be named, and the incidental right of toll has followed. It may be mentioned, however, as a fact, under this head, that the prevailing disposition of Europe defeated an attempt once made by Denmark to exact a toll at the mouth of the Elbe, by means of a fort on the Holstein side which commanded it. The Sound dues have been admitted in favor of Denmark, but not always without scrutiny, and only under well established rules. We know that under some circumstances and with due precautions a right is even allowed to armies to pass through a neutral territory for the destructive purposes of war. How much stronger and more unqualified the right to seek a passage through a natural stream

for the useful and innocent purposes of commerce and subsistence! A most authentic and unequivocal confirmation of this doctrine has been afforded, at a recent epoch, by the parties to the European alliance, and largely, as is believed, through the enlightened instrumentality of Great Britain, at the negotiation of the treaties at the Congress of Vienna. It has been stipulated in these treaties that the Rhine, the Necker, the Mayne, the Moselle, the Maese, and the Scheldt, are to be free to all nations. The object of these stipulations undoubtedly has been to lay the navigation of these rivers effectively open to all the people dwelling upon their banks or within their neighborhood, and to abolish those unnatural and unjust restrictions by which the inhabitants of the interior of Germany have been too often deprived of their outlet to the sea by an abuse of that sovereignty, rather than its right, which would impute an exclusive dominion over a river to any one State not holding all its shores. These stipulations may be considered as an indication of the present judgment of Europe upon the point, and would seem to supersede further reference to the case of other rivers, and, from their recent as well as high authority, further illustration of any kind. They imply a substantial recognition of the principle that, whatever may sometimes have been the claim to an exclusive right by one nation over a river, under the circumstances in question, the claim, if founded in an alleged right of sovereignty, could, at best, only be supposed to spring from the social compact; whereas the right of navigating the river is a right of nature, pre-existent in point of time, not necessary to have been surrendered up for any purpose of the common good, and unsusceptible of annihilation. There is no principle of national law and universal justice, upon which the provisions of the Vienna treaties are founded, that does not apply to sustain the right of the people of the United States to navigate the St. Lawrence. The relations between the soil and the water, and those of man to both, form the eternal basis of this right. These relations are too intimate and powerful to be separated. A nation deprived of the use of the water flowing through its soil would see itself stripped of many of the most beneficial uses of the soil itself; so that its right to use the water, and freely to pass over it, becomes an indispensable adjunct to its territorial rights. It is a means so interwoven with the end that to disjoin them would be to destroy the end. Why should the water impart its fertility to the earth if the products of the latter are to be left to perish upon the shores.

It may be proper to advert to the footing, in point of fact, upon which the navigation of this river stands at present between the two countries, so far as the regulations of Great Britain are concerned. The act of Parliament of the 3d of George IV, chapter 119, August 5, 1822, has permitted the importation from the United States, by land or water, into any port of entry in either of the Canadas at which there is a custom-house, of certain articles of the United States enumerated in a schedule, subject to the duties which are specified in another schedule. Under the former schedule many of the most important articles of the United States are excluded; and under the latter the duties are so high as to be equivalent to a prohibition of some that are nominally admitted. The foregoing act lays no impositions on the merchandise of the United States descending the St. Lawrence with a view to exportation on the ocean, but an act of Parliament of 1821 does, viz: upon the timber and lumber of the United States. Such, in general terms, is the footing upon which the intercourse is placed by the British acts, and it may be alike proper, in connexion with this reference to it, to mention the conditions of intercourse which it has superseded. To whatever observations the duties imposed on the products of the United States, imported for sale into the ports of Canada, may otherwise be liable, as well as the exclusion of some of them altogether, it will be understood that it is only the unobstructed passage of the river, considered as a common highway, that is claimed as a right. By the treaty stipulations of November, 1794, between the two countries, the United States were allowed to import into the two Canadas *all* articles of merchandise, the importation of which was not entirely prohibited, subject to no other duties than were payable by British subjects on the importation of the same articles from Europe into the Canadas. The same latitude of importation was allowed into the United States from the Canadas, subject to no other duties than were payable on the importation of the same articles into the Atlantic ports of the United States. Peltries were made free on both sides. All tolls and rates of ferriage were to be the same upon the inhabitants of both countries. No transit duties at portages or carrying places were to be levied on either side. These provisions were declared in the treaty to be designed to secure to both parties the local advantages common to both, and to promote a disposition favorable to friendship and good neighborhood. The waters on each side were made free, with the exception, reciprocally, at that time, of vessels of the United States going to the seaports of the British territories, or navigating their rivers between their mouths and the highest port of entry from the sea, and of British vessels navigating the rivers of the United States beyond the highest ports of entry from the sea. These treaty regulations are found among the articles declared, when the instrument was made, to be permanent. Both countries continued to abide by them until Great Britain passed the acts above recited, by which it appears that she has considered the intervening war of 1812 as abrogating the whole treaty of November, 1794. The United States have continued to allow, up to the present time, its provisions, regulating this intercourse, to operate in favor of the Canadas. By the act of Parliament of the 3d of George IV, chapter 44, taken in conjunction with the act of the same year, chapter 119, above mentioned, the right of the vessels of the United States to the whole navigation of the St. Lawrence appears to be taken for granted: by the first, from the ocean to Quebec; and by the second, from any part of the territories of the United States to Quebec. But a discretionary power is given to the Colonial Governments in Canada to do away the effect of the latter permission, by excepting any of the Canadian posts from those to which the vessels of the United States are by the act made admissible; whilst the duties which it imposes upon such of the exports of the United States as could alone render the trade profitable are prohibitory. But it is the right of navigating this river upon a basis of certainty, without obstruction or hindrance of any kind, or the hazard of it in future, that the United States claim for their citizens.

The importance of this claim may be estimated when it is considered that the people of at least as many of the States as Illinois, Indiana, Ohio, Pennsylvania, New York, Vermont, Maine, and New Hampshire, and the Territory of Michigan, have an immediate interest in it, not to dwell upon the prospective derivative interest which is attached to it in other portions of the Union. The parts of the United States connected directly or remotely with this river, and the inland seas through which it communicates with the ocean, form, indeed, an extent of territory, and comprise, even at this day, an aggregate of population which bespeak the interest at stake to be of the very highest nature, and one which, after every deduction suggested by the artificial channels which may be substituted for the natural one of this great stream, make it emphatically an object of national concernment and attention.

Having seen the grounds of necessity and reason upon which the right of so great and growing a population to seek its only natural pathway to the ocean rests, it may be expected that they should be

supported by the established principles of international law. This shall be done by the citation of passages from the writings of the most eminent publicists, always bearing in mind that the right under discussion becomes strong in proportion to the extent which the country of the upper inhabitants, in its connexion with the stream, bears to the country of the lower inhabitants. Vattel, in book 2, ch. 9, sec. 127, lays down the following as a general position: "Nature, who designs her gifts for the common advantage of men, does not allow of their being kept from their use when they can be furnished with them without any prejudice to the proprietor, and by leaving still untouched all the utility and advantages he is capable of receiving from his rights." The same author, same book, ch. 10, sec. 132, says: "Property cannot deprive nations of the general right of travelling over the earth in order to have a communication with each other for carrying on trade and other just reasons. The master of a country may only refuse the passage on particular occasions, where he finds it is prejudicial or dangerous." In section 134, he adds: "A passage ought also to be granted for merchandise; and as this may, in common, be done without inconvenience, to refuse it, without just reason, is injuring a nation, and endeavoring to deprive it of the means of carrying on a trade with other States; if the passage occasion any inconvenience, any expense for the preservation of canals and highways, it may be recompensed by the rights of toll." Again, in book 1, ch. 22, sec 266, we are told that, if "neither the one nor the other of two nations near a river can prove that it settled first, it is to be supposed that they both came there at the same time, since neither can give any reason of preference; and, in this case, the dominion of each will be extended to the middle of the river." This is a principle too relevant to the doctrine under consideration to be passed over without remark. It relates, as will be seen, to *dominion*, and not to right of passage simply. Now, if simultaneous settlement confers coequality of dominion, by even stronger reason will simultaneous *acquisition* confer coequality of passage. Without inquiring into the state of the navigation of the St. Lawrence as between Great Britain and France prior to the peace of 1763, it is sufficient that, in the war of 1756–'63, which preceded that peace, the people of the United States, in their capacity of English subjects, contributed, jointly with the parent State, (and largely, it may be added with historical truth,) towards gaining the Canadas from France. The right of passage, therefore, of this river, admitting that it did not exist before, was, in point of fact, opened to the early inhabitants of New York and Pennsylvania at an epoch at least as soon as to British subjects living, afterwards, in the newly-conquered possessions. A title thus derived is not invoked as resting upon the same ground with the title derived from natural right, but it serves to strengthen it, and is of pertinent application, as against Great Britain, in this instance. Let it be looked at under either of the following alternatives which present themselves: If Great Britain possessed the navigation of this river prior to 1763, so did the people of the United States, as part, at that time, of her own Empire. If she did not, but only first acquired it when the Canadas were acquired, the people of the United States, acting in common with her, acquired it in common, and at as early a date. It will not be said that the right which necessarily inured to the colonies as part of the British Empire was lost by their subsequently taking the character of a distinct nation, since it is the purpose of this paper to show that the right of passage may, as a natural right, be claimed by one foreign nation against another, without any reference whatever to antecedent circumstances. But the latter, when they exist, make up part of the case, and are not to be left out of view. The peculiar and common origin of the title of both parties, as seen above, is calculated to illustrate more fully the principle of common right, applicable to both now. The antecedent circumstances show that the natural right always appertaining to the early inhabitants of the shores of this river, above the Canadian line, to navigate it, has once been fortified by joint conquest, and by subsequent joint usufruction. One other quotation is all that will be given from the same author. It relates to a strait, and not a river; but the reasoning from analogy is not the less striking and appropriate. "It must be remarked," he says, "with regard to straits, that when they serve for a communication between two seas, the navigation of which is common to all or many nations, he who possesses the strait cannot refuse others a passage through it, provided that passage be innocent, and attended with no danger to the State. Such a refusal, without just reason, would deprive these nations of an advantage granted them by nature; and, indeed, the right of such a passage is a remainder of the primitive liberty enjoyed in common." If we consult Grotius, we shall find that he is equally or more explicit in sanctioning, in the largest extent, the principle contended for. He even goes so far as to say, after laying down generally the right of passage, that "the fears which any Power entertains of a multitude in arms passing through its territories do not form such an exception as can do away the rule, it not being proper or reasonable that the fears of one party should destroy the rights of another."—(Book 2, chap. 2, sec. 13.) In the course of the same section he declares that, upon "this foundation of common right, a free passage through countries, *rivers*, or over any part of the sea which belong to some particular people, ought to be allowed to those who require it for the necessary occasions of life, whether those occasions be in quest of settlements, after being driven from their own country, *or to trade with a remote nation.*" The reasons which Grotius himself gives, or which he adopts from writers more ancient, for this right of innocent passage, (and he is full of authorities and examples, as well from sacred as profane history,) are of peculiar force. He denominates it "*a right interwoven with the very frame of human society.*" "Property," he says, "was originally introduced with a reservation of that use which might be of general benefit, and not prejudicial to the interest of the owner." He concludes the section in the following manner: "A free passage ought to be allowed, not only to persons but to merchandise; for no Power has a right to prevent one nation trading with another at a remote distance—a permission which, for the interest of society, should be maintained; nor can it be said that any one is injured by it, for, though he may thereby be deprived of an *exclusive* gain, yet the loss of what is not his due, *as a matter of right*, can never be considered as a damage or the violation of a claim." After authorities of such immediate bearing on the point under consideration, further quotation will be forborne. The question of right is conceived to be made out, and if its denomination will be found to be sometimes that of an imperfect, in contradistinction to an absolute right, the denial of it is, nevertheless, agreed to be an injury, of which the party deprived may justly complain. The sentiments taken from these two writers, and they are not the only ones capable of being adduced, (though deemed sufficient,) have the full support of coincident passages in Puffendorf, book 3, chap. 3, secs. 4, 5, 6, and in Wolfius, sec. 310.

Finally, the United States feel justified in claiming the navigation of this river on the ground of paramount interest and necessity to their citizens—on that of *natural right*, founded on this necessity, and felt and acknowledged in the practice of mankind, and under the sanction of the best expounders of the laws of nations. Their claim is to its full and free navigation from its source to the sea without impediment or obstruction of any kind. It was thus that Great Britain claimed, and had, the navigation of the Mississippi, by the seventh article of the treaty of Paris of 1763, when the mouth and lower shores of that

river were held by another Power. The claim, whilst necessary to the United States, is not injurious to Great Britain, nor can it violate any of her just rights. They confidently appeal to her justice for its enjoyment and security; to her enlightened sense of good neighborhood; to her past claims upon others for the enjoyment of a similar right; and to her presumed desire for the advantageous intercourse of trade and all good offices, now and henceforth, between the citizens of the United States and her own subjects bordering upon each other in that portion of her dominions.

N.

British paper on the navigation of the St. Lawrence—24th Protocol.

The claim of the United States to the free navigation of the river St. Lawrence wears a character of peculiar importance when urged as an independent right.

The American plenipotentiary must be aware that a demand, rested upon this principle, necessarily precludes those considerations of good neighborhood and mutual accommodation with which the Government of Great Britain would otherwise have been anxious to enter upon the adjustment of this part of the negotiation.

A right claimed without qualification on the one side affords no room for friendly concession on the other; total admission or total rejection is the only alternative which it presents.

On looking to the objects embraced by the American claim we find them to be of no ordinary magnitude. The United States pretend to no less than the perpetual enjoyment of a free, uninterrupted passage, independent of the territorial sovereign, through a large and very important part of the British possessions in North America. They demand, as their necessary inherent right, the liberty of navigating the St. Lawrence from its source to the sea, though, in the latter part of its course, which lies entirely within the British dominions, and comprises a space of nearly six hundred miles, that river traverses the finest settlements of Canada, communicates by the south with Lake Champlain, and washes the quays of Montreal and Quebec.

A pretension which thus goes to establish a perpetual thoroughfare for the inhabitants, vessels, and productions of a foreign country through the heart of a British colony, and under the walls of its principal fortress, has need to be substantiated on the clearest and most indisputable grounds. It requires, indeed, an enlarged view of what is owed in courtesy by one nation to another to justify the British Government in entering, at this late period, on the discussion of so novel and extensive a claim.

There will, however, be little difficulty in showing that the claim asserted by the American plenipotentiary rests, as to any foundation of *natural* right, on an incorrect application of the authorities which he has consulted. With respect to the claim derived from an *acquired* title which he has also alleged, that ground of claim will remain to be examined hereafter; but it may be observed, in the outset, that the natural and acquired title depend on principles essentially distinct; that the one cannot be used to make good any defect in the other; and, although they may be possessed independently by the same claimant, that they can, in no degree, contribute to each other's validity.

Proceeding to consider how far the claim of the United States may be established on either of these titles, it is first necessary to inquire what must be intended by the assertion that their claim is founded on *natural* right. "The right of navigating this river," says the American plenipotentiary, "is a right of nature, pre-existent in point of time, not necessary to have been surrendered up for any purpose of common good, and unsusceptible of annihilation." The right here described can be of no other than of that kind which is generally designated in the law of nations a *perfect* right. Now, a perfect right is that which exists independent of treaty; which necessarily arises from the law of nature; which is common, or may, under similar circumstance, be common to all independent nations; and can never be denied or infringed by any State without a breach of the law of nations. Such is the right to navigate the ocean without molestation in time of peace.

Upon these principles, now universally received, it is contended for the United States that a nation possessing both shores of a navigable river at its mouth has no right to refuse the passage of it to another possessing a part of its upper banks, and standing in need of it as a convenient channel of commercial communication with the sea. Applying the same principles to the case of the St. Lawrence, the American Government maintain that Great Britain would be no more justified in controlling American navigation on that river than in assuming to itself a similar right of interference on the high seas.

To this extent must the assumption of a *perfect* right be carried, or such claim is no longer to be considered in that character; but, falling under the denomination of an *imperfect* right, it becomes subject to considerations essentially and entirely different.

The first question, therefore, to be resolved is, whether a perfect right to the free navigation of the river St. Lawrence can be maintained according to the principles and practice of the law of nations?

Referring to the most eminent writers on that subject, we find that any liberty of passage to be enjoyed by one nation through the dominions of another is treated by them as a qualified occasional exception to the paramount rights of property. "The right of passage," says Vattel, "is also a remainder of the primitive communion in which the entire earth was common to men, and the passage was everywhere free according to their necessities." Grotius, in like manner, describes mankind as having in their primitive state enjoyed the earth and its various productions in common until after the introduction of property, together with its laws, by a division or gradual occupation of the general domain. Among the natural rights which he describes as having in part survived this new order of things are those of necessity and of innocent utility; under the latter of which he classes the right of passage. Following his principle, this natural right of passage between nation and nation may be compared to the right of highway, as it exists in particular communities, between the public at large and the individual proprietors of the soil, but with this important difference, that, in the former case, commanding and indispensable considerations of national safety, national welfare, and national honor and interest, must be taken especially into the account.

It is clear that, on this principle, there is no distinction between the right of passage by a river flowing from the possessions of one nation through those of another to the ocean, and the same right to be enjoyed by means of any highway, whether of land or of water, generally accessible to the inhabitants of the earth. "Rivers," says Grotius, "are subject to property, though neither where they rise nor

where they discharge themselves be within our territory." The right to exclusive sovereignty over rivers is also distinctly asserted by Bynkershoek, in the ninth chapter of his treatise "on the dominion of the sea." Nor is this by any means the full latitude to which the principle, if applied at all, must in fairness be extended. "All nations," says Vattel, "have a general right to the innocent use of the things which are under any one's domain." "Property," says the same author, "cannot deprive nations of the general right of travelling over the earth, in order to have communication with each other, for carrying on trade, and other just reasons." The nature of these other *just reasons* is explained by Grotius in the following sentence: "A passage ought to be granted to persons, whenever just occasion shall require, over any lands or rivers, or such parts of the sea, as belong to any nation;" as, "for instance, if, being expelled from their own country, they want to settle in some uninhabited land, or if they are going to traffic with some distant people, or to recover, by a just war, what is their own right and due."

For other purposes, then, besides those of trade, for objects of war as well as for objects of peace, for all nations no less than for any nation in particular, does the right of passage hold good under those authorities to which the American plenipotentiary has appealed. It has already been shown that, with reference to this right, no distinction is drawn by them between land and water, and still less between one sort of river and another. It further appears, from Vattel, that the right in question, particularly for the conveyance of merchandise, is attached to artificial as well as to natural highways. "If this passage," he observes, "occasion any inconvenience, any expense for the preservation of *canals* and *highways*, it may be recompensed by rights of toll."

Is it then to be imagined that the American Government can mean to insist on a demand involving such consequences without being prepared to apply, by reciprocity, the principle on which it rests in favor of Great Britain? Though the sources of the Mississippi are now ascertained to lie within the territory of the United States, the day cannot be distant when the inhabitants of Upper Canada will find convenience in exporting their superfluous produce by means of the channel of that river to the ocean. A few miles of transport over land are of little consequence when leading to a navigable river of such extent. Even at the present time a glance upon the map is sufficient to show that the course of the Hudson, connected as it now is with the waters of the St. Lawrence, would afford a very commodious outlet for the produce of the Canadian provinces. The comparative shortness of this passage, especially with reference to the West Indies, would amply compensate for any fair expense of tolls.

It would also be, in some instances, convenient and profitable for British vessels to ascend the principal rivers of the United States as far as their draught of water would admit, instead of depositing their merchandise, as now, at the appointed ports of entry from the sea. Nor is it probable that other nations would be more backward than the British in pressing their claim to a full participation in this advantage. The general principle which they would invoke, in pursuance of the example given by America, and a partial application of such principles no country can have a right to expect from another, is clearly of a nature to authorize the most extraordinary and unheard of demands. As for the right of passage from sea to sea across any intervening isthmus, such, for instance, as that of Corinth or of Suez, and more especially from the Atlantic to the Pacific, by the isthmus of Panama, that right of passage follows as immediately from this principle, as any such right claimed from one tract of land to another, or to the ocean, by water communication.

The exercise of a right which thus goes the length of opening a way for foreigners into the bosom of every country must necessarily be attended with inconvenience, and sometimes with alarm and peril, to the State whose territories are to be traversed. This consequence has not been overlooked by writers on the law of nations. They have felt the necessity of controlling the operation of so dangerous a principle, by restricting the right of transit to purposes of *innocent* utility, and by attributing to the local Sovereign the exclusive power of judging under what circumstances the passage through his dominions is or is not to be regarded as *innocent*. In other words, the right which they have described is, at best, only an *imperfect* right.

It is under the head of *innocent utility* that Grotius has classed the right of passage, as before laid down in his own expressions.

"Innocent utility," he adds, "is when I only seek my own advantage *without damaging* anybody else." In treating of the same right, Vattel remarks that, "since the introduction of domain and property, we can no otherwise make use to it than by respecting the proper right of others." "The effect," he adds, "of property is to make the advantage of the proprietor prevail over that of all others."

The same author defines the *right of innocent use* or innocent utility to be "the right we have to that use which may be drawn from things belonging to another, without causing him either loss or inconvenience." He goes on to say that "this right of *innocent use* is not a perfect right like that of *necessity;* for it belongs to the master to judge if the use we would make of a thing that belongs to him will be attended with no damage or inconvenience."

With respect to the assertion of Grotius, as quoted by the American plenipotentiary, "that the mere apprehension of receiving injury from the exercise of this right is not a sufficient reason for denying it," the author, it must be observed, is addressing himself to the conscience of the Sovereign through whose territories a passage may be demanded—impressing upon his mind that he cannot fully discharge his moral obligations in giving such refusal, unless he be well convinced that his fears originate in just causes. But it would be absurd and contrary to the general tenor of his argument to suppose that a well founded apprehension was not to have its due effect, or that the advantage, or even necessity, of a foreign nation could be justly recognized by him as paramount, in the one case, to the leading interests in the other to the safety of his own.

It is further to be observed that Grotius, in the argument referred to, had clearly in view an *occasional* liberty of passage, not of that *perpetual*, uninterrupted kind which the regular activity of modern commerce requires. But the doctrine of Grotius applied to merchandise, and, taken in the sense ascribed to it by the American plenipotentiary, is distinctly contradicted by other eminent writers on the law of nations. Puffendorf, for instance, in his great work on that subject, expresses himself as follows: "We may have good reasons for stopping foreign merchandise as well by land as on a river, or on an arm of the sea, within our dependence. For besides that a too great affluence of foreigners is sometimes prejudical or suspicious to a State, why should not a Sovereign secure to his own subjects the profit made by foreigners under favor of the passage which he allows them?" "I admit that in allowing foreigners to carry their merchandise elsewhere, even without paying for the passage, we do not sustain any damage, and that they do us no wrong in pretending to an advantage of which we might have possessed ourselves before

them. But, at the same time, as they have no right to exclude us from it, why should we not try to draw it to ourselves? Why should we not prefer our interest to theirs?"

The same author observes in the next section of his work that "a State may fairly lay a duty on foreign goods conveyed through its territory *by way of compensation for what its subjects lose by admitting a new competitor into the market.*"

To appreciate the full force of these opinions it must be borne in mind that Puffendorf appears to speak of a foreign nation so situated as to depend exclusively on the passage in question for the sale of its superfluous produce and the importation of supplies from abroad. This part of the subject may be closed with the following decisive words of Barbeyrac, in his Notes on Grotius: "It necessarily follows from the right of property that the proprietor may refuse another the use of his goods. Humanity, indeed, requires that he should grant that use to those who stand in need of it, when it can be done without any considerable inconvenience to himself; and if he even then refuses it, though he transgresses his duty, he doth them no wrong, properly so called, except they are in extreme necessity, which is superior to all ordinary rules."

But the American plenipotentiary maintains that the right of passage, as understood by him in opposition to his own authorities, that is, independent of the Sovereign's consent, and applied to the single predicament of the St. Lawrence, has been substantially recognized by the Powers of Europe, in the treaties of general pacification concluded at Paris in 1814, and in the following year at Vienna.

It is true that in the solemn engagements then contracted by them the Sovereigns of the leading States of Europe manifested a disposition to facilitate commercial intercourse between their respective countries by opening the navigation of such of the principal rivers as separated or traversed the territories of several Powers. This policy was applied more particularly to the Rhine, the Necker, the Mayne, the Moselle, the Maese, and the Scheldt. But neither in the general nor in the special stipulations relating to the free navigation of rivers is there anything to countenance the principle of a natural, independent right as asserted by the American plenipotentiary. We find, on the contrary, that in the treaty concluded at Paris, between France and the allied Powers, the Rhine was the only river at once thrown open to general navigation. With respect to the other rivers, it was merely stipulated that the means of extending that arrangement to them should be determined by the Congress about to assemble at Vienna. In the instance of the Rhine it was natural for France, in giving up possessions which she had for some time enjoyed on the banks of that river, to stipulate a reserve of the navigation. The stipulations relating to river navigation in the general treaty of Vienna commence in the following manner: "The Powers whose States are separated or crossed by the same navigable river *engage* to regulate by *common consent* all that regards its navigation." They close with an agreement that the regulations, once adopted, shall not be changed, *except with the consent of all the Powers bordering on the same river.*

It is evident, therefore, that the allied Governments, in concurring to favor the circulation of trade through the great water communications of continental Europe, did not lose sight of what was due to the sovereignty of particular States; and that, when they referred the common enjoyment of certain navigable rivers to voluntary compact between the parties more immediately concerned, they virtually acknowledged the right of any one of those parties, till bound by its own engagements to withhold the passage through its dominions from foreign merchant vessels. As freedom of navigation in favor of all nations, and not merely of those which border on the rivers thus opened by treaty, was the immediate object of the above-mentioned stipulations, it must be presumed that the Powers assembled in Congress, if they had felt themselves borne out by the practice or general opinion in Europe, would not have hesitated to proclaim the measure which they adopted as one of natural, independent right. Their silence alone on this point might have been taken as strongly indicative of their belief that the prevailing usage of Europe would authorize no such declaration. But the principle of mutual consent is surely irreconcilable with the contrary supposition, and must, at least, be understood to give a special character to the engagements contracted under it, confining them to the rivers enumerated in the treaty; and, however laudable, as an example to other States, whose circumstances may allow of their imitating it without danger or detriment, expressive of no obligation beyond the occasion for which the treaty was framed.

It would take up too much time to demonstrate, by a detailed investigation of every case to which the American argument applies, the negative proposition that no nation exercises the liberty of navigating a river through the territories of another, except by permission or express concession under treaty. It is rather for the American Government to present a single instance in which the liberty claimed for the United States is exercised explicitly as a natural, independent right.

The case of the Scheldt, though referred to by the American plenipotentiary, is certainly not one of this kind. The leading circumstances relating to that river were, first, its mouths, including the canals of Sas and Swin, lay within the Dutch territory, while parts of its upper channel were situate within the Flemish provinces; secondly, that the treaty of Westphalia had confirmed the right of the Dutch to close the mouths of the river; thirdly, that the exercise of this right was disputed, after a lapse of more than a hundred years, by the Emperor of Germany; and fourthly, that the dispute between that monarch and the Dutch Republic terminated in 1785, by leaving the Dutch in possession of the right which had been disputed. It is true that at that period the Dutch founded their claim, in part, on the expense and labor which they had undergone in improving the river; but it is true, at the same time, that they also grounded it on the general law of nations. Above all, they rested it on the treaty of Westphalia. But if the right of the Dutch Republic had been countenanced by the law and practice of nations, why, it may be asked, should it have been thought necessary to confirm that right by the treaty of Westphalia? The reply is obvious; that confirmation was the resort of the weak against the strong: of the former dependents of Spain against the encroachments of a haughty Power still Sovereign of Antwerp and the neighboring provinces, and not having yet renounced its claim of sovereignty over Holland itself. It was natural for the Dutch, under such circumstances, to fortify their right by the general sanction of Europe; but it was not natural for the principal parties in the pacification of Munster to lend their sanction to a measure in direct contradiction to acknowledged principles; or, if their scruples as to the admission of such a measure had been removed by special motives, it is strange that they should not have taken the obvious precaution of recording those motives. During the discussions about the Scheldt, in 1785, the Empress of Russia was the only Sovereign who officially declared an opinion in favor of the house of Austria. But the United States can derive no great advantage from a declaration couched in such terms as these: "Nature herself hath granted to the Austrian Low Countries the use and advantage of the river in dispute; Austria alone, by virtue of the law of nature and nations, is entitled to an *exclusive* right to

the river in question. So that the equity and disinterestedness of Joseph II can only impart this right to other people, it belonging *exclusively* to his States."

The opinions proclaimed on this subject by the Russian Government are more remarkable, as there is no country which has a greater interest than Russia in the disputed question. It is well known that the only approach to the Russian ports on the Black Sea, from the Mediterranean and Atlantic, is by the passages of the Dardanelles and Bosphorus. These canals are, in fact, salt-water straits, communicating from sea to sea; passing, it is true, between the Turkish territories in Europe and Asia, but with no great length of course, and leading to a vast expanse of inland water, the shores of which are occupied by no less than three independent Powers.

There is manifestly a wide difference between such a case and that of the St. Lawrence, nor can the marked difference in principle between rivers and straits be overlooked; and yet, as matter of fact, the navigation of the Black Sea and the adjacent canals is enjoyed by Russia—by that Power which has so often dictated its own conditions to the Porte—in virtue of a treaty founded, like other treaties, on the mutual convenience and mutual advantage of the parties. Even the navigation of the Danube, downwards to the ocean, was first accorded to Austria by the Turkish Government as a specific concession made at a juncture when the Porte, involved in a quarrel with the most formidable of its neighbors, was compelled to propitiate the good will of other Christian Powers.

The case of the Mississippi is far from presenting an exception to this view of the subject. The treaty of 1763, which opened the navigation of that river to British subjects, was concluded after a war in which Great Britain had been eminently successful. The same motives that prevailed with France to cede Canada must have restrained her from hazarding a continuance of hostilities for such an object as the exclusive navigation of the Mississippi. The agreement respecting that river makes part of the general provisions as to the western boundary of the British possessions in America, by which the whole left side of the Mississippi was ceded to Great Britain, with the exception of the town and island of New Orleans. This reservation was admitted on the express condition that the navigation of the whole channel should be open to British subjects. The very fact of its having been thought necessary to insert this stipulation in the treaty, in consequence of France having retained possession of both banks of the river at a single spot, leads, irresistibly, to an inference the very reverse of what is maintained by the American plenipotentiary.

At a later period the navigation of the Mississippi became a subject of arrangement between Spain and the United States. By the fourth article of their treaty of boundary and navigation, concluded in 1795, a similar agreement to that which had before subsisted between France and Great Britain was effected between those Powers, with this remarkable difference: that the liberty of navigating the river was expressly confined to the "parties themselves, unless the King of Spain," to use the words of the treaty, "should extend the *privilege* to the subjects of other Powers by *special convention*."

It must not be overlooked that, when the clause which is here quoted, and the exclusive stipulation immediately preceding it, were drawn up, the sources of the Mississippi were still supposed to be within the British territory; and, at the same time, there was in force a treaty between Great Britain and the United States declaring that "the navigation of the river Mississippi, from its source to the ocean, should *forever* remain free and open to the subjects of Great Britain."

Some additional light may, perhaps, be thrown on the object of the present discussion by the quotation of a note on the fourth article of the Spanish treaty, which is printed in the collection of the United States laws, *arranged and published under the authority of an act of Congress*. It is as follows:

"Whatsoever right his Catholic Majesty had to interdict the free navigation of the Mississippi to any nation at the date of the treaty of San Lorenzo el Real, (the 27th of October, 1795,) that right was wholly transferred to the United States, in virtue of the cession of Louisiana from France, by the treaty of April 30, 1803. And, as the definitive treaty of peace was concluded previously to the transfer to the United States of the right of Spain to the dominion of the river Mississippi, and, of course, prior to the United States possessing the Spanish right, it would seem that the stipulation contained in the 8th article of the definitive treaty with Great Britain could not have included any greater latitude of navigation on the Mississippi than that which the United States were authorized to grant on the 3d of September, 1783.

"The additional right of sovereignty which was acquired over the river by the cession of Louisiana was *paid for* by the American Government; and therefore any extension of it to a foreign Power could scarcely be expected *without an equivalent*."

The natural right asserted by the American plenipotentiary being thus examined in respect both to the principles which it involves and to the general practice of nations, the *acquired* title, as distinct from the *natural*, stands next for consideration.

This title is described in the American argument as originating in circumstances which either preceded or attended the acquisition of the Canadas by Great Britain. It is said "that, if Great Britain possessed the navigation of the St. Lawrence before the conclusion of peace in 1763, so did the people of the United States, as forming, at that time, a part of the British Empire; but if Great Britain only first acquired it together with the Canadas, then did the people of the United States acquire it in common with her at the same period." In both the supposed cases it is taken for granted that, whatever liberty to navigate the St. Lawrence, in the whole length of its course, the inhabitants of the United States enjoyed when those States were part of the British Empire, continued to belong to them after their separation from the mother country. Now, if this were so, it would also be true, and in a far stronger degree, that the subjects of Great Britain have an equal right to enjoy, in common with American citizens, the use of the navigable rivers and other public possessions of the United States which existed when both countries were united under the same Government; for the acquired title, be it remembered, does not affect the St. Lawrence, as a river flowing from the territories of one Power through those of another, to the sea, but is manifestly grounded on the supposition that an object which had been possessed in common by the people of both countries up to the time of their separation, continues to belong, in point of use, to both after they have ceased to be parts of the same community. If it be true that the inhabitants of the United States contributed, as British subjects, to effect the conquest of Canada, it cannot, at the same time, be denied that the United States, before their separation from Great Britain, were frequently indebted to the councils and exertions of the parent country for protection against their unquiet and encroaching neighbors.

Specifically did they owe to Great Britain their first enjoyment of the waters of the Mississippi, conquered in part from France by the very same efforts which transformed Canada from a French settlement into a British colony. The pretension of the American Government as grounded on the

simultaneous acquisition of the St. Lawrence, as well by the inhabitants of the adjacent, and, at that time, British provinces, as by those of the countries originally composing the British monarchy, must, therefore, if admitted, even for the sake of argument, be applied reciprocally in favor of Great Britain.

The fact, however, is, that no such pretension can be allowed to have survived the treaty by which the independence of the United States was first acknowledged by Great Britain.

By that treaty a perpetual line of demarcation was drawn between the two Powers, no longer connected by any other ties than those of amity and conventional agreement.

No portion of the sovereignty of the British Empire, exclusive to the actual territory of the United States, as acknowledged by that treaty, could possibly devolve upon the people of the United States separated from Great Britain.

By the same instrument the territorial boundary of the States, as recognized by their former Sovereign, were carefully defined for the express purpose of avoiding disputes in future; and the articles stipulating for a concurrent enjoyment of the North American fisheries, and of the navigation of the river Mississippi, prove that equal care was taken to determine, in the general act of pacification and acknowledgment, those objects of which the usufruct in common was either retained or conceded by Great Britain.

Is it conceivable, under these circumstances, that the treaty of 1783 should have made no mention of the concurrent navigation of the St. Lawrence if the claim, now raised by the United States, had rested on any tenable grounds?

But the commercial treaty of 1794 would afford additional proof, if it were wanted, that the channel of the St. Lawrence, from the sea to the 45th parallel of latitude, was never for a moment considered as forming any exception to the territorial possessions of Great Britain.

The third article of the commercial treaty shows most clearlyt hat the power of excluding foreign vessels from those parts of the river which flow entirely within the British dominions was deemed to belong of right to the British Government. The leading purpose of that article is to establish a free commercial intercourse between the two parties throughout their respective territories in North America.

The same article contains a limitation of this privilege with respect to a considerable portion of the St. Lawrence, to which it was declared that American vessels were not to have access; and the corresponding restriction against Great Britain was an exclusion of British vessels from such parts of the rivers of the United States as lie above the highest ports of entry for foreign shipping from the sea.

It necessarily results from the nature of the two clauses, thus viewed with reference to each other, that the authority of Great Britain over the part of the St. Lawrence interdicted to American vessels was no less completely exclusive than that of the United States over such parts of their interior waters as were, in like manner, interdicted to the shipping of Great Britain.

The former limitation is, besides, of itself inconsistent with the notion of a right to a free, uninterrupted passage for American vessels by the St. Lawrence to the ocean.

Nor is it less conclusive as to the merits of the case when coupled with the declaration, contained in the very same article, that the navigation of the Mississippi was to be enjoyed in common by both parties, notwithstanding that a subsequent article of the same treaty expresses the uncertainty which already prevailed with respect to the sources of that river being actually situated within the British frontiers.

With these facts in view, it is difficult to conceive how a tacit enjoyment of the navigation now claimed can be stated by the American plenipotentiary to account for the silence maintained on this subject by his Government from the establishment of its independence to the present negotiation.

In the course of forty years, during which no mention whatever has been made of this claim, there has been no want of opportunities fit for its assertion and discussion. To say nothing of periods anterior to the rupture of 1812, it is strange that an interest of such vast importance should have been wholly neglected, as well on the renewal of peace in 1815 as during the negotiation of the commercial treaty which took place in the close of that year. This long-continued silence is the more remarkable, as the mere apprehension of an eventual change in the regulations under which a part of the St. Lawrence is actually navigated by foreign vessels has been alleged by the American Government as their reason for now raising the discussion.

The regions contiguous to the upper waters of the St. Lawrence are doubtless more extensively settled than they were before the late war, and the inhabitants of those regions might at times find it advantageous to export their lumber and flour by the channel of that river. But mere convenience and the profits of trade cannot be deemed to constitute that case of extreme necessity under the law of nations to which the rights of property may perhaps be occasionally required to give way. It has already been shown that such interests can, at most, amount to an imperfect right of innocent utility, the exercise of which is entirely dependent on the will and discretion of the local Sovereign. Of this description are the rights and accompanying duties of nations to trade with each other, and to permit the access of foreigners to their respective waters in time of peace; but will any one, at the same time, call in question the co-existing right of every State not only to regulate and to limit its commercial intercourse with others, but even, as occasion may require, to suspend or to withhold it altogether?

If ever there was a case which particularly imposed on a Sovereign the indispensable duty of maintaining this right unimpaired, even with every disposition to consult the convenience and fair advantage of friendly nations, it is the present unqualified demand of the United States.

It cannot be necessary to enumerate the various circumstances which make this claim peculiarly objectionable; but there is no concealing that, besides the ordinary considerations of territorial protection, those of commercial interest and colonial policy are alike involved in the demand of a free, gratuitous, unlimited right of passage for American citizens, with their vessels and merchandise, from one end of Canada to the other.

Interests of such high national importance are not to be put in competition with the claims of justice; but when justice is clearly on their side they have a right to be heard, and cannot be denied their full weight. That the right is, in this instance, undoubtedly on the side of Great Britain, a moment's reflection on the preceding argument will suffice to establish.

It has been shown that the independent right asserted by the United States is inconsistent with the dominion, paramount sovereignty, and exclusive possession of Great Britain.

It has been proved, by reference to the most esteemed authorities on the law of nations, with respect as well to the general principle as to the opinions distinctly given on this point, that the right of sovereignty and exclusive possession extends over rivers in common with the territory through which they flow.

The same principles and the same opinions have been cited to prove that those parts of the river St.

Lawrence which flow exclusively through the British dominions form no exception to the general doctrine so applied to rivers.

The existence of any necessity calculated to give the United States, in this case, a special right in contradiction to the general rule has been distinctly denied, and the denial conclusively supported by a reference to known facts.

With no disposition to contest such imperfect claims and moral obligations as are consistent with the paramount rights of sovereignty and exclusive possession, it has been proved, from the authorities already quoted, that of those imperfect claims and moral obligations the territorial Sovereign is the judge.

The title of the United States, as derived from previous enjoyment, at the time when they formed part of the British Empire, has been shown to have ceased with the conclusion of that treaty by which Great Britain recognized them in the new character of an independent nation.

It has also been shown that, while the American Government acknowledge that their claim is now brought forward for the first time, not only have they had since their independence no enjoyment under treaty of the navigation now claimed, but that the provisions of the commercial treaty concluded in 1794, and described as having been till lately in force, are in direct contradiction with their present demand.

It has finally been made to appear that the treaties concluded by European Powers as to the navigation of rivers, far from invalidating the rights of sovereignty in that particular, tend, on the contrary, to establish those rights; and that the general principle of protection, essential to sovereignty, dominion, and property, applies with peculiar force to the present case of the river St. Lawrence.

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20TH CONGRESS.] No. 465. [1ST SESSION.

CLAIM OF RICHARD W. MEADE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 8, 1828.

Mr. EVERETT, from the Committee on Foreign Affairs, to whom were referred the petition of Richard W. Meade, and the memorials, in his behalf, of numerous citizens, have had the same under their consideration, and beg leave to report:

That the petitioner, Richard W. Meade, had claims upon the Government of Spain principally for contracts, for losses upon exchange, for depreciation of Spanish Government paper, for damages, and for interest; a general statement of which had been presented to the Government of the United States and to the American minister in Spain prior to the signature of the treaty of February 22, 1819. By the provisions of that treaty the United States renounced all claims of citizens of the United States upon the Spanish Government, "statements of which, soliciting the interposition of the Government of the United States, had been presented to the Department of State, or to the minister of the United States in Spain, since the date of the convention of 1802, and until the signature of the treaty." The claims thus renounced as against Spain were assumed by the United States. It was stipulated by the treaty that the United States should appropriate five millions of dollars for their payment; and provision was made in the treaty for the creation of a Board of Commissioners "to ascertain the full amount and validity of the claims" assumed by the United States and renounced as against Spain; which board was to meet at Washington, and, within three years, was "to decide upon the amount and validity of all the claims" included in the renunciations of the treaty.

A statement of the claims of Mr. Meade having been presented to the Department of State and to the American minister in Spain, soliciting the interference of the American Government, his claims were thereby included among those for which provision was made by the Florida treaty.—(See papers marked C, annexed.)

Subsequent to the signature of the treaty, but before its ratification, Mr. Meade procured an examination, settlement, and liquidation of his claim by the Spanish Government, and an order for its payment from the Royal Treasury.—(See papers marked D, annexed.)

The Board of Commissioners under the Florida treaty was organized in June, 1821, and to this board, on the 6th January, 1822, Mr. Meade addressed his memorial, (see document E, annexed,) submitting the following questions to the decision of the board:

1. "Whether his claims be not clearly comprehended in the list of renunciations declared, on the part of the United States, in the ninth article of the treaty?"

2. "Whether, being so comprehended, your memorialist be not clearly entitled to a substantive and full satisfaction of his claim, whatever may be the *pro rata* allowance to the general mass of the claimants, out of the specific fund provided by the said treaty?"

The Commissioners at first entertained the opinion that claims for contracts were not embraced in the renunciations of the treaty. But regarding the possibility that their construction of it to this effect might be contrary to the intent of the parties negotiating it, they addressed a letter, dated March 5, 1822, to the Secretary of State, (see document F, annexed,) requesting (in substance) information from the Executive on that head. By a letter from the Secretary of State, of the 9th of the same month, (see document G, annexed,) the Commissioners were informed, by direction of the President, that claims for contracts with the Spanish Government were not intended to be excluded from the provisions of the treaty, but were to be examined and liquidated in common with all other claims falling within the terms of the renunciations.

Mr. Meade's claims were covered by the principles set forth in this statement. In consequence, on the 27th June, 1822, the Commissioners *received* his memorial as one reciting a claim which was considered to be included within the provisions of the treaty; but they refused to accept the Spanish certificate of liquidation as evidence of the amount and validity of the claim.

Mr. Meade, having inferred, from the reply of the Secretary of State to the Commissioners, that such might probably be the decision of the Commissioners, had already written a letter to Mr. Anduaga, the Spanish minister, dated April 4, 1822, (see document H, annexed,) acquainting him with that fact, and invoking his aid to procure the original vouchers of his claim from the offices in Spain, where they were deposited. To this letter no reply was given by the Spanish minister, in consequence of the delay required to write hence to his Government for instructions. On the 10th of October following, Mr. Meade renewed his instances to the same effect in another letter to the Spanish minister. By a reply of Mr. Anduaga, (see document I, annexed,) of October 16, 1822, that minister made known to Mr. Meade that his Government would consider the rejection of the Spanish certificate of liquidation as a "serious insult," and intimated that his Catholic Majesty knew "too well what is due to his own dignity, to the reputation of his ministers, and to the integrity of his tribunals," to furnish the original vouchers used by any foreign board.

It may here be observed that, by the terms of the treaty, the Board of American Commissioners were to decide *all* questions relative to the amount and validity of the claims; and Spain was bound to furnish all the documents and elucidations necessary to their investigation.

Having received this letter from the Spanish minister, Mr. Meade addressed another memorial to the board, (see document K, annexed,) of what date does not appear, urging a reconsideration of their decision; but, if that could not be had, soliciting the Commissioners, in virtue of the 11th article of the treaty, to make an official demand on the Spanish Government of the original vouchers in the case.

In the month of April, 1823, an opinion was publicly read by the Hon. H. L. White, (one of the board,) confirming the rejection of the certificate of liquidation, and consenting to the demand of the papers from Spain.—(See document L, annexed.) On the 18th of April, accordingly, the Commissioners forwarded to the Secretary of State a list, furnished by Mr. Meade, of the requisite documents, in order that a demand might be officially made for them on the Spanish Government.—(See document M, annexed.)

About the same time (viz: April 15, 1823,) Mr. de Rivas y Salmon, the successor of Mr. Anduaga, presented a vigorous remonstrance and formal protest to the Secretary of State, confirming Mr. Anduaga's letter of 16th October preceding, and stating that the rejection of the certificate of liquidation was a slight upon the most respectable authorities, and upon the King of Spain himself.—(See document N, annexed)

The documents required by Mr. Meade were demanded by the American Government, through Mr. Nelson, the American minister, then about to sail for Spain. Mr. Nelson, on arriving at Cadiz, found it blockaded by a French squadron, and was unable to enter it. After the surrender of Cadiz he returned to that port, and thence proceeded to Madrid, arriving there a few months only before the Commissioners at Washington closed their sessions. Mr. Nelson addressed himself to the Spanish Government for the documents required; and the Spanish Government professed its perfect willingness to furnish them. In consequence, however, of the great quantity of the documents and of the confusion into which the public offices had been thrown by the removal of the Government to Seville and Cadiz, Mr. Nelson was given to understand that some delay would attend their being furnished. A few days before the expiration of the American commission under the Florida treaty intelligence to the foregoing effect was received from Spain, and, on the 29th May, 1824, (ten days before the close of the commission,) Mr. Meade's claim was rejected for want of sufficient evidence to establish its validity.—(See document O, annexed.)

Such is a condensed view of the facts of the case down to the period of the close of the commission under the Florida treaty. It is admitted that Mr. Meade had a large amount of claims against Spain at the time the treaty was signed. That these claims were, in common with those of other American citizens, intended, by the parties to the treaty, to be included within its provisions is the avowed understanding of the American Executive who negotiated it. That Mr. Meade's claims were received for examination and liquidation appears on the record of the commission; and there appears to be no ground to doubt that, if the original vouchers had been furnished by Spain, the claims would, in part at least, have been allowed, and that their total rejection was owing to the failure of Spain to furnish these papers.

The important question then arises, What is the nature of the obligation which Spain assumed, by the treaty, to furnish the papers demanded, and by whose fault did the failure to produce those demanded in this case take place?

The obligation of Spain was unlimited. The Board of Commissioners were created the sole tribunal to receive, examine, and decide upon the amount and validity of all the claims included within the provisions of the treaty. They were further authorized "to hear and examine, on oath, every question relative to the said claims, and to receive all suitable authentic testimony concerning the same;" and it was stipulated that "the Spanish Government should furnish all such documents and elucidations as may be in their possession for the adjustment of the said claims, according to the principles of justice, the laws of nations, and the stipulations of the treaty between the two parties of October 28, 1795; the said documents to be specified when demanded at the instance of the said Commissioners."

It is evident that the American Board of Commissioners were hereby constituted the sole judges of the evidence necessary to establish the amount and validity of the claims, and consequently the sole judges of the documents and elucidations necessary to support them. Nor is there any limitation on the obligation of Spain to furnish these documents and elucidations. She was bound to furnish all in her possession necessary to the adjustment of the claims. The particular mode in which they were to be demanded is not distinctly pointed out in the treaty. That instrument provides that they were to "be specified when demanded at the instance of the Commissioners;" but it is not stated that they could be demanded in no other way.

Mr. Meade, in April, 1822, and immediately after being apprised that the certificate of liquidation would probably not be admitted in evidence, applied to the Spanish minister in this country, requesting his good offices in procuring the original vouchers. The Spanish minister appears to have communicated to his Government the application of Mr. Meade, and, in October, 1822, returned an answer that his Government considered the rejection of the certificate of settlement as "a serious insult," and would not allow the decision of its tribunals to be reversed by "a foreign commission." No intimation is dropped that the mode in which the papers were demanded was informal or insufficient. Here, then, was a refusal of the Spanish Government to furnish papers demanded through her minister, not on the ground that the demand was informal, but that it was an insult on Spain for the American board to express an opinion that these vouchers were requisite. This demand must have reached Spain nearly two years before the

close of the commission, and before the causes existed which afterwards made it difficult promptly to comply with the demand of the Commissioners.

Mr. Meade having thus failed to procure his vouchers by his own application, applied through the medium of the Commissioners and the Executive. This application was made by Mr. Meade nearly fourteen months before the termination of the commission; but, owing to the casualties above related, was presented at a considerably later period to the Spanish Government; at a period, however, when, had it been instantly complied with, it would have been possible to submit the vouchers to the board in season to be examined before the close of their labors.

Should this view of the subject be correct, it will follow that the responsibility of failing to furnish the papers ultimately rests with Spain, and that good faith must eventually require her to meet the consequences of this failure. But the obligation of Spain to furnish the vouchers arises from a treaty stipulation between the Spanish Government and that of the United States—stipulations which Mr. Meade, individually, has no right nor means to enforce against Spain—and the United States, by renouncing the claims of its citizens against Spain, contracted an obligation toward them of securing to them the enjoyment of the benefits of the treaty. By the provisions of the treaty Mr. Meade was entitled to the use of his original papers, and the United States were bound to procure them for him from Spain. Mr. Meade, therefore, is entitled in equity to be placed by the United States on the same footing as he would have stood upon had his demand for the papers been promptly complied with.

The committee know no way in which this can be effected but by constituting a board as nearly resembling that under the Florida treaty as possible, authorized to examine and liquidate his claim by the principles pursued by that board, and to award him the proportionate amount awarded to other claimants; and to this effect they have reported a bill.

Mr. Meade, in his memorial, expresses the wish that his claim should be submitted to the Supreme Court of the United States; and a desire that such may be the decision of Congress is intimated in the memorials subscribed by very numerous persons on his behalf and presented with his petition. To this course the committee feel strong objections. They do not perceive the convenience of such a reference in the nature of that tribunal, the constitution of which indicates no peculiar aptness for the examination of involved and complicated accounts. Such a reference of matters requiring legislative provision to a court of jurisprudence, it is believed, will be, under the Government of the United States, a novel experiment of doubtful expediency. It is a still more serious objection that it would be submitting the claim of Mr. Meade to a tribunal totally different from that to which the interests of all other claimants under the Florida treaty were referred.

Justice requires that Mr. Meade's claim should be placed, as nearly as possible, on the same footing with theirs; and this object will be attained by the provisions of the bill reported by the committee.

It is scarcely necessary to add, that should it appear that the failure of Spain to furnish the papers has brought upon the United States the burden of liquidating and discharging Mr. Meade's claim, the American Government will have its recourse to that of Spain, and be entitled, by the law of nations, to full indemnity.

A.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

The memorial of Richard W. Meade respectfully shows:

That, at the last session of Congress, the claim of your memorialist received for a time the notice of your honorable bodies. The House of Representatives discussed the same at large, and adopted, by a considerable majority of votes, a resolution providing a mode for its adjustment and liquidation. The Senate, however, rejected this resolution, owing solely, as your memorialist understands, to its introduction at too late a period, when subjects of more general concern required an exclusive attention.

Your memorialist humbly requests that renewed consideration may be given to his appeal to the justice of his country, and that such measures in that behalf may be pursued as the wisdom of your honorable bodies shall suggest.

Impressed with a conviction that he has never asked from the Government of the United States anything which the immutable principles of right did not entitle him to receive, your memorialist will shrink, in the establishment of his demand, from no ordeal by which it may be deemed expedient and proper to test its character and merits. He has made every effort in his power to impart a full and clear comprehension of its origin and of its evidence. But he is sensible that, in its progress, a repulsive mass of documents has of necessity been accumulated, and that important questions of jurisprudence have been brought into debate; both of which a numerous Congress, anxiously superintending the vast interest of his country, may be unwilling or too much occupied to touch.

Confident, then, in the justice of his cause, and solicitous to avoid drawing towards his *private* affairs much of the attention which your honorable bodies would otherwise give to the *public* weal, your memorialist respectfully entreats that he may, in due form, be authorized to prove the claim against the United States in the Supreme Court, subject to all the known rules respecting evidence, and bound to establish every principle of law necessary to his success.

In making this petition your memorialist trusts he will not be construed wanting in deference to the wisdom and virtue of Congress; he will cheerfully acquiesce in any other disposition of the case which to them may seem better, his chief object being voluntarily to express a consent that what he asserts and believes to be his right shall undergo the strictest judicial trial.

And your memorialist will ever, &c.

R. W. MEADE.

DECEMBER 3, 1827.

B.

[B. Memorial subscribed by a very large number of citizens in support of Mr. Meade's application. NOTE. Several copies of this memorial, each containing a large number of signatures, were presented to the House.]

MEMORIAL.

To the Honorable the Senate and House of Representatives of the United States of America in Congress assembled:

The memorial of the undersigned, citizens of the State of Pennsylvania, respectfully showeth:

That, apprised by the published proceedings of your honorable bodies that the attention of the National Legislature had, at the last session, been given to the claim of Richard W. Meade, to be repaid a sum of money which, by the operation of the Florida treaty, was withheld from him for the use and benefit of the United States, they beg, with great deference, to be permitted briefly to convey the impressions entertained by them upon that interesting subject, to uphold, by their united testimony, a worthy fellow-citizen, and to offer their petition, that a mode of treating his application may be adopted, equally compatible, as they think, with the prudence and honor of the nation.

The claimant is the son of George Meade, and both were natives of the city of Philadelphia. The father, during his life, was distinguished among us as a merchant of undoubted integrity, and a citizen of irreproachable character. The son, although for a long time absent, engaged in commercial pursuits and employed in the service of his country, never ceased to possess our esteem; and now, after his return home with a numerous family, under circumstances in which the whole American people took a lively interest, and after his continued residence here for several years, we frankly own that we feel a deep solicitude as to the personal prosperity and welfare of one who in every public and private relation, has maintained his title to our confidence and respect. In this avowal we trust that your honorable bodies will perceive an adequate and laudable motive for the present intrusion upon your notice.

The appeal made by Richard W. Meade is to the *justice*, not to the *generosity*, of the American nation, and is founded upon the following clear case:

He was the creditor of the Spanish Government on various accounts, but principally for supplies furnished to aid patriots in establishing and defending a system of constitutional freedom; and, after a series of delays and disappointments, arising from the frequent changes of political ascendency in the peninsula, he held in his possession, *in May*, 1820, the most solemn written settlement and recognition of the debt known to the jurisprudence of that monarchy. From the binding operation of this engagement, the United States, by the fifth clause of the ninth article of the treaty called *the Florida treaty*, ratified in Senate in *February*, 1821, explicitly and unequivocally *exonerated* Spain, appropriating, in so doing, that amount of Mr. Meade's private estate as part of the price given for the Floridas; and assuming, conformably to an express provision of our Constitution, as well as to the immutable principles of upright dealing, fully to compensate the individual whose property had thus been taken, without his consent, for public uses. Spain has ever since declared herself no longer liable, and refers Mr. Meade to the good faith of his own country, as the party who, by compact, released *her*, and thereby undertook to satisfy *him*.

With no disposition to embarrass our Government, or to become burdensome to its Treasury, more than was absolutely necessary for the assertion of his unquestionable rights, Mr. Meade sought to obtain reimbursement from the fund of five millions set apart by the Florida treaty to be distributed among the enumerated classes of American claimants on Spain. The Commissioners to whom that distribution was confided formally and officially recognized the validity of his demand; its conclusiveness, as respects the original debtor, Spain; its being embraced (*intentionally*, according to the language of Mr. Adams, then Secretary of State,) within the renunciations of the treaty; and the prompt and unceasing exertions of Mr. Meade to obtain from the Spanish authorities and tribunals every species of explanatory evidence which the most astute judges could exact. But, after postponing their decision until within a week of the period when their board was dissolved, they rejected the claim altogether, owing, avowedly, to the failure of the Government of the United States (on whom the duty had devolved by the treaty, and who had, through their minister plenipotentiary, Mr. Hugh Nelson, attempted to perform it,) to procure from Spain the documents and papers proved to be in her archives, and, as was thought, necessary to develop and establish the *items* of the aggregate stated in the solemn statement and recognition already adverted to.

Mr. Meade has thus been deprived of his recourse to Spain; the United States have enjoyed all the advantage of using his moneys in the purchase of an extensive and valuable territory; he has been denied any portion of the five million fund; and yet that he ever, directly or indirectly, waived, abandoned, or neglected the rights of which he is thus stripped by the conventional arrangements and uncontrollable proceedings of two Governments has not, for one instant, been pretended by any of those to whom he has applied for liquidation or relief.

The undersigned believe such to be the case submitted by Mr. Meade to the consideration of your honorable bodies; and were it just to expect from a numerous Legislature, superintending and guiding the vast concerns of this Republic, so exclusive a devotion to the voluminous documents of an individual interest as would enable each member thoroughly to master them, the result would be as certain as are the wisdom and virtue of an American Congress. Difficult, however, as it is, in any instance, for an assemblage of statesmen to adopt the investigating habits, and to discharge the functions of a judicial tribunal, it becomes almost impossible in reference to a claim circumstanced like that of Mr. Meade. Its details are said to involve legal questions complicated in character, and difficult of solution; for its satisfactory scrutiny, powers to issue commissions to obtain evidence from abroad may be found necessary; and the due protection of private right, as well as a dignified assertion of the public impartiality, would seem, where so much is at stake, to point to some other sphere of final adjustment. It is not, as are the ordinary applications to Congress, a request for *equitable relief*, or for such remuneration as legislative *generosity* alone can bestow; but it is a direct, unconditional demand of *justice*, like those which are daily left to be sifted and settled before the courts of law. Mr. Meade desires nothing from *uncertainty;* he invokes no aid from *liberal conjecture;* he does not ask a *reasonable allowance*, nor a *latitude of construction;* but he engages to maintain his case by proving every fact, and establishing every principle, under all the forms, and subject to all the tests, which, in the severest tribunals of the country, are employed to recover or to defend the possession of property.

The Government of the United States cannot but feel an entire confidence in the wisdom and probity

of their judiciary. Mr. Meade, an individual, might, perhaps, be excused if he shrunk from encountering so formidable an opponent before judges who have certainly manifested no want of sagacity in discerning, or of resolution in maintaining the public interests. But he avoids no ordeal, confident that his cause is just, and persuaded that it only needs to be completely investigated in order to be completely successful.

Your memorialists respectfully suggest that a reference of the claim of Mr. Meade to *the Supreme Court of the United States;* to be there decided as other controversies are decided; to be fully developed by testimony which such a tribunal is peculiarly fitted to collect, and which cannot be *ex parte;* to be patiently examined by minds to whom laborious reflection and honest judgment are habitual, would relieve your honorable bodies from the discharge of a troublesome and delicate duty, satisfy a claimant who wants *justice only,* and (what is an equally legitimate object) give to the citizens of America an assurance that their representatives are prepared always practically to recognize the sacred character of private rights.

That such may be the direction given by Congress to the application of their respected fellow-citizen, Richard W. Meade, under such regulations as its wisdom may prescribe, with a view to make definitive and effectual the judgment of the Supreme Court, is, therefore, the earnest petition of the undersigned.

C.

PHILADELPHIA, *January* 17, 1819.

SIR: By a letter from Madrid, of November 17, Mr. Meade has just received the opinion given by you on the course best to be proceeded on for the protection of his claims by our Government; he had merely time to make out the statement which I now enclose to you, to be delivered to Mr. Adams, with a few lines addressed to him by me, in case you should think proper to present them.

I should esteem it a particular favor if you would express to me, or to Mr. Henry Toland, jr., the opinion that Mr. Adams may give you upon it, and to say if any steps should be taken by Mr. Meade further than handing to the Department of State the detail of his claims, as mentioned in my letter to Mr. Adams.

Mr. Meade, I presume, hurried himself in this statement, having been assured that the Marquis D'Yrugo had asserted that orders had been sent to the Chevalier De Onis to conclude the treaty with the United States *on their own terms.*

I remain, sir, &c.,

M. MEADE.

JOHN SERGEANT, Esq.

PHILADELPHIA, *January* 17, 1819.

SIR: I have the honor to hand you, enclosed, a statement of the grounds of my husband's claims on the Spanish Government, which will be followed by a specific statement of the amount due him from said Government, showing the amount due on libramiento, now in his possession, on contracts and on damages, on bills received from said Government, as well as his reclamation on the score of the unjust imprisonment suffered by him for two years.

The time allowed him to avail himself of the opportunity by which I received this statement was too short to enable him to make out a detail of his claims; but thinking it important that some statement should be immediately forwarded to you, he hastily-made out the enclosed, trusting that, in the event of a speedy conclusion of a treaty between our country and Spain, this document would serve as a guide for that protection which his Government may think proper to grant him.

I have the honor to be, sir, &c.,

M. MEADE.

Hon. JOHN QUINCY ADAMS, *Secretary of State of the United States.*

Claim of Richard W. Meade.

WASHINGTON, *January* 20, 1819.

I have the honor to enclose to you a letter and some papers, transmitted by Mr. Meade, to place his claims upon Spain under the protection of the Government in case a treaty should be made with that Power. You will also find enclosed a letter from Mr. Meade, which I send chiefly on account of the concluding paragraph, and will thank you, after reading it, to cause it to be returned to me.

With the greatest respect, I have the honor to be your most obedient servant,

JOHN SERGEANT.

Hon. JOHN Q. ADAMS, *Secretary of State.*

The claims of Richard W. Meade on the Spanish Government are comprised under the three following heads:

1st. Sales of goods to the Government under contracts, loans of specie, and provisions, the latter lent at the earnest solicitation of the then Government of Spain, and in periods of their greatest distress; for the provisions prices were afterwards agreed on, and a guaranty given to Mr. Meade for the payment, but which has never been complied with; and Mr. Meade has not been able to recover the amount acknowledged due him, though he procured regular condemnation, through the competent tribunals of the country, and execution against the individual who became guaranty, and who is a Spanish merchant. Mr. Meade has

been prevented from carrying the execution into effect by a royal order issued by the Minister of Finance, in consequence of this individual having several contracts pending actually with this Government. Against the injustice and illegality of this order the Tribunal of Commerce of Cadiz have made three very strong representations, pointing out the dangerous consequences to the credit and honor of the nation, if the sentence of the tribunals of justice, granted in favor of a foreign merchant, can be set aside by a ministerial order, though under the sanction of the King, merely because the individual against whom judgment was given had entered into other contracts with the Government. The last of these representations is, however, yet undecided. Mr. Meade only waits the present Minister of Finance's answer in order to lay this case before Mr. Erving, the minister of the United States at Madrid, with all the documents, who has promised him to lay the same before the Minister of State. This particular case is one of high importance, and it is intended to point out in the complaint, which is to be made to the King through Mr. Yrujo, the present Secretary of State, the persecution of Mr. Meade, and the enormous difference in the administration of justice in Spain when an American citizen is defendant and when a plaintiff. In the case of Mr. Meade's imprisonment, which lasted above two years, and which finally has been declared illegal by the King, Mr. Meade was put into prison because he refused paying a second time a sum of money which the King actually held and holds in his own possession; and, in the present case, when Mr. Meade is plaintiff, and calls for the payment of above fifty thousand dollars, for which he has obtained a regular judgment through all the different tribunals to which appeals are allowed or can be made, and in case where the Government hold property of the debtors, they refuse to allow Mr. Meade to execute his judgment against the debtor, or to suspend the payments which they are making to him weekly, in order to satisfy the judgment; and thus Mr. Meade is kept out of his money, and cannot get it either from the Government who received the provisions from Mr. Meade, or from the man who guarantied the transaction.

The other libramientos are for specific sums, and admit of no dispute; the only excuse for not paying them is the present state of the finance and the great want of money. The claims, however, of foreigners, in general, have been acknowledged by the King since his coming to the throne; those of the Spaniards are, with few exceptions, all declared as appertaining to the mass of public debt, for which provision is hereafter to be made, but which are considered as waste paper at present. By a special decree of his Majesty, dated on the 9th of September, 1816, a copy of which is annexed, Mr. Meade's demands on the Government have been fully recognized as just and legitimate, and the order directs that they should be paid agreeably to the original stipulations, but which have never been complied with. Whatever part of these libramientos Mr. Meade has received since 1813, and particularly since the arrival of the King Ferdinand in Spain in 1814, has been with a loss on the original capital of about one-third, besides the sacrifice of all the interests for a number of years, which has made the total loss amount to one-half of the capital. Mr. Meade remains, however, with a considerable sum of the libramientos, for which he has not been able to recover one shilling since his imprisonment in May, 1816, though acknowledged and repeated orders given for their payment.

2d. A demand on the Spanish Government for damages and actual losses sustained by Mr. Meade on a bill of exchange, drawn to Mr. Meade's order by the Minister of Finance, by order of the Regency, dated in 1812, on the Viceroy of Mexico, payable at Vera Cruz, for $300,000, the specie of which was allowed to be exported by special contract to London. The bill was protested, and fifty thousand dollars only were paid in Mexico on account, and that in tobacco. The actual loss which accrued to Mr. Meade on this transaction amounts to considerably more than one hundred thousand dollars. He had an English vessel detained at Vera Cruz twelve months waiting for the specie of the Cortes, who then governed Spain, who commanded that Mr. Meade should be heard in justice respecting his claim for damages, viz: that the affair should be regularly tried, and the damages assessed by a competent tribunal. In 1815 Mr. Meade obtained also an order from his present Majesty directing the Supreme Council of Finance to hear the demands of Mr. Meade and to decide on the question; but Mr. Meade has never been able to obtain any decision or satisfaction from the Council, though the Fiscal admits the justice of Mr. Meade's claim for damages, and Mr. Meade possesses the most ample testimonies to fully establish the same.

3d and lastly. The claim which Mr. Meade has for his illegal imprisonment, the damages he sustained thereby, as well as the total ruin of his mercantile establishment at Cadiz, and the enormous expenses he was put to to defend himself.

The foregoing comprises all Mr. Meade's personal claims, and, according to his estimate, may amount, altogether, to between three and four hundred thousand dollars.

DEPARTMENT OF STATE, *Washington, January* 20, 1819.

MADAM: I have the honor, by the direction of the Secretary, to acknowledge the receipt of your letter to him of the 17th, through the hands of Mr. Sergeant, with two papers in relation to the claims of Mr. Meade upon the Government of Spain, both of which are deposited in this office.

I am, madam, with very great respect, your obedient, very humble servant,

DANIEL BRENT, *Chief Clerk.*

MRS. MARGARET MEADE.

Message from the President of the United States, transmitting a report of the Secretary of State on the subject of claims of citizens of the United States for Spanish spoliations upon their property and commerce.

To the Speaker of the House of Representatives:

I transmit to the House of Representatives a report from the Secretary of State, with the document prepared in pursuance of a resolution of the House of Representatives of the 14th ultimo, on the subject of claims of citizens of the United States for Spanish spoliations upon their property and commerce.

JAMES MONROE.

WASHINGTON, *May* 12, 1820.

DEPARTMENT OF STATE, *May* 12, 1820.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 14th ultimo, respecting the communication of any information received by the Department of State, or other Executive Department, of the amount of claims of the citizens of the United States for Spanish spoliations upon their property and commerce, or those for which the Spanish Government are held responsible, has the honor of reporting to the President a list of the claims concerning which documents have been transmitted to this Department, together with the statement of their amounts, so far as they can be collected from them.

JOHN QUINCY ADAMS.

The PRESIDENT *of the United States.*

List of claims for French spoliations.

Claims of—	Amount, exclusive of interest.	Remarks.
David Beveridge	$20,244 00	Of Philadelphia.
James Barry	214,702 00	Of Washington city.
Peter Bretagne		
John Craig and others		Of Philadelphia.
William Cook	63,500 00	Of Charleston.
Joseph Forrest	3,000 00	Of Washington city.
William Gallagher		For one hundred hogsheads of flax seed.
David Green, &c	1,500 00	
Gregory & Scobia	8,487 00	Of Massachusetts.
Lewis Groning	11,217 34	Or Michael Kelly, of Charleston.
George Hunter	25,000 00	Of Philadelphia.
Richard Hughes	45,000 00	Of Boston.
Hollins and McBlair		Of Baltimore.
John Hollins		Of Baltimore.
—— Hale		Cash seized or detained.
John Juhel & Co		Of New York.
John Lowry		Of Alexandria.
Jedediah Leeds		Of Charleston.
– Linchcomb		Of Dorchester county, Maryland.
Peter Lohra		Of Philadelphia.
Richard W. Meade	400,000 00	Of Philadelphia.
Thomas Mendenhall	463 00	Of Wilmington, Delaware.
John F. Mericult		Of New Orleans.
Nicklin & Griffith		Of Philadelphia.
James Bruce Nichol	6,100 00	Of Alexandria, Columbia.
Robert Oliver		Of Baltimore.
John Perry		Two cargoes of flour at Natchez.
Joseph Dunlap and others		A cargo of flour at Campeachy.
Francis Pearson		
Abram Piesch		Of Philadelphia.
James Perkins and others		Of Boston.
William D. Robinson	564,327 00	
Ross & Simpson's assignees	32,558 29	Of Philadelphia.
John Henry Rogers		Of Boston.
John and Samuel Wells	90,900 00	Of Boston.
Joseph B. Windsor		Of New York.
James Yard		Of Philadelphia.
Robert Young	1,222 31	Of Alexandria.
Moses Young		Of Washington city.
Stephen Kingston	19,060 00	Of Philadelphia, additional for the Insurance Office of North America.
Stephen Kingston	3,150 00	Of Philadelphia, additional on his own account.

D.

[Translation.]

Copy of an official letter addressed by his excellency Don Jose Canga Arguelles, Minister of Finance at Madrid, to Richard W. Meade, citizen of the United States of America.

A statement, in due form, of your claims against this Government, and the damages you have sustained in consequence thereof, was transmitted to this Department of Finance by the Minister of State, accompanied by a royal order, dated the 26th of January of last year; which statement had been received from and supported by the minister of the United States resident at this Court. His Majesty named a special junta of councillors to take cognizance of the liquidation of all the credits which you might present or be able to substantiate, and of the claims which you should make.

The junta gave in their award, and consulted his Majesty on the subject, who having been pleased to approve thereof and adopt the same, the said junta has extended, in legal form, a certificate of the entire credit due to you by the nation; the sum of which amounts to R. vn. 9,823,072 11 ms., or $491,153 62, in the terms and for the reasons therein specified; which document, with his Majesty's approbation thereunto

annexed, and certified by me, I herewith transmit to you, by his royal order, for your security, and for whatever other purpose or object that may be conducive to your interest.

God preserve you many years. Given at the royal palace, in Madrid, the 21st of May, 1820.

CANGA ARGUELLES.

Signor Don RICARDO MEADE.

NOTE.—The sum recited in the above order contains the total amount of the claims for Mr. Meade's own account, as well as agent for others; the personal claims for Mr. Meade amount only to 7,477,595 reals of vellon, equal to $373,879 75.

[Translation.]

Don Evaristo Perez de Castro, Secretary of State, to Mr. Forsyth.

MADRID, *June* 10, 1820.

SIR: I have the satisfaction of informing you that the Spanish Government, always upright and honorable in its decisions, has determined to acknowledge, with the sanction of his Majesty, Don Richard Meade, a citizen of the United States, its creditor for nine millions eight hundred and twenty-three thousand and seventy-two reals vellon and eleven maravedis, for which a competent security, in writing, has been given him. As your Government, sir, has taken part in the fortune of this individual, I hope you will be pleased to communicate this favorable determination to the President of the said States, inasmuch as the respect which he deserves has had much influence in it; and, also, the hope that Spanish subjects may, by a just reciprocity, find equal protection and consideration in the United States.

With so agreeable a motive, I present myself anew to your disposal, and pray God that you may live many years.

EVARISTO PEREZ DE CASTRO.

DEPARTMENT OF STATE, *January* 12, 1822.

The foregoing letter is faithfully translated from an authentic transcript in this office.

DANIEL BRENT, *Chief Clerk.*

E.

SECOND MEMORIAL.

To the Commissioners appointed under the 11th article of the treaty with Spain, ratified in February, 1821, *together with sundry documents explanatory of the claim, &c.*

The memorial of Richard W. Meade respectfully shows: That your memorialist is a native citizen of the United States, and, as such, sojourned at Cadiz, in Spain, from some time in the year 1804 till the year 1818; that, during the time of such his sojournment and residence at Cadiz, the Spanish Government became indebted to him in very large sums of money on account of very extensive supplies of provisions, moneys, and goods of various kinds, furnished by him under contracts with the Government of Spain, or with their agents, on public account, principally during the captivity of their King in France, and the struggle maintained by the Spanish nation under the Government of the Cortes, in the name of their captive King, against the invasion and domination of the French; and besides what was so due to him on his personal and individual account they were largely indebted to him as agent for American citizens, on account of cargoes sold to the Spanish Government, or sold on public account; that, in the midst of his attempts to have these various claims adjusted and settled, after the restoration of the King, a system of the most corrupt and unprincipled intrigue was set in motion against him by certain officers and agents of the Spanish Government for the purpose of extorting from him the most unjust compromises and concessions of his rights, by means of which intrigues, and the most wily and fraudulent shifts, devices, and pretexts, he was thrown into prison, and there detained in close confinement for the space of two years, or thereabout, to wit., from some time in May, 1816, till May, 1818; and when, at length, after repeated and frequent and pressing applications to the Spanish Government, he was released by a royal order, it was under the most explicit acknowledgment, on the part of the Spanish Government, that his imprisonment had been altogether illegal and iniquitous. Your memorialist lost no time after his enlargement in preferring his various claims upon the Spanish Government, in which he included a claim of compensation for his unjust imprisonment; and, after various procrastinations on the part of that Government, he applied, by petition to the Spanish Government, some time in December, 1818, to have a commission or junta appointed to audit and settle his claims; that some time in the course of that winter such a commission was appointed, pursuant to his request, who, after the most careful and minute examination into the grounds of all his claims, made a report on the 30th September, 1819, allowing his various claims, amounting, in the aggregate, to the sum of $491,153 33, which was in sums admitted as a debt of the most meritorious character, due from the Spanish Government to your memorialist. The report, after having been recommitted to the junta by the Minister of Finance, accompanied by sundry remarks of his own, was deliberately reconsidered and confirmed on the 15th November, 1819; and was then submitted by the Minister of Finance to the revision of the Treasurer General, and to the Comptroller General of Accounts, by whom it was approved; and was then finally ratified by the King. A formal certificate of the report thus ratified and confirmed, importing an ascertained and absolute debt due from the Spanish Government to your memorialist to the amount aforesaid, to be paid, with interest, out of the funds of the Royal Finance Department, signed by all the members of the junta, and approved by the Minister of Finances, by the order and in the name of the King, with the royal seal affixed, was then made out and transmitted to your memorialist in May, 1820, by Mr. Arguelles, the new Minister of

Finance. Your memorialist would ask the attention of the Commissioners to the fact that, in the interval between the report of the junta on the 30th September, 1819, and its final ratification in May, 1820, the new revolution in the Government of Spain had been effected; by which the functions of the Cortes had been restored, and the powers and prerogatives of the King considerably modified and limited; so that his debt has been conclusively ascertained and acknowledged by competent and concurring authorities under both administrations.

Your petitioner, therefore, presumes it will be unnecessary to enter into any detailed explanations of the nature and extent of the articles by which the debt was created, or of the circumstances upon which certain damages included in the sum total were awarded to him, deeming it sufficient to refer to the documentary evidence of the said debt, as manifested by the said certificate and proceedings of the Spanish authorities, in which the various heads of his claims, as allowed, are recapitulated; which document, verified and established by all the highest sanctions and solemnities known to the Spanish laws, he here produces, annexed to this memorial, as forming a part thereof, and to that he prays that particular reference may be had for a fuller and better understanding of what is herein alleged concerning the same. The only part of the claims admitted by that document, concerning which it is deemed material for your memorialist to be more particular, is that which has been allowed him in his capacity of agent. With respect to that portion of the said debt, he states that the sum of $75,179 27 is for a cargo of tobacco, shipped on board the American brig Bayard, John Diebier master, owned by the following persons, viz: James Thornburn, George Raincock, Johnson & Walker, Jacob Kline, Warren Ashley, Joseph Hays, and Solomon Marks, jr., besides the claim of the captain, John Dinon, for his charges as captain and supercargo for the commissions and advances; your memorialist being also interested in that sum to the amount (not yet ascertained) of his commissions and advances; also, that the sum of $42,094 18 was a bill or order of the Treasurer General of Spain against the Treasurer of the Customs of Cadiz for cash, and interest thereon, due for flour delivered by James Wardrop & Co., of Cadiz, which, by a regular execution of the competent tribunals of Spain, was declared to belong to John and James Gamble and Robert Pollard, which bill or order was duly accepted, but not paid. In that sum is also interested Mr. James Brown, of Richmond, as principal and partner in the house of James Wardrop & Co., in case there should be any surplus left after paying the demands of Messrs. Gamble and Pollard, and the commissions and expenses of this memorialist, not yet ascertained. And your memorialist further shows that the said claims have not, in the whole or in part, been paid or satisfied to the said respective claimants; nor hath he, or the other persons concerned, ever received any sum of money, or other equivalent or indemnification therefor; that all of them, with interest from the day of liquidation, to wit, the 30th September, 1819, are now justly due; and that, in case they are allowed by the said Commissioners, they will belong, so far as regards the said individual claims of the memorialist, solely and absolutely to himself; and, so far as regards the claims which have been ascertained to him in his representative character of agent as aforesaid, the same will belong, and do belong, to the persons, respectively, before named, or their assignees, and not, to his knowledge, to any other person, and that the same did so belong when the said claims respectively arose; that your memorialist is now, and always has been, from his birth, a citizen of the United States, and, at the time the said claims respectively arose, and for a long time before and after, he was domiciliated at Cadiz, in Spain, and is now domiciliated at Philadelphia; that all the other persons hereinbefore named as interested in certain parts and portions of the said debt were, as this memorialist is credibly informed and verily believes, at the time the said claims respectively arose, and still are, citizens of the United States, and were then, and still are, domiciliated in the State of Virginia, except the said Solomon Marks, who, this memorialist has understood, is now in some part of Europe, unknown, having assigned his interest in said claim to his creditors at Norfolk, or elsewhere, who are unknown to this memorialist; that after the date of the convention between Spain and the United States, in the year 1802, since which date all the said claims have originated, and before the signature of the said treaty of the 22d February, 1819, to wit, on or about the 18th January, 1819, the memorialist presented to the minister of the United States in Spain a statement of the same, soliciting the interposition of the United States, and a statement of the said personal and individual claims of the memorialist, in his own right, upon the said Spanish Government, soliciting the interposition of the Government of the United States, was also presented to the Department of State of the United States, after the date of the convention of 1802, and before the signature of the said treaty, to wit, on or about the 20th day of January, 1819; that, before the said signature, the Government of the United States, by their minister in Spain, officially solicited and promoted the adjustment, liquidation, and settlement of the said claims by the Spanish Government, which Government, proceeding according to its own approved forms, did, accordingly, adjust, liquidate, and settle the same, and acknowledged itself, on the 19th day of May, 1820, to owe to the memorialist, on account of the debt due to him in his own right, the sum of $373,879 88, including therein a sum of $75,000, for his wrongful imprisonment, and the damages arising therefrom, and, on account of the debts due to him as representative or agent aforesaid, the sum of $117,273 45, and extended, executed, and delivered to the memorialist, by royal order, a certificate under the hand of the Commissioners and the Minister of Finance, and the royal seal, acknowledging the said debts accordingly.

That your memorialist, having been informed by the honorable John Q. Adams, the Secretary of State, and one of the negotiators of the said treaty, at a time subsequent to the conclusion of the same, and before the final ratification thereof by the Senate of the United States on the 22d day of February, 1821, that he was of opinion that the memorialist's claims were embraced within the treaty, is advised that this circumstance, connected with the release and renunciation to the Spanish Government contained in the treaty, gives him a just and valid claim to entire payment and satisfaction of the same, with interest, by the United States, according to the tenor of the obligation and acknowledgment of the Spanish Government, and before the final ratification of the said treaty by the Senate of the United States; so the memorialist respectfully stated and submitted to the President of the United States, to make such official disposition of the same as he might deem expedient. But the memorialist has, at no time, personally abandoned his said claims, or any of them, against the said Government of Spain, and the same now continue in their original vigor against the Spanish Government, and so, he submits, will continue until actual payment, except so far as they may have been legally impaired by the public renunciation and discharge in the said treaty contained.

That, conceiving himself entitled to apply to his original debtor for payment of these demands, or for direction to the source from which payment might be obtained, the memorialist, on the 14th day of May last, made such application through his agent in Madrid to the Minister of State of the Spanish Govern-

ment; and, on the 16th of June last, was officially advised by the said Minister of State that the said claims were embraced by the 9th article of the treaty, to which the memorialist was referred.

That between two great nations, one of whom is unquestionably liable to the memorialist for the full amount of the said claims, and in opposition to either of whom he has nothing to sustain him but the principles of justice and the obligations of national honor, the memorialist trusts this reference to either will never be considered by the other as an abandonment of any of his rights. Whatever he may do in the way of soliciting payment, or in preferring a claim to it, he submits, is the result of a necessity which, as an individual, he has no means to evade or avert; and he therefore respectfully states that all which he now does, or shall hereafter do, in this behalf, is, and will continue to be, done under an explicit reservation of all his rights, up to the time when he shall enter into the full enjoyment of them.

Being instructed by the Government of Spain that his claims are within the provisions of the said treaty, having received no decision or instruction of the American Government that they are not so, and conceiving, if the said claims are so embraced, that the just interpretation of the said treaty, and of the obligations so assumed in consequence thereof by the United States, will give the memorialist the full and entire payment of his demands, he accordingly submits the claims to the Board of Commissioners constituted under the said treaty, and prays to have an opportunity of offering any further evidence that may be required in support thereof.

Your memorialist, by way of explaining more at large the grounds upon which he protests against being concluded, either by the treaty or by any claim which he may set up under the treaty, from asserting and pursuing his original claims, or of adopting either alternative in the assertion and pursuit of them, as against the Government of Spain or that of the United States, prays that particular reference may be had to his memorial, dated on the 8th February, 1821, addressed to the President of the United States before the final ratification of the treaty, and by the President of the United States laid before the Senate at the same time that the treaty was presented for ratification; also, to his second memorial, after the ratification of the treaty, addressed to both Houses of Congress during the last session. From the facts and the reasons advanced in those two memorials, and from such other facts and reasons as he reserves to himself the right of bringing forward hereafter, he hopes to have established the following conclusions beyond doubt or controversy:

1. That the Government of the United States had no power or authority whatever to cancel or release the debt due from Spain to your memorialist in any other manner, or upon any other terms, but the payment of the debt as guarantee of Spain—in other words, that the treaty-making power is, *per se*, utterly incompetent to exert its jurisdiction over the rights of a creditor claiming a mere pecuniary debt, under the circumstances of the debt due from Spain to your memorialist, differing so widely and fundamentally in all the incidents, qualities, and relations, which may rightfully have subjected every other of the renounced claims to the action of the treaty-making power.

2. That in default of an original and inherent jurisdiction of the treaty-making power to cancel or release the debt, no authority whatsoever has in fact been supplied by the agency or consent of the creditor, who, in point of fact, has never committed his claim to the management or discretion of the Government any further than to invoke the interposition of the *good offices* of the American Government in aid of the claims and petitions of the individual creditor; which claims and petitions, in all instances, went the length of demanding full and complete satisfaction, without being at all intermixed with the public negotiations and discussions between the two Governments, so that the entire agency of the American functionaries, as auxiliary to the individual demands and resources of the creditor, was merely gratuitous and in the ordinary routine of diplomatic comity.

3. That the claim is nevertheless comprehended in the fifth renunciation declared on the part of the United States, in virtue of which, connected with the express stipulation of the eleventh article, the United States are absolutely and unconditionally bound, in consideration of a valuable equivalent received of Spain, to exonerate her from the debt; and by that means have interposed a bar to remedies otherwise clear and indisputable, by which the creditor might have secured his debt from the original debtor.

4. That, by the force and effect of these stipulations, the public faith of the United States is solemnly pledged equally to Spain as the debtor, and to your memorialist as the creditor, to discharge the debt without defalcation or delay, and without reference to the stipulated and limited fund provided by the treaty.

With the clear and unfaltering intent of adhering to these principles in the present, as well as in all future assertions of his claim, whether it be advanced against the Government of Spain or against that of the United States, your memorialist prays that you will proceed to investigate the circumstances of his claim, in order that it may be officially decided and promulgated what provision is intended for your memorialist by the treaty—that is to say:

1st. Whether his claim be not clearly comprehended in the list of renunciations declared on the part of the United States in the 9th article of the said treaty.

2d. Whether, being so comprehended, your memorialist be not clearly entitled to a substantive and full satisfaction of his claim, whatever may be the *pro rata* allowance to the general mass of claimants out of the specific fund provided by the said treaty.

All which is respectfully submitted.

R. W. MEADE.

WASHINGTON, *January* 6, 1822.

WASHINGTON, *March* 12, 1821.

SIR: I have attentively examined the papers illustrative of your demand upon the Government of the United States, founded upon your acknowledged claim on that of Spain, and arising out of the recent treaty concluded between them; and although, from the variety and pressure of my engagements incident to my departure from this place, I have not time to prepare and present to you an argumentative opinion upon the whole case, I will take that to say that, in the instance of wrongs, including violence committed by one nation, or under its authority, upon the citizens of another, the latter has a right, in the preservation of its sovereignty and honor, to settle the grievance so as to conclude the rights of its citizens who have been aggrieved, even if the measure of redress falls short of the measure of injury; that such a settlement, however, ought not to be made but on weighty and urgent reasons; and that one nation ought

never to avail itself of the claim to redress, for violent injuries committed by another upon its citizens, to acquire territorial or other advantages inuring to the benefit of the public at large.

In regard to contracts or commercial operations between the citizens of one country and a foreign Power which withholds from them justice, there is no absolute right of interposition on the part of that country, since those citizens have voluntarily put their trust in the foreign Power. The country may interpose at the instance of its citizens, but the extent of that interposition must depend upon the request of its citizens. The country then becomes a sort of agent, of a high and dignified character, to ask justice for its injured citizens. It must not abuse this agency which is submitted to the laws which regulate all delegated power. In your case, you asked the assistance of your country's minister to have your claims settled. You obtained it. You proceeded in their liquidation; and you completed the adjustment of them with Spain. After you had obtained the bond of Spain for the payment of the debt which it acknowledged to be due to you, your country acquits Spain of this bond by a provision in the recent treaty, to which you gave no express assent, nor, as I think, any implied assent. Now, if a country is not bound to go to war to support the rights of its citizens; if it is not even compelled to interpose its good offices in cases where those citizens have, with their eyes open, confided in a foreign State by contracting or voluntarily dealing with it, neither has it a right, especially in the latter case, to extinguish the just rights of its citizens arising out of such contract or voluntary trading. The treaty extinction of them is probably binding on them; but if it is, it appears to me that the rule of equity furnished by our Constitution, and which provides that private property shall not be taken for public purposes without just compensation, applies, and entitles the injured citizen to consider his own country as substituted to the foreign State.

As to you, the treaty must be considered as taking its date from the Spanish ratification or the last American ratification. Prior to the former event it was at an end. There had been a compact intended, but both parties, and each, were released from it. A new compact was proposed, the same in terms as the old one, by the act of the Spanish ratification. It was finally consummated by that of America. Taken in either view, the treaty came upon you whilst you were in the regular prosecution of your demand before the Spanish Government. It arrested your progress; it abated your suit, after you had got a verdict and judgment. Having taken from you the means of obtaining satisfaction by your execution, it seems to me that it is now incumbent upon your own country, which has thus thought proper, from public considerations, to check your career, to render you an equivalent, an entire satisfaction.

H. CLAY.

R. W. MEADE, Esq.

PHILADELPHIA, *July* 1, 1821.

SIR: The following questions, with all the papers relating to the subject, are respectfully submitted by me to you for your opinion.

Respectfully, yours, &c.,

R. W. MEADE.

HORACE BINNEY, Esq., *Philadelphia.*

1. Whether the Government of the United States have a right to cancel or compromise the claim of a citizen of the said States on a foreign Government arising out of civil contracts or engagements, without fully indemnifying that citizen for the amount of his claim, as acknowledged by that foreign Government?

2. Whether, by soliciting the protection of my Government in the manner and form which I did, Mr. Adams was authorized to enter into a compromise by which I should only receive one-third of its amount, or any other indefinite or undetermined sum, in lieu of that claim?

3. Whether the Government of the United States, granting by treaty a positive and specific discharge to a foreign Government for a private debt of that Government to one of its citizens, and particularly when made fully aware of the nature and amount of said debt prior to the ratification and exchange of the treaty, is not bound by the law of nations, and by the Constitution of the United States, to make full compensation to that individual?

4. Whether a liquidation and recognition of a debt between a foreign Government and a citizen of the United States, made or obtained at the request of the Government of the United States itself, through its accredited minister plenipotentiary at the Court of that country, and officially made known by the foreign Government to said minister, or his successor, is valid or not?

5. Where there is an express acknowledgment by a foreign Government of a specific sum due by it to a citizen of the United States, and a certificate given to that individual by the Minister of Finance by express order of the King, and his royal seal affixed thereto, are any further liquidation or examination necessary to establish the fact of the sum due, particularly when that certificate contains no provision of payment connected with any other nation or Power, or subject to any contingency, but expressly declares the sum to be due and payable out of the finances of the Government acknowledging the debt?

6. Whether a liquidation is valid which was called for by the American minister *in Madrid* many months prior to the signature of the treaty in Washington, and at a time when there existed no hope or expectation of speedily concluding any treaty, as stated by Mr. Adams in his letter of September, 1818, to Mr. Meade, though imperious circumstances, arising out of the nature of the business itself, depending on a multitude of contracts in different provinces of Spain, and the necessity of examining the archives of the whole country, for many years subject to foreign invasion, various changes in the Government, and during a period of revolution, delayed the award being given in till the 30th of September, 1819, seven months after the signature of the treaty at Washington? It is to be observed at the same time that it was about one month prior to the date of the award that the American minister plenipotentiary had solemnly notified Spain that the six months allowed for the exchange of the ratifications having expired, that the treaty was null and void, so that in fact no such treaty could be said to exist when the award was given in. It is also to be observed that, subsequent to that period, a new minister was sent to Washington to treat; that new and important matters were introduced into the negotiations; that those negotiations were again suspended, owing to the new revolution, which re-established in Spain the constitution of 1812, by an article of which the whole treaty became null, even though it had not been so declared prior thereto. By that article the King had no power or authority to cede the Floridas, as it was not till the 5th October, 1820, that the Cortes granted the King that authority, which was more than

twelve months after the date of the award given in by the special commission appointed to settle my claim, and five months after that the King himself had approved of that award.

R. W. MEADE.

MR. BINNEY'S OPINION.

The questions which Mr. Meade has proposed to me for consideration may be embraced by the following inquiries, under which, I think, all points in his case that are in any degree disputable may be examined:

I. Have the United States, in point of fact, released the Government of Spain from the claims of Mr. Meade?

II. If such release has been given, is it effectual to exonerate Spain; that is, does it bind Mr. Meade and extinguish the debt as effectually as a release given by himself?

III. Whether the release be or be not such as to extinguish the debt, yet if in fact given, are not the United States bound to pay Mr. Meade the full amount released?

IV. Are the settlement by Mr. Meade with Spain, and her recognition of the amount due, evidence against the United States?

1. The answer to the first question is to be sought in the terms of the treaty, and in the circumstances of the claim. There is no doubt that external evidence is necessary to bring Mr. Meade's case within the description of the treaty; but I am not of opinion that, except in cases differently situated from the present, the private declarations of the negotiators, in regard to their views in the introduction of a certain clause, are matter of lawful resort in such an inquiry. In examining this question, I shall therefore lay aside all private communications from the late minister of Spain, or any other person, to the effect before mentioned, and confine myself to what, it will be conceded by everybody, are legitimate sources of information.

After the articles of cession by Spain, which extend from the second to the eighth inclusive, both nations, by the ninth article, "renounce all claims for damages or injuries which they themselves, as well as their respective citizens and subjects, may have suffered until the signing of the treaty." The terms *damages or injuries* are large enough to comprehend every species of wrong which a nation can inflict or an individual suffer, and will include the damage or injury suffered by a creditor whose lawful demands are disregarded, as well as that which is suffered from an act of violence on the high seas. This, however, might be thought too extensive an interpretation of the words, if found alone and undefined in a public treaty, whose objects are in general public wrongs and concerns, and not such as are of a private kind. But the words do not stand alone, nor without such a context as will give the materials of a reasonably certain definition. Each party, after this general renunciation, proceeds to enumerate four of the particulars in certainty to which it shall be held to extend; and then the United States conclude, on their part, the renunciation by the sweeping abandonment of "*all claims* of citizens of the United States upon the Spanish Government, statements of which, soliciting the interposition of the Government of the United States, have been presented to the Department of State or to the minister of the United States in Spain since the date of the convention of 1802, and until the signature of this treaty." This clause is as clear as it is comprehensive. It follows a statement of four kinds of claims, all distinguished as to their origin and specific character; and it then introduces a class whose origin and specific character become immaterial by the substitution of a general characteristic which may belong to a claim of any kind: "*all claims*, statements of which, soliciting the interposition of the Government of the United States, have been presented to the Department of State," and so on. If there is no reason for refusing the sense which this clause of the treaty naturally presents, it becomes an inquiry of fact merely, whether the claim of Mr. Meade has the general attributes that are called for?

Mr. Meade is a native citizen of the United States, though for many years before the date of the treaty resident in Spain. His claim is upon the Spanish Government—upon the nation in its political capacity. It has arisen altogether since the convention of 1802; and if a statement of it has been exhibited in the manner, within the periods, and to the effect pointed out in the treaty, then it is comprehended within the clause, and the United States have "exonerated Spain from all demands on account of it, considering it entirely cancelled."

The statement required is in order if presented to the Department of State or to the minister of the United States in Spain.

The official letter of the Spanish Minister of Finance, Don José Canya Arguelles, to Mr. Meade, dated at Madrid, the 21st of May, 1820, contains the following paragraph: "A statement, in due form, of your claims upon this Government, and the damages you have sustained in consequence thereof, was transmitted to this Department of Finance by the Minister of State, accompanied by a royal order, dated the 26th of January of last year, (1819,) *which statement had been received from and supported by the minister of the United States resident at this Court.*" This certificate is nearly in the language of the treaty; and, from being posterior in date, may be regarded more as the exposition of Spain to include the demand of Mr. Meade than as evidence of the fact it certifies. But among the papers exhibited to me is a letter to Mr. Meade from Mr. Erving, the American minister in Spain, dated the 18th of January, 1819, in which he says that "he has this morning sent to the Minister of State, with a suitable note, Mr. Meade's two memorials." The memorials contained a statement of Mr. Meade's claims, as well such as depended upon contract as those which arose from his imprisonment; his individual claims, as well as those which regarded certain concerns under his agency; and the fact of Mr. Erving's official interposition in their behalf seems entirely to justify the inference that it was made upon the solicitation of the claimant. With what formality these statements must have been presented, in what terms, or to what extent, the interposition must have been invited, the treaty does not prescribe; and if form is to be disregarded, it does not appear in any way objectionable to consider, as within the fair meaning of the treaty, the statements of a memorial presented to the American minister, to be by him transmitted to the Minister of State, and vindicated in such manner as he should deem expedient. Of an act so purely official as Mr. Erving's it cannot be presumed that he did not retain the evidence in the archives of the legation; though, as between Spain and the United States, it must be immaterial whether he did or not. As little can it be presumed that he had not a precedented authority from his own Government for all he did. But whether these presumptions be just or otherwise, as between the *parties* to this treaty, the fact of interposition by the Government in behalf of claims which its own minister thus presented before the date of the treaty

would seem to be very high, if not conclusive, evidence of all that the clause under consideration requires.

But a statement was also presented to the Department of State, at Washington.

On the 6th of June, 1818, Mr. Meade addressed a letter from Cadiz to Mr. Adams, the Secretary of State, informing him that, from some suggestions, he had reason to look for the satisfaction of his claims upon Spain through a cession of lands in Florida; but that he declined either making or listening to a formal proposal on the subject until he should learn the pleasure of the President; and he then proceeds to say, that if the answer should be unsatisfactory, or he should find the suggested arrangement impracticable, he would leave the Kingdom, "and place a full reliance on his own Government for supporting his just demands whenever an arrangement should take place between the two countries; being confident that, whenever that event should take place, provision would be made for the claims of our citizens."

The answer of Mr. Adams, dated at Boston, September 18, 1818, informs Mr. Meade that, "in the negotiation pending between the United States and Spain, it was the intention of the President that provision should be made for the eventual adjustment and satisfaction of the just claims of many citizens of the United States, among which every attention that might be proper would be shown to his." The letter then proceeds to state that this satisfaction was expected through the cession of the Floridas, which expectation would be disappointed by the grant of all the vacant lands to individuals, and therefore, "in case of the conclusion of a treaty including this cession, all grants after a certain date, to be agreed upon, would be annulled."

On the 17th January, 1819, Mrs. Meade addressed to the Secretary of State the following letter: "I have the honor to hand you, enclosed, a statement of the grounds of my husband's claim on the Spanish Government, which will be followed by a specific statement of the amount due him from said Government, showing the amount due on libramientos now in his possession, on contracts, and on damages on bills received from said Government, as well as his reclamation on the score of the unjust imprisonment suffered by him for two years. The time allowed him to avail himself of the opportunity by which I received this statement was too short to enable him to make a detail of his claims; but thinking it important that some statement should be immediately forwarded to you, he hastily made out the enclosed, trusting, in the event of a speedy conclusion of a treaty between this country and Spain, that this document would serve as a *guide for that protection which his Government may think proper to give him.*" By the letter of Mr. Brent, the chief clerk in the Department of State, under date of January 20, 1819, the papers constituting this statement, which regarded Mr. Meade's individual claims, were then deposited in that office.

As the treaty was signed on the 22d February, 1819; as these statements were presented to the Department of State and to the American minister in Spain before that date; as they were presented with the sole view of obtaining the interposition of the United States, that being the avowed object of Mr. Meade in his letter of the 6th June, 1818; the inducement held out in Mr. Adams' letter of September 18, 1818; the particular motive of presenting the statement referred to in Mr. Meade's letter of the 17th January, 1819, and no doubt also the design of the simultaneous reference to Mr. Erving, the American minister in Spain; as these statements exhibited the claims of an American citizen upon the Government of Spain, with all the specification which was essential to their identity, or which the treaty, by any fair interpretation, can be held to require, I am of opinion that, as between Spain and the United States, (and it is only in this relation that I am at present examining the case,) the claim of Mr. Meade is within the 5th clause of the 9th article of the treaty.

Is, however, the natural sense of the treaty to be refused for a construction more artificial and limited? Is it necessary that, in addition to the characteristics mentioned in the clause, the case embraced by it shall present some other distinctive feature, as, for instance, that it should be a case of tort instead of contract, and tort of a public character? I confess I do not see how such an interpretation can be justified. The words are, *all claims* having the *indicia* pointed out in the clause. The natural and obvious interpretation comprehends *contract* as well as *tort*, and *torts* of every kind; and there is nothing to call for an interpretation different from the obvious and natural one. On the contrary, after mentioning various claims by their specific character, without reference to any statement or presentment to the Department of State, or elsewhere, if the treaty then ceases, as it certainly does, to designate specifically, and brings in *all claims* which have been stated for the purpose of engaging the interposition of Government, I apprehend it to call emphatically for the natural interpretation, and to embrace *all claims* without regard to their character.

There is a very direct application to this case in some of the elementary rules of interpretation. "The first general maxim of interpretation is, that it is not permitted to interpret what has no need of interpretation. When an act is conceived in clear and precise terms, when the sense is manifest and leads to nothing absurd, there can be no reason to refuse the sense which the treaty naturally presents. To go elsewhere in search of conjectures, in order to restrain or extinguish it, is to endeavor to elude it. If this dangerous method be once admitted, there will be no act which it will not render useless. Let the brightest light shine on all parts of the piece; let it be expressed in terms the most clear and determinate; all this shall be of no use, if it be allowed to search for foreign reasons in order to maintain what cannot be found in the sense it naturally presents."—(*Vattel, B.* 2, *chap.* 17, *sec.* 263.)

"We ought, also, give to a disposition the full extent properly implied in the terms, if it appears that the author has had in his view everything properly comprehended in them."—(*Vattel B.* 2, *ch.* 17, *sec.* 270.)

"The contracting Powers are obliged to express themselves in such a manner as they may mutually understand each other." Hence "it is necessary that they should employ the words in their proper signification, in the sense which custom has given them, and that they should affix to the terms they use, and to all their expressions, the received signification." "From all these incontestable truths results this rule: In the interpretation of treaties, pacts, and promises, we ought not to deviate from the common use of the language, at least if we have not very strong reasons for it."—(*Vattel, B.* 2, *ch.* 17, *sec.* 271.)

The knowledge that such statements as I have mentioned had been presented to the Department of State and to the minister in Spain the United States undoubtedly possessed. It is a matter of legal inference that they knew every claim of every kind which had been so presented, and, consequently, that they not only "had in view every thing properly comprehended in the clause," but had power so to qualify it as to embrace some cases and exclude others that were within the general description. The absence of such qualification seems to be conclusive against a qualified construction.

The reason of the clause, moreover, powerfully sustains the natural interpretation. I speak in reference to the public aspect of the arrangement. All cases of claim upon either Government, which the

other had been solicited to vindicate, were sources of national controversy, whatever was their origin; and, publicly speaking, it was a just and wise precaution to embrace them by a treaty, which was, in no very forced sense, a treaty of peace between Spain and the United States. These claims might become the means of new perplexity to the nations. They remained in the national bureau, ever ready to light up the flame of discord; and it was a dictate of the highest wisdom, on both sides, to provide for their extinguishment. The clause does not comprehend all claims upon the Spanish Government, but all claims which this nation had been solicited to protect or promote by her *interposition*. Such claims had, therefore, a public aspect, and were much more within the purview of a treaty than merely private claims ever can be.

It is not material, I conceive, to show that the ministers who negotiated this treaty framed the clause in question with either an exclusive or a particular view to the claim of Mr. Meade; but there is no little reason for inferring a pointed attention to the clause, from certain occurrences in the progress of the negotiation; and every circumstance which shows attention to have been awakened affords an argument for comprehending within the clause all that its natural sense will comprehend, and perhaps also a reason for supposing that the case of Mr. Meade, well known to both the ministers, could not have been overlooked.

By the documents which accompany the President's message of the 7th December, 1819, it appears that the clause in question was introduced by the Spanish minister, Mr. Onis, in his project of a treaty, delivered to the Secretary of State on the 9th of February, 1819, with this difference, that the clause in Mr. Onis' "project" does not require that *statements* of the claims should have been presented, but merely that the claims should have been made and the interposition of the United States solicited. The counter-project of Mr. Adams, communicated to Mr. Onis on the 13th of the same month, omits a renunciation of the claims in question by the United States, while it literally copies the renunciation by Spain, introduced into the reciprocal clause of Mr. Onis' "project." By the paper which the Secretary of State received from the minister of France on the 16th February, and which contains the result of his mediation between the negotiators of the treaty, it appears that Mr. Onis required an alteration in a part of the ninth article of Mr. Adams' counter-project, but made no objection to its *wholly omitting the clause in question;* and, nevertheless, without any further written correspondence which the President's message makes known, the clause is found in the treaty, constituting a new paragraph in the ninth article of Mr. Adams' counter-project.

It is extremely difficult to suppose, and indeed quite incredible, that either the abandonment of the clause by Mr. Onis, or its ultimate adoption by Mr. Adams, could have passed without consideration. It was not an agreed clause from the beginning, and which both parties might in some measure have neglected, as being the occasion of no contest; but it was a clause proposed by Mr. Onis, rejected by Mr. Adams; yielded by the one, and ultimately given back by the other; and, therefore, necessarily requiring explanation, exciting discussion, and bringing both parties to a precise knowledge of each other's views. If in no part of this proceeding the particular case of Mr. Meade was adverted to, it is what at least was not likely to happen; and if it was intended by the American minister *not* to embrace it, the treaty presents an instance of unguarded language, with which it is not easy to reconcile the occurrences just mentioned.

There is a question in regard to this clause, the answer to which may have a material bearing on the argument. To what cases *does* the clause apply? For certainly it applies to some one. If the pending inquiry before the Commissioners brings forward no claim by an American citizen upon the Spanish Government for a *public wrong*, a statement of which was presented according to the treaty, and which, at the same time, is not embraced by any of the preceding clauses of description, then it will follow, conclusively, that the clause does not refer to cases of *public wrong;* and if there shall be found no case of contract or private wrong except Mr. Meade's, or such as are of the same character, then it will follow, in the one event conclusively, and in the other nearly so, that his case was in the contemplation of the negotiators. I have no means, however, for ascertaining what will be the result of the inquiry.

My opinion, then, is founded no doubt upon a view of the papers appertaining to Mr. Meade's case only, and without the knowledge of any other cases which the Department of State may disclose, that his claim upon the Spanish Government is embraced by the treaty; and if it is, then the terms of renunciation in the ninth article, and the terms of exoneration in the eleventh, leave no question that the United States have, in point of fact, absolutely and unconditionally released Spain from the payment of it.

2. If such release has been given, is it effectual to exonerate Spain; that is, does it bind Mr. Meade, and extinguish the debt as effectually as a release given by himself?

This question depends upon the right of the United States to give the release.

The claim of Mr. Meade was not inseparably mixed, nor, perhaps, in any degree, with national injury. It does not exhibit a violation of public law, where the private and national wrong are one, and where the private, which is the less, is, for all national purposes, merged in the public, which is the greater wrong; but it presents, as to part, the case of a disregard of contract, and, as to the residue, an unjust exercise of Spanish power within the territory of Spain. From the great extent and incontestable justice of the claim, and from the utter inability of the claimant to contend with his debtor and oppressor, it was a most fit case for the interference of the United States through its good offices with Spain; but it was nearly as fit an occasion for the good offices of any other Power. It was a case in which the claims of justice and the rights of humanity were disregarded, in the person of a resident in Spain, within her exclusive jurisdiction. The wrong was personal, and was inflicted on personal grounds. There was no principle of national law involved; no question of a national bearing connected with the subject; no *odious distinction*, to use the language of Vattel, made to the prejudice of our citizens, or of foreigners in general; but an abuse of territorial power, from which, or from abuses of a similar kind, perhaps hundreds of Spanish subjects were suffering at the same time. The United States, therefore, were not interested in this wrong, if the term may be used, as *proprietors*, nor even as the guardians of American citizens in all parts of the world. Neither the debt due to Mr. Meade, nor the indemnity for his imprisonment, was a public possession, nor did they belong to him by national or public law. They were privately and exclusively his own, and he was denied their enjoyment through the misapplication of territorial power, which it was difficult for any foreign nation to question, since it involved no denial of any principle of the law of nations. Good offices were due to him, in this most unequal contest, from the nation to which he owed a permanent allegiance; but good offices alone were due, and these, as their nature implies, were to be offered by way of persuasion in his behalf, and not under an assertion of national authority, or the allegation of national wrong.

In regard, then, to these private rights of Mr. Meade, the United States stood in the same position as

in regard to the private rights of any other of its citizens residing in a foreign country. Had they the power to release, discharge, or give them away?

In this part of the case many questions of an exceedingly complicated character and very difficult of solution might be discussed. Does the right of annulling a private claim, or of transferring the property of one individual to another, or to a foreign nation, exist in the Federal Government? If this Government may take private property for public use, making just compensation, can she take it from one and give its exclusive use to another? If Congress can so dispose of it by a law in which all the representatives of the people concur, is the same true of the treaty-making power? Is the power to be exercised in a case of expediency, or of urgent necessity only? and is the necessity to be shown, or is the fact of the disposition conclusive evidence of the necessity? Can the eminent domain be exercised over debts, and particularly over that claim to compensation or indemnity which arises out of a private tort? These and many other inquiries would find their place in an extended examination of the present case; but I conceive it unnecessary to advert to them for the following reasons: The claims of Mr. Meade were without the jurisdiction of the United States, and existed, at the date of the treaty, within the particular jurisdiction of Spain. He personally resided in Spain at that time, and for many years before. He and the personal rights in question were legally, and, I apprehend, exclusively subject to the dominion of Spain. The law of the domicil gave those rights, regulated them, and was alone competent to annul them; and this domicil was Spanish, and not American. Under no interpretation of the *transcendental propriety* is it in the power of a nation to cede or transfer what is not subject to her law; and, although the allegiance of Mr. Meade to his own Government may have imposed certain obligations upon him, I am not aware that the duty of submitting his extra territorial property to their disposition is one of them. The *eminent domain* is a legal fiction, by which all the property within the domains or jurisdiction of a Sovereign are, in case of national exigency, considered his own, and the whole property of the nation as a common stock. He is then regarded as the fountain and source of all, and as having a transcendent property in those things which the constitution and laws of the realm ordinarily appropriate to others. But this is transcendent within his realm and jurisdiction only. What is within the jurisdiction of another Sovereign is subject to *his* eminent domain, is part of the common stock of *his* subjects or citizens, and is subject to the exercise of this right by *him*, but by no other Sovereign.

This seems a necessary inference from the language of Vattel: "Everything in the political society ought to tend to the good of the community; and if even the citizen's person is subject to this rule, his fortune cannot be excepted. The State cannot subsist, or constantly administer public affairs in the most advantageous manner, if it has not the power of disposing, on occasion, of all kinds of goods *subject to its authority*. It may even be presumed that, when a nation takes possession of a country, the property of certain things is allowed to individuals only with this reserve. The right which belonged to the society, or to the Sovereign, of disposing, in case of necessity and for the public good, of all the wealth *contained in the State*, is called the eminent domain."—(*Vattel, B.* 1, *ch.* 20, *sec.* 244.)

If the United States had not the right to release this claim by virtue of the eminent domain, they did not possess it, I apprehend, by virtue of any clause in the Constitution of the United States; because none of its provisions reach the case of extra territorial property, nor carry the powers of the Federal Government beyond the limits which public law has prescribed for all nations.

But if they had it not in virtue of these principles, did they possess it in consequence of the reference made to them by Mr. Meade for their national interposition in his behalf?

This is a question which turns upon the nature and terms of that reference. If the United States have secured to Mr. Meade *full satisfaction* of his claims, or are willing to pay him their amount, the question is no longer of any importance; but if they have compromised it for less, the authority is a point of great interest, which I will proceed to consider.

Can the United States say that this surrender was made under an authority delegated by the proprietor?

Authority derived from the proprietor will undoubtedly justify all acts which conform to it, and the inquiry, therefore, is, what authority did Mr. Meade impart to the United States?

If the authority imparted by a citizen to his Government is not subject to some peculiar rule of interpretation, the present question cannot be attended by much difficulty. If it is to be interpreted as in the case of individuals, there can be no ground, I conceive, for saying that Mr. Meade gave authority to the United States to compromise his claim, to surrender it, or to do anything but sustain and enforce it. The case nowhere exhibits the features of a delegation of power. The United States were solicited to interpose for the purpose of vindicating these claims by her sovereign power, and I am unable to find a word in any part of the correspondence from which an authority in the United States to the effect or purpose of compromise is discoverable.

Mr. Meade's letter of the 6th June, 1818, says that he shall place "a full reliance on his own Government for *supporting his just demands* whenever an arrangement shall take place." Mr. Adams, in his reply of the 18th September, 1818, says: "It is the intention of the President that provision shall be made for the eventual adjustment and *satisfaction* of the just claims of many citizens of the United States, among which every attention which may be proper will be shown to yours;" and Mrs. Meade, in transmitting the statement in her letter of the 17th January, 1819, says that "she trusts it will serve as a *guide for that protection* which the Government may think proper to grant."

It is impossible, I think, to find in any part of this correspondence even an expectation of release or compromise, still less an authority for it; and if the power is not found in the correspondence, it is not to be found in any ratification of the compromise since the date of the treaty.

But it may be urged that there is something peculiar in the case of subject and Sovereign, of the individual and his Government, which takes it out of ordinary rules; and that when national assistance is asked, discretion to the extent of compromise is given.

I am not aware of any authority for this as a maxim of political law. The case of interference by a Government to support the private rights of a citizen against a foreign nation has probably not occurred so often as to create any rule upon the subject. Private rights have generally been so amalgamated with public on all occasions of public negotiation, that the practice of settling down upon a compromise in such cases may be supposed to create a rule for all. But in such cases the Sovereign acts by virtue of his original interest in the subject of negotiation. In others he may be, and in the present case he is assumed to be, a representative, mediator, or any other name befitting his dignity, but always indicating a derivative authority. If it be admitted that without the assent of the subject he cannot interpose at all, it follows that he can interpose only according to the assent. There is no rule for the case of assent but

that of right reason applied to the acts and declarations of the party. If the result of such application shall support the compromise by showing a grant of discretionary authority, then, no doubt, the difficulty is removed, but not otherwise.

It is suggested that right reason does support it, because if an individual appeals to his Government for their interposition he voluntarily makes his claim a subject of negotiation, "and of those compromises in which all national adjustments of individual claims consist." If this result is independent of the terms in which the appeal is made, the proposition, I think, cannot be supported. An individual may solicit his Government to aid him in obtaining payment in full, the foreign nation being willing to pay only a part. I know not how such an appeal carries by implication an authority to compromise for a part. He may ask the aid of Government to obtain full satisfaction, entire indemnity, and in such language as to exclude all compromise. It seems a hard proposition to assert that his appeal is to be so far regarded as to authorize his Government to act, but, in all that regards the object, and end, and scope of acting, it is to be disregarded. Nay, some of the consequences of the position are still more striking. Nations negotiate, and compromise, and absolutely surrender claims and rights without any visible compensation or return, except the mere cessation of controversy, and it may as accurately be said that all national adjustments end in such surrenders as that they end in compromises. Neither is true in fact, but both are equally true for the purpose of the argument. Can it be contended that an appeal by a citizen to his Government so makes it the master of his fate as to authorize an entire surrender, abandonment, and extinguishment of his claim? Why does the nation interfere at all? She has no right, except as the subject requests it; this is admitted by the very terms of the proposition. All the power proceeds from the appeal or request; the extent of the power should then depend on the terms of the request. It becomes a case of delegated power, and has the extent only to which it has been delegated. If it necessarily follows that, when national interference is once asked, the nation is at liberty to disregard all restrictions which the petitioning party thinks proper to impose, this is contrary to all received notions on the subject of delegated power, and is in itself a solecism—for how can the authority flow from the request and yet be independent of it? The Government may, no doubt, refuse to act without the most ample authority. On this subject she may dictate her own conditions of interference. But if she cannot negotiate without the consent of the individual, and he will give but a limited authority, I confess I do not see how such an authority can, against his will, become unlimited.

Besides, the proposition that all national adjustments of individual claims consist of compromises is not, I apprehend, to be received, even in regard to claims arising from public or national wrong; still less is it true of such a claim as Mr. Meade's, which has few or no precedents to govern it. There is a very different statement of the rule, in the answer of Mr. Fitzherbert, the British minister, to Count Florida Blanca, in regard to the injuries done to British subjects at Nootka by persons acting under the authority of Spain. "*The practice of nations*," says he, "has limited such rights of reparation to three articles, viz: the restitution of the vessels; *a full indemnification for the losses sustained by the parties injured;* and, finally, satisfaction to the Sovereign for the injury offered to his flag."—(*Ann. Reg.*, 1790, *p.* 298.) And in that case, Spain, by convention, stipulated to make a *full* compensation, according to the requisition of Great Britain. Cases of this description are doubtless sometimes compromised by virtue of the Sovereign's inherent authority as a party to the wrong which his subjects have suffered by a violation of public law; but they furnish no rule for a case in which the authority of the Sovereign springs from the appeal of his subject.

In my opinion, then, the United States had no right to release the claims of Mr. Meade, either in consequence of his appeal to their protection, or of the principles of the Federal Constitution, or of the rules of public law; and, consequently, that the release is ineffectual to exonerate Spain. It does not bind Mr. Meade; it does not extinguish the debt; and, until actual payment, the moral and legal obligations of Spain continue of the same force and effect as if the treaty had not been signed.

But it is necessary to view this case under another aspect; one, certainly, which presents by far the most difficult question of all, and that is—

3. If the release has in fact been given, whether it effectually extinguish the debt or not, are not the United States bound to pay Mr. Meade the amount released?

It has already been stated that the case of Mr. Meade is not one which, by involving a national wrong, made the United States a party, and gave her authority to make it the subject of negotiation and compromise. This may be the law in regard to public or national wrongs, among which are to be placed the claims enumerated in the first four clauses of the 9th article; but private property, and a claim to redress for a private wrong, are not subjects of national negotiation and compromise. If a nation surrenders or compromises these, she must do it either by virtue of her own sovereign power, or by authority derived from the individual proprietor; and if no authority to compromise has been given by Mr. Meade, as I have endeavored to show, then the surrender is to be supported only by the sovereign power before spoken of.

The case of sovereign power *lawfully* applied to the transfer of private property, or to the extinguishment of such a private claim as Mr. Meade's, is without a doubt a case of national obligation to pay an equivalent to the private proprietor or creditor. Whether we refer to the doctrine of our own Constitution, or to the principles of public law, the result is the same.

"Private property shall not be taken for public use without just compensation." This is the language of the fifth article of the amendments to the Constitution of the United States. The necessity of this article may be questioned, for it says no more than is implied, as a fundamental restraint upon the public use of private property, in the constitution of every civilized people; but it serves, at least, to give the sanction of an emphatic public assent to what otherwise might have been exposed to discussion; and it is a particular pledge of the national faith for the indemnity of every American citizen who may be in the predicament referred to.

The language of the most approved writers upon public law, in their remarks upon the exercise of the eminent domain, is to the same effect.

Grotius is clear to this point. "But we must also observe this, that a King may, two ways, deprive his subjects of their rights, either by way of punishment, or by virtue of his eminent domain. But, if he do it the last way, it must be for some public advantage, and then the subject ought to receive, if possible, a *just compensation* for the loss he suffers out of the common stock."—(*Grot. War and Peace*, 333, *B.* 2, *ch.* 14, *sec.* 7.)

The same writer elsewhere remarks: "This, also, is often disputed: what right Kings have to dispose of the goods of private men to procure a peace, who have no other power over the goods of their subjects

than as they are Kings. I have already said that the State has an eminent right of property over the goods of the subjects, so that the State, or those that represent it, may make use of them, and even destroy and alienate them, not only upon an extreme necessity, which allows to private persons a sort of right over men's goods, but for the public benefit, which ought to be preferred to any man's private interest, according to the intention reasonably presumed of those who first entered into civil society. To which we must add that the State is obliged to *repair the damages* sustained by any subject on that account out of the public stock; so that he, himself, who hath sustained the loss, contribute, if it be necessary, according to his quota, to the discharge of that *public debt.*"—(*Ib.* 697, *B.* 3, *ch.* 20, *sec.* 7.)

The language of Puffendorf is as follows: "What power the Commonwealth hath to excuse the goods (*condonare bona*) of the private subject upon a pacification must be discovered from the nature of the transcendental propriety, upon the force of which the goods and fortunes of private men, whatever title purchased or possessed by, may be given up whenever the necessities of the State and public interest require it. But with this consideration, that the State is obliged to *make good such losses* to the subject out of the public revenues, either immediately, or, at least, as soon as it may be able. But whether a particular subject's goods ought to be excused or taken from him must, in a monarchy, be determined by the Prince; and the whole body of the subjects, upon his command, is obliged to *make satisfaction* to the person that has sustained losses upon the public account *beyond his just proportion.*"—(*Puffend. B.* 8, *ch.* 8, *sec.* 3, *4th ed.* Dr. Kennett's translation.)

He says, in another part of the same book: "But, however, without dispute, they that have lost or sacrificed their fortunes to the public safety in such extremities ought to have a *restitution* or *satisfaction* made to them, as far as possible, by the whole community."—(*Book* 8, *ch.* 5, *sec.* 7. *On the transcendental propriety, its origin, and necessity.*)

Vattel says: "If the nation disposes of the possessions of an individual, the alienation will be valid for the same reason; but justice demands that this individual be recompensed out of the public money."—(*Book* 1, *ch.* 22, *sec.* 244.)

And, again: "The necessity of making a peace authorizes the Sovereign to dispose of things even belonging to private persons, and the eminent domain gives him this right. But these cessions being made for the common advantage, the State is to *indemnify* the citizens who are sufferers by them"—(*Book* 4, *ch.* 2, *sec.* 12.)

This language, originally and always that of reason, has now become the language of authority, to which no nation is superior; the consciences of all being bound by what is so universally just, and their conformity being required by the uniform practice of the civilized world.

If the United States have extinguished Mr. Meade's claims upon Spain by virtue of their own sovereign power, call it the exercise of eminent domain, or the taking of private property for public use, or by any other name, the conclusion is not to be resisted, that they owe him a *just satisfaction,* that they are bound to *repair his damages,* to *make good his losses,* to make him *restitution,* to *indemnify* him, or make him whole. It would be in violation of the spirit as well as the letter of the rule to impose upon him anything less than indemnity and satisfaction; to require him to participate with others in the division of an inadequate sum; and to apply to his case a scale that may be well enough graduated for claims which, under all circumstances, are subject to national control, but is a wholly unfit measure of claims surrendered by virtue of eminent domain, and by that surrender become a *public debt.*

But is the obligation different in a case like the present, where the national authority has *not* been *lawfully* applied to the extinguishment of the debt, but has appropriated it by a sort of violence to its own use?

This is a question which is not readily solved by the application of the ordinary rules of law; they are, indeed, wholly inapplicable to it. The case of a release by an unauthorized stranger produces no difficulty in the ordinary affairs of men. It is a nullity. It impairs neither the right nor the action of the creditor, and it is not a bar, nor a pretext for opposition to his attainment of satisfaction from the debtor. But a national release to a public debtor of a debt due to a subject or citizen of the releasing Power presents a very different case.

A public debtor is at no time subject to private suit and execution. The security of the creditor is in the sense of national honor and faith, which is presumed to become more acute in the political body as the sense of legal liability is taken away. But if, in the accommodation of public differences, the claim of the private creditor has been made an item in the adjustment, and an equivalent has been passed by the debtor to the nation of which the creditor, by his birth and allegiance, was a member, what is the strength of that bond of national faith and honor by which the original debtor is held? It has been cancelled by the nation to which the creditor belongs. It has, in fact, been assumed by that nation upon herself, and the obligations of national faith and honor having now been discharged by the debtor, to the satisfaction of a national mediator, the debt has practically no security. It remains in justice, but it remains without remedy, perfect or imperfect.

This, it appears to me, is the situation in which Mr. Meade is placed by the late treaty with Spain. Whether the United States had or had not a right to release it, they have in fact released it. They have received from Spain, in the transfer of the Floridas, a consideration for the release. They hold the representative of the debt in their hands. They have, in effect, covenanted with Spain to indemnify and save her harmless from the claim of Mr. Meade; they have, as it were, taken the property out of his hands and delivered it to another, with a covenant of general warranty. His title to it remains; but if it is anything more than an empty name, it is because the faith of Spain is a better security for having been discharged with the consent and by the agency of the American nation. Upon what principle can the United States contend that they are not liable to make satisfaction? Can *they* say they have exceeded their power? This is language which a court of law would not permit an individual to hold, and which it is difficult to believe that the nation herself will hold to the injury of a third person, particularly while they retain the fruit of the release in their own hands. Can they say they have not received a full satisfaction from Spain? This cannot be an answer, when, for the satisfaction received, this nation has given a final discharge, which imports the receipt of full satisfaction. But can it be a just answer, when they have received what in point of value cannot be measured, and what certainly cannot be shown to be less than a full satisfaction?

It is, perhaps, said that the promise of the United States has been limited; that is, to make satisfaction not exceeding a certain sum. To this I answer, that the discharge of Spain has been unlimited, without reservation of any part of the claim, present or eventual. It may also be said that the qualification annexed to the promise to Spain is annexed to the obligation which arises to the individual; and that,

if he claims under the treaty, he must take what the treaty gives him. But to this, also, I answer, that the question is not what the United States have expressly promised to do, nor what the treaty gives, if in truth it does give him less than his whole demand, but what is the obligation of the United States in consequence of their unqualified release of his claims. Have they not effectually tied his hands forever? Have they not invited Spain to close her doors against him? And was the effect of the compact to depend upon his assent, or has it not been consummated without his knowledge and against his will? If it has, then I cannot perceive how the limited satisfaction provided by the treaty, if in truth it be a limited and imperfect one, is to bind Mr. Meade any more than a merely nominal satisfaction would do.

It appears to me, therefore, that whatever may be the language which Mr. Meade is justified in using to Spain in regard to this discharge, the United States cannot say that it has not been lawfully made, or that the discharge is not to be attended by all the incidents of a legal exercise of power, and particularly by the duty of making full compensation. And it appears to me, further, to be worthy of adoption, as a distinct principle, that when a nation shall interpose, as the United States have done, to discharge a foreign nation from the unquestionable private claim of one of her citizens, however such discharge may be found wanting in legal efficacy, when tested by the rules of law, either public or private, yet the insurmountable barrier which this act places between the individual and the enjoyment of his original rights gives him a derivative claim upon his own Government of equal vigor and extent.

The exigency of such principles will appear more distinctly by adverting to the course which Spain has taken since the last ratification of the treaty by the United States. On the 14th May, 1821, Mr. Meade presented to the King of Spain a memorial, in which he averred the continuing obligation of that Government to discharge the debt; and that, notwithstanding his indifference as to the quarter from which payment should come, he would not cease to demand it of the Spanish nation, his debtor, until the United States admitted its obligation to pay him. He therefore requested that Spain would pay the liquidated demand, or furnish him such documents as would establish the obligation of the United States to pay it in full. To this memorial the Minister of State, on the 16th June following, made reply, that "his Majesty, being convinced that the claim of Mr. Meade upon the Public Treasury of Spain was comprehended in the fifth clause of the ninth article of the treaty, as it possessed the only two qualifications or characteristics required, had given the necessary instructions to his minister plenipotentiary at Washington to support Mr. Meade in such applications as he might make to the Federal Government, for the purpose of obtaining the acknowledgment and payment of his claim, according to the terms of the seventh article." And thus, in the first place, Mr. Meade is referred to the United States, with a mere promise of the public countenance of Spain to his solicitation of payment in that quarter; the extent to which this countenance is promised is the uncertain extent of the eleventh article; and a claim, once conclusively fixed upon Spain, is cast off from her without being fixed elsewhere, unless it may be by virtue of the principles I have adverted to.

My conclusion upon the third question submitted to me, therefore, is, that the obligation of the United States to pay results from the actual release, whether or not, according to the principles of law, that release extinguishes the debt.

4. The remaining question is, whether the settlement by Mr. Meade with Spain, and her recognition of the amount due, are evidence against the United States?

There can be no doubt that Spain is conclusively fixed for the amount certified by her Minister of Finance on the 21st May, 1820, and it remains to be seen whether the liquidation and final settlement have not been so conducted as to bind the United States. In one aspect this is a question of evidence merely; in another, it is a question of a much higher kind.

The claims of Mr. Meade upon the Spanish Government were not subject to the ordinary tribunals of the country. The Sovereign was not liable to suit or question in those courts, nor in any, unless by him authorized, or constituted with special powers in this behalf. This is the case with all Sovereigns, with the United States, and the several States of the Union. A tribunal specially appointed for such a case is, however, the proper tribunal, as much entitled to respect as a tribunal of more permanent powers; and its decrees, judgments, or awards, when confirmed according to the constitution of the court, are, upon all matters within its jurisdiction, and as to all the points directly decided by it, as binding as the decrees of an ordinary tribunal in a suit between man and man.

A statement of Mr. Meade's claims against the Spanish Government, and the damages he had sustained, was transmitted to the Department of Finance by the Minister of State, accompanied by a royal order of the 26th January, 1819. This statement was received from, and supported by, the American minister in Spain, who, I understand, was privy to many of the details of the liquidation. On the 7th of May, 1819, his Catholic Majesty named a special junta of counsellors to take cognizance of the liquidation of all credits which Mr. Meade might be able to substantiate, and of the claims which he should make. On the 31st August, 1819, Don Bruno Vallernio, the oldest counsellor of the commission, required of Mr. Meade the delivery of the original documents by which his claims were supported, and, on their being delivered to him, gave his receipts therefor on the 4th and 15th September, 1819. This junta, having deliberately investigated all the claims, on the 30th September, 1819, made its report, which, having been confirmed by the King, resulted in the certificate of the 21st May, 1820, recognizing definitively the claims of Mr Meade at the amount there stated. On the 17th August, 1820, Mr. Meade, upon his arrival in the United States, transmitted to the Secretary of State, Mr. Adams, copies of the documents received from Spain acknowledging the balance due to him; and, on the 6th of the next month, Mr. Adams, in reply, says: "It gives me pleasure to offer you my congratulations upon the adjustment of your accounts with the Spanish Government, and to assure you that this Government feels not a little gratification *in having at all contributed to this satisfactory result.*"

Now, whether the question be regarded as one of strict law or of national comity, or in reference to consequences, the settlement appears to me to be evidence against the United States.

Upon principles of strict law it is to be regarded as having the characteristics of a judicial inquiry and decree, in a case entirely within the jurisdiction of the tribunal, both as to subject-matter and parties, with full notice to the American minister at the outset, and more than notice, with an instrumentality or public agency on his part in bringing it to a conclusion. If the United States had been, at the time of the award or decree, strangers to the subject in controversy, and afterwards had agreed to pay the debt of Spain to Mr. Meade, this judgment, fixing the extent of the debt, would be as binding upon the United States as the judgment of a common tribunal would be against an individual who should afterwards agree to pay the defendant's debt; and if the United States were not strangers, but interested at the moment in the amount, then the award bound them as having full notice, and promoting the decree or

award by their accredited minister. In reality there was, at the time of making the award and extending a certificate of the debt, no interest in the United States. They were legally strangers to the suit. On the 26th of January, 1819, when the royal order set the proceeding in motion, there was no treaty. That instrument having been signed on the 22d February, 1819, the six months allowed for its ratification by Spain expired on the 22d August following. On the 30th September, 1819, the junta made its report; and when the King confirmed it, and the certificate was granted on the 21st of May, 1820, not only there was no treaty, but the Constitution of Spain, then recently brought into vigor, deprived the Crown of Spain of the right to ratify that treaty, as it contained a cession of Spanish territory; and the Cortes withheld their indispensable consent to it until October following. The United States were free from all its obligations; and, before they were renewed by the second ratification, in February, 1821, Mr. Meade's settlement with Spain was made known to the President and Senate, and was in their view at the moment of completing the compact. If this were a case between individuals, I am aware of no rule of law that would call upon the claimant to go through a new proof of his debt.

But will the duty of comity to a foreign nation permit this settlement to be set aside? The demands of Mr. Meade have been examined by a tribunal especially constituted by the Crown of Spain. The capacity of that body for the investigation, their possession of the requisite evidence, their knowledge of all the principles of local or general law involved in the inquiry, and, finally, their integrity, have received the seal and sanction of the Government; and it seems an impeachment of the honor of Spain to subject the claim to a new ordeal. The demands of Mr. Meade regarded Spain in her national character; all of them were in the broadest sense due by the nation. What a nation shall admit and vouch to be due by her, other nations must, from comity, adopt as the truth, at least until errors are detected. If she be interested as the debtor, she will certainly admit no more than is due. There is, in that case, an argument derived from her interest to sustain that which is derived from her honor. If she be without interest, her impartiality is a pledge that she has admitted neither too much nor too little. The imputation of fraud is not to be tolerated; and if error be imputed, however that may be ground for correcting what is shown to be wrong, the suggestion of it cannot be a ground for requiring proof that all is right. In other words, though comity may not require that the United States should, in all cases, admit such a certificate as conclusive, it at least demands that respect be shown to it until errors are pointed out and made manifest.

The consequences of a different rule might produce an enormous mischief in the present case. What ability has Mr. Meade to investigate the claim *de novo* before an American tribunal, or the tribunal of the treaty? The scene of all the transactions was Spain; and the witnesses, documents, and tribunals from which evidence was derived existed there only. Many circumstances connected with his demands were of undisputed occurrence, notorious in that country, and not to be denied there, nor to require proof. His original documents of every description were there examined, and were perhaps there alone susceptible of proof. How is this matter to be examined in the United States? If the certificate of Spain will not answer for the balance, the admissions of her officers will not answer as to any of the items. Mr. Meade must prove everything: for no one here has the knowledge to relieve him from proof. He is to do this, also, after being deprived of his vouchers, which have doubtless passed into the different bureaus of the Spanish Government. This would be thought a great evil in any case, but it would, I think, deserve the name of an enormous mischief in a case where the settlement was invited, promoted, and finally made a theme of congratulation to Mr. Meade by the American Government, and of self-gratulation to the American Executive for having produced it.

In answering the preceding questions, it is hardly necessary to say that I am to be understood as giving my opinion with all the hesitancy which questions of their magnitude should excite, and especially as the diplomatic intercourse of the two nations, and the official intercourse of each nation with its own minister, in regard to the case of Mr. Meade, may be imperfectly known to me. I have examined the principles with some care, and feel a reasonable confidence in them. It is at Mr. Meade's request that I have expanded my remarks beyond the usual bounds of a professional opinion, but I am at the same time certain that the grounds of the opinion might be much further developed, and probably with great advantage to the views already presented.

HORACE BINNEY.

DECEMBER 28, 1821.

F.

Copy of a letter from the late Commissioners under the Florida treaty to the honorable John Quincy Adams, Secretary of State.

WASHINGTON, *March* 5, 1822.

SIR: Several claims of indemnity have been presented to this board by citizens of the United States for losses sustained by reason of the breach of contracts entered into with them by the Government of Spain. In most, if not all, of these contracts the citizen stipulates to perform acts for Spain which, as a subject of a neutral State, he could not have performed without transgressing the acknowledged belligerent rights of other nations with whom Spain was then engaged in open war—acts therefore which would have subjected him to the just application of the laws of war, and justified, nay, probably required the United States to abandon such citizen to the fate of war, without making any reclamation in his behalf. It is for the performance of such acts that Spain has contracted to make compensation.

In support of these claims it is contended that it was distinctly understood by the high contracting parties to the late treaty that claims of this description were to be included, and were intended to be provided for implicitly by the fifth renunciation of the 9th article, within the words of which all such are found, and in proof of this assertion a letter from the minister of Spain, as well as the enclosed document, has been placed before this board.

The Commissioners feel inclined, at present, to construe this article of the treaty in a different mode, and to reject all such claims as those above described. But as such a construction, if contrary to the intent of the high contracting parties, as is suggested, may possibly impair the faith of the United States, and lead to consequences violating even their peace, the Commissioners beg leave to submit to you the propriety of adopting some course which may bring before them any document or suggestion by which

the object and intent of the United States, in concluding this treaty, may be disclosed more fully than they are now exhibited by the article before mentioned.

If the President is content to adopt that construction of the treaty which the Commissioners, as at present advised, are disposed to give it, no suggestions need be made to them. But if this should not be the case, as nothing will most probably operate to change the opinion which the Commissioners are disposed at present to entertain upon this subject, but a clear communication that such a construction would be violative of the intention of the high contracting parties, it will be necessary that a communication to this effect should be made to them. The mode of making it is submitted to the President.

The want of any representative of the United States before this board has constrained the Commissioners to adopt the course they have thus pursued, with a full knowledge of all the objections which apply to it, not only as they refer to the President, but to the board itself.

We have the honor to be, &c.,

H. L. WHITE.
WM. KING.
L. W. TAZEWELL.

Hon. the SECRETARY OF STATE.

G.

DEPARTMENT OF STATE, *Washington, March* 9, 1822.

GENTLEMEN: In reference to the letter which I have had the honor of receiving from you, dated the 5th instant, I am directed by the President of the United States to inform you that, in providing for the claims of the citizens of the United States upon Spain, by the treaty of 22d of February, 1819, it was *not* understood or intended by the Government of the United States, nor, as is believed, by the other party to the treaty, that claims arising from *contract*, as they existed at the time of the signature of the treaty, should be excluded from the benefit of the treaty. The *claims* intended to be provided for were those specially enumerated in the renunciations, and embraced all claims, *statements of which, soliciting the interposition of the Government, had been presented to the Department of State, or to the minister of the United States in Spain, since the convention of* 1802, *and until the date of the signature of the treaty.*

As there is no limitation in the words of this renunciation, with regard to the nature of the transactions in which the claims originated, whether by contract or by tort, so none was intended. They were claims, of all of which it was believed that the only possible chance of obtaining *any* satisfaction to the claimants consisted in the execution of the treaty.

Of the absolute obligation of this Government to interpose in behalf their fellow-citizens possessing such claims and imploring the aid of their country to obtain satisfaction for them, no very subtle or punctilious scrutiny had been made. It was the need of the claimant, and not the legal classification of his claim, for which the assistance of his Government had been solicited. The delay or denial of justice, which it was desirable to remedy, was the same, whether it was for a wrong committed or a contract broken. The claimants have alike been *promised* that at the negotiation of the treaty their claims would be considered, and endeavors made to provide for them *in common with others.*

Whether among the contracts provided for there were some upon which the Government of the United States, but for the treaty, must have eventually abandoned the claimants to the fate of war was never a subject of inquiry. Those claims, it is presumed, were not the less valid against *Spain*, nor were their prospects of real satisfaction by Spain in any other manner believed to be different from the rest. The Government was, indeed, aware that the abstract right to its interposition of citizens who had suffered by acts of foreigners, without any co-operation of their own, was more clear and imperative than that of others who had voluntarily staked their property upon the good faith of Spain; and, in the course of the negotiation, a proposal was made to omit the renunciation, which included the latter class of these claims. It was, however, finally agreed to, with the full understanding that all the claims should have the same benefit of the provision, be subjected to the same investigation, and be decided upon, not by any subsequent transaction between the claimant and the Spanish Government, but by the Commissioners, in the manner prescribed by the treaty, and upon such proof as they should think proper to require for *ascertaining* its *amount* and *validity.* Of the right to include such claims in the provisions of the treaty, in cases wherein the interference of the Government had been solicited by the claimants themselves, and their claims had, at their own desire, been made a subject of negotiation, no doubt was entertained. It is sanctioned equally by the moral principles applicable to public law, and by the frequent practice of other civilized nations, as well as by more than one example of our own history. If, indeed, no such right existed, and the two Governments were not competent to make and except such renunciation, it was certainly neither made nor intended. But that a Government, negotiating for the claims upon another Power of its citizens, at their own entreaty, is not competent to compound for them upon terms as favorable as it can, consistently with its duties to the rest of its own nation, secure, is a doctrine certainly not contemplated at the negotiation of the treaty, and now believed to be without warrant, either in the law or usages of nations.

To ascertain in the manner stipulated by the treaty, and in no other, the full *amount* and *validity* of these claims, as existing on the day of the signature of the treaty, the commission instituted under the eleventh article of the treaty was provided. How far contracts, under the special circumstances mentioned in your letter as applying to some of those which have been presented to the board, were *valid* contracts, it is the peculiar province of the Commissioners to decide. The Executive Government had not the means of judging of the validity of any of them; and of their amount it could form no other than a gross estimate. But it fully believed that the sum stipulated for the payment of them would be adequate to the full satisfaction of every *valid* claim embraced by the treaty, whether the claim had originated in contract or in wrong.

I have the honor to be, with great respect, gentlemen, your very humble and obedient servant,

JOHN QUINCY ADAMS.

H. L. WHITE, WM. KING, and L. W. TAZEWELL, Esqs.,
Commissioners under the eleventh article of the Florida treaty.

H.

Letters of Richard W. Meade to the Chevalier Don Joaquin de Anduaga.

PHILADELPHIA, *April* 4, 1822.

SIR: I have the honor to communicate to your excellency copies of two notes which have passed between the Commissioners under the treaty of the 22d day of February, 1819, and Mr. Adams, the Secretary of State of the United States, dated respectively the 5th and 9th of March last. My principal motive for this communication is to apprise your excellency and the Spanish Government of the view which the Secretary of State seems disposed to take of the liquidation of my claim, notwithstanding it was made in the most formal manner by the Crown of Spain, at the express solicitation of the American minister at Madrid, and was consummated before the effectual ratification of the treaty by either Spain or the United States. If, according to the present suggestion of Mr. Adams, it was the full understanding of the contracting parties that all the claims, including, of course, my own, should be decided by the Commissioners upon such proof as they should think proper to require, and that such a transaction as the liquidation of my claim is to be of no effect whatever, it must probably be known to your excellency, or to that Department of your excellency's Government which has the cognizance of these matters; and if it was really so understood, while I shall have cause to regret that I have never been before apprised of the circumstance, I may at least hope, as an indemnity, for such assistance from Spain as will enable me to make the justice of the liquidation as apparent to the Commissioners as it was to his Catholic Majesty. It is known to those who had the charge of this liquidation in Spain that the original vouchers and documents by which many of my demands were supported were delivered up by me upon a formal requisition to that effect; and that, in some instances, the records and papers of certain of the Spanish offices furnished material evidence upon the subject. If, contrary to what I regard as the fundamental rules of evidence, and, more especially, the obligations of comity between nations, the Commissioners shall treat this liquidation as a nullity, (a result which the declaration of one of the Commissioners compels me to apprehend,) your excellency will at once perceive my embarrassment, and that it will require the effectual interposition of Spain to prevent the acknowledgment of the debt under the seal of the Spanish monarchy from becoming the cause of its rejection from the treaty. Nothing but the possession of the original vouchers and all the other evidence by which the claim was sustained in Spain, can obviate this mischief; and your excellency will, I hope, for this cause, excuse the earnestness with which I entreat you, beforehand, to become my mediator with his Catholic Majesty, to obtain for me all documents, vouchers, and evidence whatsoever in the possession and under the control of Spain appertaining to my demands, that I may prepare them, in case of need, for exhibition to the Commissioners. I still do not surrender the hope that what I conceive to be the best evidence of my claim will be so considered by the Commissioners; but I cannot state with too much strength to your excellency my solicitude to possess the means of encountering a contrary determination.

I have the honor to be, &c.,

R. W. MEADE.

His Excellency Don JOAQUIN DE ANDUAGA.

PHILADELPHIA, *October* 10, 1822.

SIR: On the 4th of April last I had the honor to address to your excellency a letter enclosing copies of two notes which had passed between the Commissioners under the treaty of the 22d of February, 1819, and Mr. Adams, Secretary of State of the United States, and which appeared to affect the liquidation of my claim. I then communicated to your excellency my apprehension, arising as well from a portion of this correspondence as from declarations made by one of the Commissioners, that the acknowledgment of the debt under the seal of the Spanish monarchy might not be accepted as conclusive or satisfactory, and that I might want all the documents, vouchers, and evidence with which the justice of that liquidation had been made apparent to his Catholic Majesty, and which, in obedience to a formal requisition, I had delivered up while in Spain, entreating your excellency, at the same time, to become my mediator with your Sovereign to obtain these for me. Since my last address to your excellency nothing has occurred to allay the apprehension I then expressed; but, on the contrary, I have received a formal notice that the Commissioners, on the 27th of June, judicially made known an intention not to regard the liquidation of the Spanish Crown, but to require other proofs of the amount and justice of my claim. Though still not altogether without hope that further reflection on the subject will satisfy these gentlemen how utterly inconsistent such a course of proceeding would be with the soundest rules of evidence and the comity of friendly nations, it is incumbent upon me to prepare for the worst. Presuming that since my application to your excellency to obtain every desired instruction from his Catholic Majesty, I cannot restrain my solicitude to be informed whether I may rely upon the interposition of Spain in the production, if necessary, of the documents, vouchers, and evidence particularly referred to in my letter of April last, your excellency will, I trust, perceive in the approaching meeting of the Commissioners an apology for my present urgent inquiry.

I have the honor to be, &c.,

R. W. MEADE.

His Excellency Don JOAQUIN DE ANDUAGA.

I.

[Translated.]

Letter of the Chevalier Don Joaquin de Anduaga to R. W. Meade, dated

PHILADELPHIA, *October* 16, 1822.

SIR: I have received your letter of the 10th instant, in which you are pleased to communicate to me that the commission installed at Washington in virtue of the treaty of the 22d of February, 1819, had

judicially declared, on the 27th of June last, its intention of considering as null the liquidation made by the Spanish Government of your demands against it, and of requiring other proofs of the value and justice of said demand; and you conclude your letter by asking me whether you can depend on the interposition of Spain in your behalf, and, in case of need, of being enabled to procure and present all the documents, official proceedings, and evidence to which your letter, addressed to me in April of this year, refers.

I have been surprised beyond measure at what you are pleased to impart to me respecting the determination of the commission, and I flatter myself that it will not persist therein when it reflects on the injustice it involves, and on the libel it imports on my Government. The duty and the wishes of the commission, in the examination of your claim, can have no other object than that of convincing itself of its justice, in order to adjudicate to you its amount. To obtain this it ought to require of you the presentation of the most authentic documents known to the country in which your claim originated; and if you exhibit these, and prove them to possess the highest character of authenticity, and that they are sanctioned by the established tribunals for such purposes in that country, and by those to whom, as the heads of that Government, entire credit should be accorded, no corporations or individuals existing of higher grade, or in whom greater confidence can be placed, it is obvious that the commission cannot ask for evidences more satisfactory. Well, then, the liquidation made of your demands by the Spanish Government took place at the particular instance of the minister of the United States at Madrid; it was not the work of persons selected by the ministry of Spain, but of its most respectable tribunals; it was not investigated by one alone, but by various commissions, composed of individuals of the strictest probity, of the highest rank, and of no disposition to favor you; and finally, after the most rigorous examination, it received the sanction of the King himself. It is also well worthy of remark that, when all this was effected, it by no means appeared that the United States would assume to pay this debt; and when the liquidation which had been accomplished was communicated by the Minister of State to the minister of the United States at Madrid, he not only did not make any objection to it, but, in the name of his Government, returned his thanks, and manifested every satisfaction with it. This liquidation, thus sanctioned by his Catholic Majesty, and admitted and approved by the minister of the United States, is the one which you present to the commission; and what document can my Government give you that would be more conclusive? Will the commission place greater faith in the authentication of a notary public, or of a merchant, than in the attestation of the Council of Finance, the Supreme Tribunal of Auditors, the Treasurer General, the Minister of Finance, or, in one word, the King himself? Will the commission refuse its faith to the monarch and the constituted authorities whom the President of the United States respects? Can it be doubted that Spain would have acted with the most scrupulous exactness in forming a liquidation at a time of her greatest financial difficulties, whilst she believed herself bound to satisfy it?

Although I am persuaded that these reflections have already been made by you, I have thought it proper to premise them in order to observe that the natural consequence to be deduced from them is, that the Spanish Government will regard as a serious insult that what in Spain is acknowledged as most sacred and respectable should here be pronounced of no value; that it will never consent to have questioned the legality and purity with which your liquidation was made, and which is accompanied by all the marks of authenticity which it can give it; and in fine, though it should be practicable to reunite all the documents upon which that liquidation was made, his Catholic Majesty knows too well what is due to his own dignity, to the reputation of his ministers, and to the integrity to his tribunals, to consent that a foreign commission shall deem itself authorized to revise their decrees. With respect to every other point, you may rest assured that I am ready to exert exery good office near this Government which you may think necessary.

God preserve you many years. JOAQUIN DE ANDUAGA.

RICHARD W. MEADE, Esq.

K.

THIRD MEMORIAL.

To the Commissioners under the treaty between the United States and Spain their memorialist, Richard W. Meade, respectfully shows:

That, conformably to a wish expressed by the Commissioners at their session on the 27th of June last, he has been apprised, through the kindness of a gentleman then present, that, pursuing the idea contained in a letter addressed by the Secretary of State to the Commissioners on the 9th day of March, 1822, other proofs in support of the claim of your memorialist might be required than the acknowledgment of its justice and amount under the seal of the Spanish monarchy.

Although your memorialist cannot acquiesce in the propriety of such a requisition, and against it begs leave now to enter his respectful but solemn protest, he has most anxiously exerted himself to meet this aspect of the case, and to procure all the documents, vouchers, and evidence upon which the liquidation of his claim was effected in Spain, and was sanctioned by his Catholic Majesty. For that purpose he addressed a letter to his excellency Don Joaquin de Anduaga, minister plenipotentiary from Spain to the United States, as early as the 4th of April last, and a second letter on the 10th of October last, copies of which are hereunto annexed. To the first of his letters your memorialist received no reply, its contents necessarily requiring a delay during which communication might be had by the Spanish minister with his Government. To his second letter your memorialist received an answer under date of the 18th of October, 1822, a translated copy of which is also hereunto annexed, and the original deposited, for inspection, if necessary, in the hands of the secretary of the Commissioners. The result of the correspondence, for which your memorialist solicits particular attention, has been an entire failure to procure the required proofs after a resort to the only expedient in his power. He has thus, however, clearly evinced his own disposition to shed upon the subject every light that can be desired. Upon a former occasion he laid before the Commissioners the duplicate authenticated copies of the acknowledgment of the debt due to him both in his own right and in his representative right as the agent of others, originals of which he has now also deposited in the hands of the secretary of the Commissioners. He has likewise

left with the said secretary two official letters addressed to him by Don Bruno Ballerino, member of the Supreme Council of the Indies, and president of the board or tribunal appointed in Spain to liquidate his accounts, translated copies of which are annexed, and which attest the fact that all the original documents, vouchers, and evidence which your memorialist held were exacted from him by that tribunal, and, on the liquidation being sanctioned by the King, were transmitted to the Minister of Finance, to be forwarded to the departments to which they respectively belonged.

Your memorialist begs leave to add that, on his arrival in his native city from Spain, he deemed it his duty to address a letter to the Secretary of State, at Washington, under date of the 16th of August, 1820; and on the day following he transmitted to that gentleman translated copies of the liquidation and of the official communication made to your memorialist by the Minister of Finance in Spain, for the purpose of having the same laid before the President of the United States; and he now respectfully prays the attention of the Commissioners to the answer of the Secretary of State, a copy whereof is hereto annexed, and the original deposited with the secretary of the Commissioners, wherein it will be seen that the proper organ of the Executive Department of our Government, after a full view of the business, and with all the documents in his possession, and subject to his able scrutiny from the 18th of August to the 6th of September, not only did not intimate an objection to the time, place, form, or substance of the liquidation, but, on the contrary, offered his "*congratulations upon the adjustment of the accounts of your memorialist with the Spanish Government, and assured him that his Government felt not a little gratification in having at all contributed to the satisfactory result.*"

Your memorialist respectfully submits that his case is one of a peculiar nature. It stands alone. A formal adjudication in his favor has been made by a competent tribunal, with the sanction of the highest authority known to the laws of the country in which the claim originated, and at the express instance of his own Government; after such adjudication the result was officially communicated by the Spanish Government to the Government of the United States. These Governments interchanged sentiments of mutual satisfaction respecting it, and his own Government addressed your memorialist in strong and animated terms approving the adjustment, and assuming, with reason, some merit for having effected its accomplishment. Nor can your memorialist, with propriety, omit to mention that he presented a memorial to the President of the United States, dated on the 8th of February, 1821, which was by him laid before the Senate prior to the ratification of the treaty, in which your memorialist humbly prayed that, if it were not perfectly well understood that he was to be paid by the American Government, a declaration to that effect might be annexed to the ratification, and his claim explicitly excluded from its operation, as it was his wish to retain unimpaired the responsibility of his acknowledged debtor; and that said memorial was entered upon the journal of the Senate, and the treaty ratified.

Your memorialist considered, and does and ever must consider, the amount of his claim as a private debt, acknowledged to be due to him from Spain as such. The Government of the United States had no constitutional or legal right to cancel it, nor to exonerate Spain from her liability to pay it without themselves discharging it. The protection of his Government was asked in the exercise of his inherent right as a native citizen to do so; but, in asking that protection, he could not be supposed to confer a power arbitrarily to place your memorialist in a situation much worse than any he could possibly have been in had it never been solicited or granted. Spain declares that the debt was justly due by her, and that she has given full value for the amount to the United States, while the latter, by a solemn treaty, duly ratified, and become the law of the land, has agreed to assume and pay it. Nor is it immaterial to remember that it appears, from the documents transmitted by the Secretary of State to the Commissioners previous to November, 1821, that he officially knew, long before the original treaty was first signed at Washington, the amount claimed by your memorialist from Spain, than which the sum ascertained and fixed by the liquidation is less by between twenty and thirty thousand dollars; that these documents were on file in the Department of State, and that, of course, when the negotiation was proceeding, its conductors were aware how much was demanded, and how much they admitted and provided for. The certificate of Don Luis de Onis, one of the negotiators, filed with the secretary of the Commissioners in the case of the claim of Robert Barry, distinctly attests the object and intention of the parties to the treaty as to the claim of your memorialist, and that to embrace its entire payment was within their contemplation.

Your memorialist, therefore, respectfully suggests that, if it will be deemed right and just, though he confidently hopes it will not, to regard the Spanish liquidation as wholly null, and to revise its foundations and proofs, a resort must be had to the eleventh article of the treaty, which points out the course to be pursued in all similar cases; a course mutually agreed upon by the United States and Spain, which the Commissioners alone are competent to take, and the only one from which a satisfactory result can be reasonably expected.

And your memorialist will ever pray, &c.

R. W. MEADE.

L.

OPINION OF JUDGE WHITE IN THE CASE OF R. W. MEADE.

1. As to citizenship. Upon this point the board are not at liberty to doubt that he *is* a citizen: the proceedings of the Executive and of the Congress of the United States close this question. Both these departments of the Government interfered in his case, when confined in Spain, upon the ground of his being a citizen; and the Government of Spain yielded to their wishes, and predicated several of its acts upon the ground that he was not a subject of Spain ,but a citizen of the United States.

In the face of these acts of *both* Governments I am not at liberty to doubt his being a citizen. He is one of those intended to be provided for by the treaty, provided he has a claim upon the Spanish Government which will fall within either of the *five* clauses enumerated in the ninth article.

That he has a valid claim upon the Spanish Government; that it existed prior to the date of the treaty; and that it is *one* of *those* of which the United States *assumed* the payment, are points necessary to be established before this board can make any allowance.

To ascertain how far these propositions are supported we must recur to the proofs. They deviate into two classes: the one details matters which happened *before* the *date* of the treaty; the other, things transacted *after* its date.

As to the first:

1. Copies of several papers, five in number, which passed among the officers of the Spanish Government. From these it appears that, on the 12th of September, 1815, a royal order was passed by which all debts which weighed upon the royal treasury should be incorporated in the national debt, except such as were due to *foreigners*. That Mr. Meade and others claimed debts due to them as falling within the exception, they being *foreigners*. Whether Mr. Meade was a foreigner or not became a question. The proper officers are called upon to inquire into the matter. Under date of the 21st March, 1816, a report is made to his excellency the Captain General by Joaquin de la Pena y Santander, in which he enumerates the circumstances that would entitle Mr. Meade to the appellation of *subject* or foreigner, and says that he does not know what the *facts* are, but that he can inquire into and put them upon the record if required. On the 28th of March there is an order that it be sent back to the Assessor General of the sub-delegation, that he may extend the report accordingly. On the 26th of April, 1816, the report is made that Mr. Meade is a foreigner—in other words, a citizen of the United States; and that the debt due to him is one of the debts *assumed* in the royal order, and to be *paid*. On the 30th of April the Marquis of Casteldosius makes a similar report. On the 9th September, 1816, an official note is communicated from the Intendant to the Treasurer of the Army and of the Royal Finance of Cadiz, in which he says: "The General Treasurer of the Kingdom makes me the following communication under date of the 3d instant. The following royal order has been communicated to me, under date of August 22, by the Department of Finance: In conformity to the report of the Council of Finance, in a committee of the whole, respecting Messrs. Richard Ryan, *Richard Meade*, Francis Scotto, Richard Hackley, and Peter Charles Tupper, who, *as foreigners, solicit that their respective* claims against the royal treasury be comprehended in the exception made in favor of foreigners, as declared by the royal order of the 12th of September, 1815, his Majesty has resolved that *their debts should be paid as it was promised* to them, and according to said royal order of September 12, after the *same* are duly *liquidated*," &c.

From these documents it appears to me that Mr. Meade had *some demands* upon *the Spanish Government* prior to the 12th of September, 1815. That after that day he applied for payment. That payment was refused upon the *grounds* of the *royal order* of that date. That he insisted he fell within the exception, as he was a citizen of the United States. That the question of *foreigner* or *not* was deliberately inquired into, settled, and reported upon from the 21st March to 9th September, 1816. That during this period every officer through whose hands this matter passes acts under the conviction that the *Spanish Government is indebted* to Mr. Meade, and that the only doubt is whether the *debt* shall be *paid* as *promised*, or incorporated in the national debt. Finally, it is determined that his case is within the exception, and shall be *paid* as *promised* when *liquidated*.

It is hardly possible to suppose that these proceedings could have taken place if Mr. Meade had not a well founded claim upon the Spanish Government—at least, one which they were disposed to consider *well founded*. If he had no claim upon the treasury he would not have been told your claim cannot be *paid* as *promised*, because it must be incorporated in the national debt. The short and correct answer would have been, you have *no claim*, and therefore you will not be paid anything. It would be unreasonable to suppose that so many officers, from those in the lower Departments of the Treasury and Finance up to the King himself, would have been engaged from March to September in examining a question the determination of which would have been entirely useless if no well founded claim existed. I therefore conclude that Mr. Meade had a claim upon the Spanish Government, the payment of which had been promised: but this claim had not been liquidated, and, therefore, the precise sum due was not ascertained, nor is it known on what account Spain became indebted to him.

2. The next documents I meet with are those relating to the imprisonment of Mr. Meade. They give us this information: That during his residence in Spain he had, with the consent of all concerned, been appointed the assignee of a bankrupt's estate; that he had collected and held ready for distribution $50,000, which he ultimately paid into the royal treasury, in treasury notes, in obedience to a mandate from the proper tribunal; that the agent of the British creditors sued Mr. Meade, recovered a judgment against him, and, by intrigue, caused him to be imprisoned on the 2d May, 1816, in which state he remained until the interposition of the American Government caused a royal order for his release, dated April 20, 1818, in which are recited the circumstances under which he was imprisoned, and the sum deposited, &c.

I notice these documents for the sake of saying that the money for which Mr. Meade was imprisoned cannot be the same spoken of in the document before noticed, for many reasons.

The other documents speak of a demand which Meade had upon the treasury: these show that when Meade deposited this money he considered that he had discharged his trust, and had no concern with it afterwards.

They show a demand for Meade's own money which would be incorporated in the national debt if he is considered a subject of Spain; *these* show a demand against the treasury for money *not Meade's*, but known to all, in part, at least, to belong to British subjects, which ought not be incorporated, whether Meade is considered a subject or not.

They speak of debt due to Meade, payment of which had been promised him, but the amount unliquidated.

These relate to a specific sum deposited, which did not require any liquidation.

I therefore conclude that whatever claim Mr. Meade had upon the Spanish Government was not affected by his imprisonment or release, even if we suppose the Spanish Government paid the deposit at the time of his release, or at any time afterwards.

3. Next in order I meet with the certificate of two of the supreme junta established for the government and defence of Cadiz during the invasion of the French, to wit: Jose Manuel de Vadillo and Saloador Gazzon de Zalazor, dated July 27, 1818.

These persons, it would seem, were in a situation to know the facts of which they speak, and they testify that during the siege of Cadiz many articles were placed by Mr. Meade at the disposition of the junta, among which the most urgent and remarkable were *one hundred thousand* barrels of flour, in *two contracts*, at $15 per barrel, and that he relied upon the faith of the junta for payment, &c.

On the 6th of June, 1818, Mr. Meade addresses the Secretary of State, and observes that Spain is indebted to him in very large sums which he is anxious to have paid; that she is unable, if willing, to pay him in money; thinks by making some advance in cash he can have the whole amount paid him in lands in Florida; and wishes the sanction of the Government to that mode of procuring satisfaction. The Secretary answers that they would not approve of such an arrangement.

On the 5th of November, 1818, Mr. Meade makes a statement of the nature of his several claims upon the Spanish Government, not specifying the sum claimed under either head, and on the 17th of January, 1819, a copy of this statement is forwarded to the Secretary of this Government by Mrs. Meade, from Philadelphia.

4. On the 3d of August, 1818, the American minister in Spain advises the Secretary of State that on the 27th of July he had transmitted to Mr. Pizarro Mr. Meade's memorial, in which he asks compensation for his *sufferings* and *losses*.

5. On the 18th of January, 1819, Mr. Erving endorses to the Marquis de Casa Yrujo two memorials of Mr. Meade—the one dated January 12, in which he prays the King to appoint a commission to liquidate the several demands which he has against the Spanish Government on account of *supplies furnished for the support of its armies and otherwise* during the late war, as well as to consider of the compensation due to him for the losses and personal sufferings under a late proceeding of the council of war already declared by his Majesty to have been illegal; the second dated January 13, in behalf of John Dickson, an American citizen, and others, interested in a cargo of tobacco, sold and delivered to the Spanish Government under a solemn contract in 1815, &c., and proceeds to state that as to what more particularly concerns Mr. Meade's interest he has *undeniable claims* as a creditor upon the royal hacienda, and it cannot be doubted that his Majesty will be sensible to the value of those very important services rendered to the nation which form the ground of these claims, which give to them the most sacred character, and entitle them to the first consideration and to immediate settlement, &c.

Take these different letters, all dated before February 22, 1819, in connexion with the documents which precede them, and I cannot doubt that Mr. Meade had claims upon the Spanish Government which that Government held itself bound to satisfy. In some instances they expressly acknowledge these claims, and say they shall be *paid*, as promised, when liquidated; and do not, in any instance, deny the fact of being indebted to him when addressed upon that subject either by Mr. Meade or the American minister, when, if it had been known or believed that he was not a creditor, his claims would have been at once met by a denial of their justice. But the precise nature of these demands, the manner in which they originated, so as to be able to say whether any, and if any, what, amount would fall within the treaty, is not satisfactorily established by this proof, unless it can be collected from notarial copies.

It has been so often stated that it appears almost needless to repeat, that, to establish any claim before this board, the proposition must be supported that it is one of the claims of an American citizen to which his Government has renounced his claim upon the Spanish Government; and in order to avoid all difficulty upon this subject, there is a description of five classes of claims to which the renunciations extend.

In any case, therefore, it is of importance that the proofs should establish, not only a claim upon the Spanish Government, but that it should likewise show the nature of the claim to enable the Commissioners to ascertain whether it will fall within either of the specified classes or not.

I will not say that the proofs which I have noticed are so totally defective as to make it necessary to reject the whole claim, but I will say they are not very satisfactory as to the nature or terms of any of the contracts alluded to, and, as to most of them, so defective that it will be difficult to ascertain the sums due.

2. This makes it necessary that we should inquire into the facts which occurred after the 22d of February, 1819, the date of the treaty.

The first evidence offered is the liquidation of Mr. Meade's claim and the ascertainment of the amount due him by the officers of the Spanish Government on the 21st of May, 1820. And here a difficulty presents itself: is this evidence such as this board can notice for any purpose, and if any, for what purpose?

To form a correct opinion upon this point it is important that we should attend to dates. The treaty is dated February 22, 1819; it was soon afterwards ratified by the United States. In the treaty it is provided that if it is not ratified within six months it shall be void. On the 9th of March, 1819, Mr. Meade presents to the King a second memorial praying the appointment of Commissioners to settle with him, that of the 12th of January, 1819, not having been attended to.

On the 7th of May, 1819, the Commissioners are appointed. On the 30th of September, same year, a report is made, and the sum of near $500,000 awarded Mr. Meade as his whole claim against the Spanish Government; on the 23d of October, 1819, the King orders the report to be reconsidered; on the 15th of November there is a second report awarding the same sum; on the 19th of May, 1820, the award receives the royal approbation, and on the 20th of May, 1820, is notified to Mr. Meade. In October, (say 5th,) 1820, the Cortes advise the ratification of the treaty. The King shortly afterwards does ratify it, and on the 19th of February, 1821, it is again ratified by the President of the United States; the President and Senate having been previously notified of the settlement made with Mr. Meade and of the sum awarded him by the Spanish Government.

The first rule which I lay down as applicable to this question is, that no person, either natural or artificial, can, by *his* acknowledgments or admissions, create an obligation to be discharged by and at the expense of another unless that other has, by *some* means, authorized him to do so. If Spain did not owe this debt to Mr. Meade at the date of the treaty, but contracted it afterwards, it is not one of those renounced, and Spain is still responsible for it, not the United States, and ought therefore to be rejected, because it would prove a fact which would avail nothing. If Spain did owe it at the date of the treaty, there must have been some evidence *then existing* of the demand for which the extent of liability could be ascertained. That evidence would be better than the mere settlement with the Spanish officers, and ought to be produced. The rule is, that the best evidence in the party's possession or power ought always to be produced, or some reasonable account given why it is not. This is not, as has been argued, a contracted rule, applicable alone to the municipal courts of any one country. It is a rule founded in *reason*, not established by any statute, and applicable to *all* cases in *all* countries the judicial proceedings of which are worthy of imitation. Why is it that we notice the protest of the master of a vessel, letters written about the time of a transaction of long standing, &c.? Because from the nature of the transactions to which they allude they are likely to give a correct account of it, and the offer of them does not in itself imply that the party has it reasonably in his power to produce evidence more satisfactory, but holds it back, and offers the inferior evidence to obtain an advantage which he would lose if the better were produced.

The true rule is, that no party shall have the benefit of evidence to establish a fact, which evidence in itself implies that there is better evidence which the party could produce, by reasonable exertions, to

establish the same fact; because the not producing the better creates a presumption that it would disclose something which would deprive him of a benefit which he seeks to obtain.

Apply this rule to the present case. The claimant offers as evidence, to prove the account that Spain owed him for breach of contract at the date of this treaty, a settlement made with that Government twelve or fifteen months after its date; well, there may be some mistake in this matter; the sum awarded may be too little—it may be too much. Some of the claims set up may be such as do not fall within either of the five classes specified in this treaty. The evidence from which this settlement was made would be more satisfactory than the award: let us see this; if you do not, we must suppose that there is some one or more of the items that constitute this account which you know we cannot include in the statement we would make, and therefore you offer this less satisfactory evidence; you ought not to be allowed to use it, more especially when we see, from other documents, that you were apprised as early as February, 1821, that there might be some difficulty upon this very point, and therefore both you and the Spanish Government would be careful to preserve all the evidence and documents from which the settlement and award were made.

Again: the eleventh article of the treaty provides that the United States shall make compensation for all claims *renounced* in the ninth article to an amount not exceeding, in the whole, five millions of dollars; and to ascertain the *validity* and *full amount* of these claims Commissioners shall be appointed, &c.; that the Commissioners, upon oath, shall examine the *validity* and *amount* of each claim. Further, that they shall examine every question upon oath, and receive suitable and authentic testimony, &c., and Spain, when required, is to furnish any document in her possession necessary to elucidate any one of the claims.

To bring the claim within this treaty it must be shown to have existed before the date of the treaty. If it did exist before the treaty, and is one embraced within it, then the parties have, by mutual consent, provided for the establishment of a tribunal whose duty it is to *examine* the validity as well as the amount of the claim; but if we admit this evidence, then Spain *herself*, through her own *officers*, is still to adjudge the *validity* and *full amount* of the claim, and the Commissioners have nothing to do but follow on, and, for form's sake, reallow the claim, the *validity* and *extent* of which have been already ascertained. This, it seems to me, cannot have been the intention of the framers of this instrument.

But it may be supposed that this reasoning is unsound because this settlement and award are not the *creation* of a debt, but only an *evidence*, which the party could not procure sooner; that this debt, to this same *amount*, existed before the date of the treaty. The distinction in this case can avail nothing. As soon as Spain ceased to be *accountable* for the demand she ceased to have any control over it. She can no more create *evidence* by which the *validity* of the contract, or the *measure* of compensation for its violation is to be ascertained, than she could *create* the *contract* itself. The substance is the same, and the distinction in words only. This ought not to be considered as *suitable* evidence under this treaty, which, on its very face, leaves reason to conclude that a persuasive argument to induce the making of the award was the consideration that *not Spain*, but the *United States*, were to make the payment.

Again: it has been urged that, at the time this settlement and award were made, Spain herself was the *debtor*, and to make the compensation, because the treaty had become null, the time for its ratification having expired.

This argument is not satisfactory. When the treaty was afterwards ratified it stands as a treaty in which no time for ratification had been stipulated, and is now to be construed as a treaty dated 22d February, 1819, ratified by Spain in the fall of 1820, and by the United States in February, 1821, at times satisfactory to both parties, and the ratifications are acknowledgments by the respective parties that their negotiators had power to make the treaty upon the terms specified therein; and whether the treaty shall operate upon a particular matter from the *date* or from the *ratification*, must, in my opinion, depend upon the matter to which the stipulation relates, and the intention of the parties respecting that matter; hence, it may well happen that the same treaty may become operative upon different matters at *different periods;* upon some from the date, upon others from the time of ratification, and upon others from neither date nor time of ratification.

If the argument were sound that this can only be considered a treaty from the ratification of the parties, and not from the date, why trouble ourselves with endeavoring to draw a distinction between a contract and the evidence of a contract? We would arrive at the same conclusion by a much more simple process—that of considering the treaty as in truth *dated* on the day it was last ratified by the United States. Then the case is included by considering the *contract* and the *evidence* of it as having existed at the same time. It is true this would not be within the words, but might with plausibility be insisted upon as within the meaning of the fifth renunciation; all that would be necessary might readily be accomplished by considering the *ratification* as the *signature* of the treaty, which ought to be the case if we consider the treaty as without date.

It has been urged, with much ingenuity, that there is a difference between a contract and the evidence of it; that the one may well have existed prior to the treaty, and the other have had its existence since. In many cases I think I could see the full force of the distinction, and that, upon such *after* evidence, the mind would be well satisfied of the existence of a previous contract and its exact terms. But in this case the distinction entirely fails us; the great object is to ascertain the *contracts* which Mr. Meade had with the Spanish Government before the date of this treaty, their terms, and how far they were complied with by the respective parties; and this for the purpose of enabling us to decide upon their *validity*, and, if valid, to what extent the compensation for their violation ought to be carried. Now, if we attempt to use this document as evidence upon these points, it is impossible to avoid discovering that there is great danger of being misled by it. Attend to its contents: some of the items possibly grew out of contracts, either express or implied; others undoubtedly out of *tort*. That of the imprisonment of Mr. Meade certainly had no existence as a contract until the *time* of this award, after the date of the treaty. If we view that item as existing in the light of contract there is an end of that matter, because it must have been *tort* until merged in the award or judgment, and then the judgment being the only evidence of the contract, the contract and the evidence of it are one and the same thing, both too late to be compensated or renounced under this treaty.

Suppose we discard the idea, as we must do, of considering this item as growing out of a contract, and say it was a *tort:* the questions immediately present themselves, of what kind, and by whom committed? So far as we can at present see, the answers are, an imprisonment of Mr. Meade, and that by order of the Spanish Government itself. Under what clause of the treaty should we include this item? Not under the first renunciation, for two reasons: first, if it was an excess, it was one committed

by the Government, not by an individual; and no excesses are there provided for but those committed by subjects. Again: if it was an excess by a proper character, it was committed after 1802, and therefore not included.

Under the second, third, or fourth renunciations it is certainly not included. If under any, it would be the fifth; but that cannot be; it is a mere personal wrong; the damages would be arbitrary; we have no data from which to estimate them. Again: if the fifth would include torts, it would not be fair to include those committed by the Government itself. The first four renunciations are employed upon torts by individuals or inferior officers, and, by implication, to include the Government, the most worthy would be against the rules of construction; this wrong, and those of the like kind, the Government of the United States did not intend to renounce, nor did Spain intend they should be judged of by the Commissioners of the United States. In estimating damages for them, the temper with which the act was done, the motives, the character of the wrong-doer, are all justly taken into consideration. No sovereignty could intend that its motives, in a mere personal wrong, should be inquired into and redressed by others. If they were conscious of wrong they would redress it themselves by making such compensation as their own sense of propriety would dictate.

If, then, we take this document as evidence it would mislead us: first, by making us believe that this item grew out of a contract before the treaty; and, next, by making us include a tort which neither party intended to provide for by the treaty.

When we recur to other items we shall not be more safe. Contracts are spoken of. With whom were they made? What were their terms? In what were they to be paid, and when? All these points are material, and upon them this document is unsatisfactory. We see that upon a bill of exchange which was dishonored interest is allowed up to the time of settlement, and a part of this very amount was for the difference of exchange included in the bill. The bill comes back, and upon its nominal amount interest is calculated to the 15th November, 1819.

As to other items it is as little satisfactory. The loan is to be returned and interest upon it.

This sum is all estimated as specie. Have they, as we have sometimes had, and in some places still have, different kinds of currency? In what kind were these dealings, specie or a depreciated paper? If depreciated, how much? We ought to have information upon all these points to do that which would be just, and upon some of them it is essential we should have information which this document does not give. I cannot at present take it as evidence that would be useful in any respect. On some points I think it would mislead as to the whole of the item, on others as to a part, and, I fear, to a greater extent than we can see. I, therefore, think it ought not to be received, either as conclusive or *prima facie* evidence.

But it is argued that we ought to receive it, because our Government had an agency in procuring this settlement, and were apprised of the result before the ratification of the treaty.

It is true our minister abroad used his influence in favor of Mr. Meade, and that the Executive and Senate both knew of the settlement before the last ratification. As to the first, it was just such a case as would in all cases, it is hoped, be practiced by our minister. He lends his aid to a citizen abroad to bring his matters to such an issue as he wishes without either thinking or believing that his own country is to be in the least affected thereby; and as to the last, they seem to have been content to ratify the treaty without doing anything by which Mr. Meade's claim would be made either better or worse than the *terms* of the treaty, as it originally stood, would make it.

I cannot see that anything has been either said or done by any of those officers by which this claim is to be treated different from what it would have been if they had been entirely ignorant of this award at the time the treaty was finally ratified. Although I am unwilling to trust this evidence as at present furnishing any evidence of the validity of these contracts, their terms, or the extent of compensation for a violation of them, yet, believing as I do from the other testimony that Mr. Meade has a well founded claim, or at least a claim which the Spanish Government considered well founded, I am perfectly willing to require any document from that Government, which there is reason to think they possess, which will elucidate those transactions, and for that purpose am willing to continue the cause. If we can procure more evidence it is well; we shall have greater certainty in our ultimate decision. If we cannot procure more, we must come to the best conclusion in our power from the proofs as they now exist as to the validity of the claims and the extent of allowance.

M.

Copy of a letter from the Commissioners on the Florida treaty to the Secretary of State.

SPANISH CLAIMS, OFFICE OF THE COMMISSION, *Washington, April* 18, 1823.

SIR: Richard W. Meade, who is a claimant before us under the provisions of the treaty of the 22d February, 1819, and who represents himself to be a citizen of the United States, has, in due form, made application to us to require of the Spanish Government certain papers and documents which are considered as necessary to the establishment of his claim, and which are specified in the enclosed paper.

In consequence of this application, we are compelled to trouble you with a request that you will be pleased to adopt such means as you think proper to require of the Spanish authorities the documents referred to.

We have the honor to be, sir, very respectfully, your obedient servants,

H. L. WHITE,
WILLIAM KING,
L. W. TAZEWELL.

The SECRETARY OF STATE.

N.

Don Hilario de Rivas y Salmon to the Secretary of State, April 15, 1823.

[Translation.]

SIR: Don Richard Meade, a citizen of the United States, addressed two letters to my predecessor, his excellency Don Joaquin de Anduaga, dated the 4th of April and 10th of October, 1822, enclosing your correspondence with the Commissioners appointed in virtue of the 11th article of the treaty of the 22d of February, 1819, ratified by his Catholic Majesty, and exchanged in February, 1821, relative to the admission of certain claims which are therein mentioned. The said gentleman sent these documents to my Government, along with the answer which he made to Mr. Meade, on the 16th of October, 1822, copy of which I have the honor to enclose to you.

His Majesty has been pleased to approve and sanction the said answer to Mr. Meade, and commands me to support his claims, and to represent to you in the most friendly terms, but at the same time in the most energetic and solemn manner against all opposition which may be attempted to be made, that the particular credit which said Meade had against the Spanish nation is not satisfied, but that, in virtue of the last treaty, the Government of the United States has taken it upon itself.

This credit is in truth the only one which has been solemnly acknowledged by his Catholic Majesty. It was executed at the pressing instances of the minister of the United States at Madrid, and its acknowledgment and final liquidation took place at a time and in circumstances which do not admit the least doubt to ensue as to its legitimacy and import.

The value of the credit was represented to both Governments during the negotiation. Its liquidation could be effected only by the parties interested in the contracts, and in the damages and injuries by which an indemnification was claimed; and the investigation, with precision of the exact sum which was due, appeared to be a point of equal interest to both Governments. This was at least shown and insisted on with vigor by the Government of the United States before and after the date of the treaty; and his Catholic Majesty, when he acceded to its anxiety, desirous of shunning new causes of complaint, chose four of his counsellors from different tribunals, and commanded them to examine scrupulously and in detail all the circumstances regarding an account so complicated, and which required all the possible knowledge and intelligence of the laws of Spain and commercial regulations of the nation to be able to form a just conception of all the transaction. No subject of this nature has been ever considered so cautiously and with so much matureness, not only by the Commissioners appointed for that purpose, but latterly by the Treasurer General, by the Greater Accountant's Office, by the Minister of Finance, and, lastly, it received the sanction of his Majesty.

In these circumstances, his Majesty thinks that he ought not to see with indifference, nor remain undisturbed, when an attempt is made to invalidate an act so solemn. The Spanish nation was certainly responsible for the total amount of the acknowledged debt. The Government of the United States, by the latter ratification of the treaty, took upon itself this debt, in virtue of the fifth renunciation of the 11th (9th) article, and with a full knowledge of its amount, which had been communicated, long before the conclusion of the treaty, to the minister of the United States at Madrid by his Majesty's Secretary of State for the information of the American Government. Certainly, after all that had passed, it was not to be expected that a new investigation of the business should be judged necessary.

There cannot be a doubt that, if the treaty of the 22d of February had not been concluded, Mr. Meade would have received from the Spanish nation the total amount of his debt; and his Majesty cannot comprehend the justice of the Commissioners in having attempted, in the first place, to reject entirely this debt, as not being comprehended in the treaty, and much less could his Majesty be persuaded that so solemn an act of his Government—an act which was, in a great degree, founded upon the interposition of the American Cabinet, and which was done in good faith—would have been afterwards placed in doubt by their agents.

The slight which the Commission of Claims has endeavored to throw upon the most respectable authorities of Spain, and upon his Majesty himself, and, consequently, on the whole nation, has caused his Majesty great pain.

I have, therefore, the order of my Government to inform you that it cannot keep silence when an act so incontestable is placed in doubt, and I, beforehand, protest, solemnly and respectfully, against any decision of the Commissioners appointed in virtue of the treaty which invalidates, in any manner, the acknowledgment made by my Government of the total debt of Mr. Meade, agreeably to the certificate which they sent to him in consequence, and which is in their possession.

I have the honor to repeat to you, sir, the testimony of my distinguished and high consideration.

HILARIO DE RIVAS Y SALMON.

Mr. Adams to Mr. Salmon.

DEPARTMENT OF STATE, *Washington, April 29, 1823.*

SIR: I have had the honor of receiving your letter of the 15th instant, enclosing a copy of one bearing date the 16th of October, 1822, from Don Joaquin de Anduaga to Mr. Meade.

By the 5th specific renunciation, in the ninth article of the treaty between the United States and Spain, *signed* on the 22d of February, 1819, but ratified by his Catholic Majesty only on the 24th of October, 1820, it was provided that the renunciation, on the part of the United States, of all claims for damages or injuries sustained by themselves, or their citizens, from Spain, stipulated by the preceding part of the same article, should extend—

"To all claims of citizens of the United States upon the Spanish Government, statements of which, soliciting the interposition of the Government of the United States, have been presented to the Department of State, or to the minister of the United States in Spain, since the date of the convention of 1802, and until the *signature* of this treaty."

You will observe that the time of the *signature*, and not that of the ratification by either party, nor that of the exchange of ratifications, is expressly agreed upon as the *time* until which the claim and the

statements of them to the Department of State, or to the minister of the United States in Spain, had been received; which claims were, on the part of the United States, renounced.

The reason for fixing upon this particular *time* for the period at which the obligation of the United States to assume the payment of these claims should *terminate* is *obvious*. It was neither proper, nor could it be the intention of the parties, that they should renounce claims, or admit *statements* of them, not known to the party assuming the obligation at the time of contracting it. Whatever claims might arise, or whatever *statements* of them might be made after the *signature* of the treaty, were not, therefore, and could not, with propriety, be provided for by it.

By the eleventh article of the same treaty it was stipulated that—

"The United States, exonerating Spain from all demands *in future*, on account of the claims of their citizens, to which the renunciations herein contained extend, and considering them entirely cancelled, undertake to make satisfaction for the same to an amount not exceeding five millions of dollars. That—

"To *ascertain* the full *amount* and validity of these claims, a commission, to consist of three Commissioners, citizens of the United States, shall be appointed by the President, by and with the advice and consent of the Senate, which commission shall meet at the city of Washington, and, within the space of three years from the time of their first meeting, shall *receive*, *examine*, and *decide* upon the *amount* and *validity* of all claims included within the descriptions above mentioned;" that "the said Commissioners shall take an *oath*, or affirmation, to be entered on the record of their proceedings, for the *faithful* and diligent *discharge of their duties;*" and that "the said Commissioners shall be authorized to hear and examine, on oath, every question relative to the said claims, and to receive all suitable, authentic testimony concerning the same. And the Spanish Government shall furnish all such *documents* and elucidations as may be in their possession, *for the adjustment* of the said claims, according to the principles of justice, the laws of nations, and the stipulations of the treaty between the two parties of 27th October, 1795; the said documents to be specified when demanded at the instance of the said Commissioners."

It has been necessary to set forth, in the terms of the treaty itself, the engagements respectively contracted by the parties to it in these articles, in order to show with clearness their bearing upon the question now brought into discussion by your letter, and that of Mr. Anduaga, which is enclosed.

The claims, payment of which to a fixed and limited amount was assumed by the United States, were claims not only existing, but *statements* of which had been exhibited at the Department of State, or to the minister of the United States in Spain, *before the signature* of the treaty.

To *ascertain* the full *amount* and *validity* of those claims, Commissioners were to be appointed to act under oath, and charged with the duty to receive, examine, and *decide upon the amount and validity* of all the claims.

And the Spanish Government solemnly bound itself to furnish all such *documents* and *elucidations* as might be in their possession for the *adjustment* of the said claims.

If anything in human intention can be made clear by human language, it is that the claims provided for by the above stipulation were in the condition as they had been exhibited at the time of the *signature* of the treaty; that the authority and the trust of examining, ascertaining, and *deciding* their *amount* and *validity* was *solely* and *exclusively* committed to the Commissioners, and that the Spanish Government was and is bound to furnish them, at their demand, all documents and *elucidations* in possession of the said Government for the *adjustment* of the claims.

No transaction between any of the claimants and the Spanish Government subsequent to the signature of the treaty could be evidence to the Commissioners of the condition of the claim at the time of that signature. No appeal from the decision of the Commissioners, either to the Government of the United States or of Spain, was reserved. By the transfer to the United States of the obligation of making payment conformably to the treaty of those claims, Spain deliberately, and with full knowledge, transferred also the right of examining and deciding their amount and validity. It is to little purpose, therefore, that Mr. Anduaga's letter descants so largely upon the variety and respectability of the Spanish commissions and tribunals which, many months *after* the *signature* of the treaty, undertook to liquidate, that is, to decide upon, the amount and validity of Mr. Meade's claim upon the Spanish Government; neither the number nor the character of those Courts is at all questioned; but, from the day of the *signature* of the treaty, they had no jurisdiction to try or decide upon any of the claims the payment of which was assumed by the United States. Whatever jurisdiction they did exercise, however obligatory it might be upon his Catholic Majesty's Government, could have no effect whatever to charge the United States, or, so far as they were concerned, to change the condition of the claims, as it had been exhibited to the Government of the United States, or to their minister at Madrid, before the signature of the treaty. It had been exhibited as an unsettled and unliquidated claim; if comprised at all within the provisions of the treaty, it was an unsettled and unliquidated claim, upon which, as upon all the rest, the commission instituted under the treaty was, by the express engagement of both parties, exclusively to decide.

It is alleged by Mr. Anduaga, and repeated in substance by you, that the decision by the Spanish tribunals upon the amount and *validity* of Mr. Meade's claim, made many months after the signature of the treaty, many months even after his Catholic Majesty was bound to have ratified the same, and after its ratifications ought to have been exchanged, was given at the earnest instance of the minister of the United States in Spain, and that he, as well as the Government of the United States, expressed their satisfaction at the event. The answer to this argument is, however, furnished by Mr. Anduaga and by you. Mr. Anduaga says, "when all this was done there was no probability that the United States would be obliged to pay this debt;" that is to say, there was no probability that his Catholic Majesty would perform the express and solemn promise that he had made to ratify the treaty. Undoubtedly, when there was no probability that the United States would be charged with the payment of the debt, their Government and their minister did earnestly press the Spanish Government to do justice at least to Mr. Meade. What that justice was, what was the amount and validity of his claim upon the Spanish Government, the United States neither had nor claimed the right to decide. So far as it was an obligation to be paid by Spain, and by which no other interests of the United States, or of their citizens, could be affected, the right to decide upon it was exclusively of the resort of Spanish tribunals, and the American Government and minister naturally expressed their satisfaction at the adjustment by the Spanish Government of a claim of *one* of their citizens, in whose favor they had taken a deep and generous interest, it being always understood by them that this interest did not conflict with their duties to the people of the United States, and to all their other fellow-citizens, also claimants upon Spain, and in whose favor their Government was bound to take an interest as earnest and generous as in that of Mr. Meade.

While there was no probability that the treaty would be ratified by Spain, the adjustment by Spanish

tribunals, binding only upon Spain, could in nowise affect any other right or interest of the people of the United States, or of other American citizens, claimants upon Spain. That adjustment could in nowise charge the United States. It was an obligation of Spain, contracted *after* the signature of the treaty, and was thereby excluded, by the express terms of the treaty itself, from the number of those which the United States had, by the treaty, engaged to assume upon themselves. The cognizance taken at the time by the Spanish tribunals of this claim, and the acknowledgment of the amount and validity of this one alone, as you affirm, among many hundreds of other claims of American citizens, many of much longer standing, and all equally entitled to adjustment and liquidation, are indeed powerful arguments to prove that Mr. Meade's claim was not one of those for which Spain had intended to provide by the treaty. And this argument is strongly fortified by another, which Mr. Meade himself, and his learned counsel in this country, have urged with great force, namely, that the claims of Mr. Meade upon Spain were of a nature which, by the laws of nations and of justice, Spain could not discharge, and the United States could not renounce, by any treaty or compact between themselves. The conclusion from these arguments, if correct, undoubtedly is, that Mr. Meade's claims upon Spain were not intended to be, and even could not be, provided for by the treaty, and were therefore not included in it. If, then, the Commissioners under the treaty did, in the first instance, entertain very serious doubts whether the claim of Mr. Meade was among those provided for, or intended to be provided for by the treaty, it was to these proceedings of the Spanish Government, after the signature of the treaty, and to the argument of Mr. Meade and his counsel against the *right* of the contracting parties to the treaty to dispose of Mr. Meade's claim, that these doubts must be ascribed. It was assuredly never the intention of the Government of the United States, in that treaty, either to renounce any claim which they had not the right to assume, or to assume any claim which they had not the right to renounce; as far was it doubtless from the intention of Spain to discharge any just claim of Mr. Meade's upon her by the attempt to transfer it to a third party without his consent. Nothing can be more clear than that Spain remains at this hour bound to satisfy, to the last real, every claim acknowledged by herself to be just, and which she had not the right to transfer to a third party without the consent of the claimant.

The treaty, by its express terms, made provision only for unsettled and *unliquidated* claims. The United States assumed them, as they existed and had been exhibited at the signature of that instrument, the 22d of February, 1819. In assuming the duty of Spain to discharge those claims, the United States acquired the right, and it was, in express words, secured to them by the treaty, of ascertaining and deciding, exclusively by a commission of their own citizens, the *amount* and *validity* of each claim assumed. At the same moment when the obligation to discharge the claim attached to the United States, this exclusive right of the commission to examine and decide its amount and validity attached with it. From that moment the Spanish tribunals had no more right to examine or pass in any manner upon the claims than the tribunals of the United States had to examine and pass upon them before the signature of the treaty. This provision imported no distrust in the justice or integrity of the Spanish tribunals. It followed, as an indispensable consequence, from the engagement contracted by the United States to pay the claims.

By the treaty itself, and by the full power of Don Luis de Onis, its negotiator on the part of Spain, his Catholic Majesty was bound to ratify the treaty so that the ratification should be exchanged within six months from the day of its signature. Had this engagement been performed, Mr. Meade's claims would have remained in the same state in which they had been on the day of the signature of the treaty, unsettled and unliquidated. Mr. Meade's claims were not provided for by name, nor had any mention of them been made in the course of the negotiation. The Spanish Government was, at that time, so far from admitting that Mr. Meade had any just claim upon them that they had but very recently, at the earnest and peremptory interposition of the Government of the United States, released him from imprisonment as a defaulter to them.

The treaty remaining unratified by his Catholic Majesty, and, as Mr. Anduaga affirms, there being no probability that it would be ratified, long after the period had expired when he had promised, on his royal word, that it should be ratified, the minister of the United States at Madrid, at the earnest and repeated solicitations of Mr. Meade, certainly did urge the Spanish Government to adjust, liquidate, and satisfy his claims. From the nature of these claims his learned counsel in this country have since drawn it in question, whether the Government of the United States had any right to interpose with that of Spain in relation to them at all; and upon this question depends the other, before noticed, whether Spain could, by treaty, transfer to the United States her own obligation to pay those claims. They were claims which Mr. Meade had acquired, not in his neutral character as a citizen of the United States, but as a voluntary contractor with the Spanish Government while residing in their territory and living under their allegiance. They were, therefore, unquestionably, much less entitled to the interference of the American Government than the great mass of the claims provided for by the treaty; claims for wrongs suffered by citizens of the United States in their genuine character as such; for wrongs, in the origin of which there was no voluntary agency of their own, no forfeiture of their neutral rights, no resort but to the perfect obligation of their own Government to support them. Had the Spanish Government, at the time when the minister of the United States interposed in behalf of this claim, taken the ground of argument since assumed by Mr. Meade and his counsel; had they said, this is a claim in which the Government of the United States have no right to interfere, a question upon contracts between Mr. Meade and us while living in our territories and amenable to our laws, undoubtedly, by the principles of the rights and duties of nations universally recognized, Mr. Meade and the American Government must fain have put up with this answer as conclusive; and Mr. Meade's claim could never have been pretended to be included in the provisions of the treaty.

But no such ground was then taken, either by the Spanish Government or by Mr. Meade. So little was his reliance upon the justice of the Government with which he had contracted and under whose protection he dwelt, without the effectual interposition in his favor of the Government under which he had been born, that his entreaties for the interposition of the American minister and Government in favor of his claims were urgent and unceasing. To this interposition the Spanish Government did not object. Mr. Meade *desired* that provision for his claim should be made in the treaty which was then negotiating, and made known this desire to the Government of the United States. He was informed, in answer, that, if the treaty should be concluded, his claims would be considered and attended to, as far as might be practicable, in *common with the others;* and to this agreement he never suggested an objection till after the ratification of the treaty by Spain, nor until just at the moment before its second ratification by the United States. He *then*, to be sure, and then, for the first time, addressed the President and Senate of the

United States, calling upon them to refuse the ratification of a treaty in which the only possible indemnity of many hundreds of their fellow-citizens for their losses, to the amount of five millions of dollars, was secured; or, to make the ratification conditional, that another article should be added by which *his* claim, not as existing at the time of the signature of the treaty, but as many months after that compact ought to have been ratified by Spain, liquidated by Spanish officers, before the Spanish ratification of the treaty, should be paid to the full amount as acknowledged by them, and without being subject, like all the other claims, to the honest investigation and scrutiny of the American Commissioners; and the principal argument urged by Mr. Meade's counsel in support of this demand, that the American Government should sacrifice the acquisition of the Floridas and five millions of dollars of indemnities justly due to their citizens, whose right to the effectual support of their country was perfect, was, that his claim was of a nature that the American Government had no right to interpose with Spain in its favor at all.

If the claims of Mr. Meade upon Spain were included among those provided for by the treaty, it was, in common with all the others, to be treated like all the others, and to abide the same issue with the others. Such was the clear, unequivocal intention of both parties to the treaty; nor could the American Government, in equal justice to all the claimants, have negotiated upon any other principle. The amount of claims exhibited to them, to be provided for by the treaty, as stated by the claimants themselves, was nearly ten times the five millions which they agreed that the people of the United States should pay from the proceeds of the Florida lands to discharge them. But it was well understood that many of the claims were not even valid against Spain; that most of them were swollen by the statements far beyond what, upon a fair examination, would be found to be due; that equitable deductions from equitable claims would reduce almost all of them within very contracted dimensions; and that, for the whole mass of them, the *only* hope of the claimants was in the munificence of the treaty. They were all, by the terms of the treaty, unsettled claims. Their just amount could then be only judged of by an *estimate*, in many respects conjectural, but it was believed, upon considerations duly weighed, that, when stripped of all their appendages to naked justice, five millions of dollars would be sufficient to cover them all. As they were to be paid by the people of the United States, it was the duty of the Government to allow no larger sum than would be sufficient, in rigorous justice, to discharge them. It might happen that even the just and indisputable claims would amount to something more. In that case the claimants must consider it as a composition of their claims, the best that their Government has been able to obtain for them; and it was not doubted that they who had been from one to twenty years waiting, with very little probability of ever obtaining *anything* for their claims, would be more than contented to receive so nearly all that they could have asked, and to abandon to their country the small remainder for the salvage of the rest. But to render this principle compatible with justice to all parties, it was indispensable that all the claims should be placed upon the same footing; that all should be subjected to the close, vigilant, and rigorous scrutiny and investigation of an upright and intelligent commission of American citizens; that all should be alike submitted to their examination and decision; and that no transaction between the Spanish Government and any one of the claimants subsequent to the *signature*, but before the ratification of the treaty, should alter the character of his claim and give him an advantage, at the expense of the people of the United States and of *all* the other claimants under the treaty. If the American Government could have admitted any discrimination between the claims, and that any one should have been privileged above the rest, Mr. Meade's claim, if the present argument of his learned counsel is sound, would have been the very lowest on the list, and the least entitled to favor: since most, if not all the rest, were claims which the American Government had been, from the beginning, bound, by the duty of protection to the rights of their own citizens, to support and maintain, even, if necessary, to the issuing of reprisals; while that of Mr. Meade, incurred voluntarily by himself with the Spanish Government while domiciliated in Spain, and by transactions of no neutral character, was of a nature to leave it doubtful whether the American Government had ever possessed the right of interposing in its behalf at all.

The interest, therefore, taken by the American minister at Madrid in Mr. Meade's favor, by urging on the Spanish Government the settlement of his claims; the satisfaction that he expressed after the liquidation had been obtained; the letter of congratulation from the American Secretary of State to Mr. Meade upon the event, when informed of it by him, have not the slightest bearing upon this argument. The answer to all this is furnished by Mr. Anduaga when he says: "There was, then, *no probability* that the treaty would be ratified by Spain." The American minister and Secretary of State expected that what the Spanish tribunals had liquidated and settled the Spanish Government would pay. They knew perfectly well that no interests of the people of the United States, or of the other claimants upon Spain, could be injuriously affected by this Spanish liquidation of Mr. Meade's claims. If the treaty should be ratified, and Mr. Meade should be receivable as a claimant under it, they knew that his claims could be admitted only as provided for by the treaty, and that no intermediate transaction between him and the Spanish Government could be evidence of his claims, as they had existed and been exhibited at the *signature* of the treaty; that no decision of a Spanish tribunal could settle that which the treaty, in express terms, reserved to the exclusive decision of the American commission. If the treaty should *not* be ratified, they rejoiced that their exertions in *his* favor had been so far successful that he had a nearer prospect of obtaining satisfaction from the Spanish Government itself. Their pleasure was that of a benevolent and friendly feeling towards Mr. Meade. But the American Government had duties of a more imperious nature to others—to the people of the United States, and to all their fellow-citizens—the *other* claimants upon Spain. To them it was due that, if the treaty should be ratified, and Mr. Meade be a claimant under it, his claim should stand on the same foundation, and pass through the same ordeal with the rest. The American Government knew that it was so stipulated in the treaty, and they little expected the pretension that, by this separate transaction between him and the Spanish Government, the treaty being yet unratified, the nature of the engagements of the United States in it was changed if it ever should be ratified; that they would be bound to receive as settled claims which they had engaged to receive as unsettled, and to take the dictum of a Spanish tribunal as the decision which the treaty had trusted exclusively to an American commission.

Mr. Meade himself and the learned counsel whom he has employed in this country know better. They were the first to doubt whether his claims were provided for by the treaty at all. They clearly saw that, if provided for, it was only upon the same terms and upon the same conditions with all the rest. His memorial to the President of the United States, objecting to the ratification of the treaty, was on the avowed and only ground that it had not provided for the satisfaction of *his* claims. He demanded that the ratification of the treaty should be refused, or given upon condition that a new article should be added, providing for the payment in full of his claims; that the Floridas should be sacrificed, and the only hopes

of many hundreds of other claimants *blasted*, that *he* might be sure to receive, at the expense of the United States, payment, to the last maravedi, of what a Spanish tribunal had, since the treaty was concluded, awarded him as a debt due to him from Spain. His memorial insisted that neither Spain nor the United States had ever possessed the *right* of making, between themselves, a composition of his claims; and without being aware or mindful that, if this position was true, the irresistible conclusion from it was that they were not included in the treaty at all, and remained in full force against Spain as if the treaty had never been made, he yet required that the United States should make the ratification of this treaty *conditional* upon the assent of Spain to *another*, by which *his* claims should be distinguished from all the rest; admitted without asking questions, and paid without the deduction of a *mille*. And the principal argument for this moderate proposal was, that *his* claims upon Spain were such that the American Government has never possessed the right of interfering to support them against Spain at all.

Thus Mr. Meade himself and his learned counsel first raised the question, whether his claims were included among those provided for by the treaty; and if they failed of convincing the President and Senate of the United States of the propriety of withholding the ratification of the treaty which they had made, to exact the consent of Spain to another which they had *not* made, they conclusively proved that the United States had never been under obligations of negotiating with Spain concerning them at all; and gave plausible color, at least, to the belief that his claims, not being embraced by the provisions of the treaty, remained in all their force, acknowledged and unimpaired, to be paid, without deduction or compromise, from the Treasury of Spain.

But, after the ratifications of the treaty had been exchanged, and the commission instituted under it was organized, Mr. Meade produced before them his claims, as being among those provided for by the treaty; and when the Commissioners, in the discharge of their duty to their country, and to all the other claimants whose rights and interests were involved in the decision; when the Commissioners, yielding to the force of arguments which had been most strenuously urged by Mr. Meade himself and counsel; when the Commissioners, seeing in the treaty, which was their law, no mention of Mr. Meade's claim by name, and no description of claims with which it *could*, as a settled and liquidated claim, be embraced; when the Commissioners, men of high and irreproachable character, with the oath of God upon their souls, with no evidence before them but such as the treaty must exclude, and no argument but that of Mr. Meade and of his counsel excluding his claim from the treaty; when these Commissioners but intimated an opinion that Mr. Meade's claims were not among those submitted by the treaty to their decision, the basest and most inflammatory anonymous newspaper publications issued from a prostituted press, for the apparent purpose of intimidating, by defamation, the members of a judicial tribunal from the discharge of their trust, according to the conviction of their consciences.

Mr. Meade then, too, resorted to the Spanish minister in this country for his testimony to prove that it *had* been the intention of the Spanish Government to include his claim among those which were provided for by the treaty. That Spanish minister was not the negotiator of the treaty, nor could he, more than any other person, testify to the intention of the Spanish Government any otherwise than as appeared on the face of the treaty itself. It has already been said that, during the negotiation of the treaty, neither the name nor the claim of Mr. Meade had ever been mentioned between the negotiators; and that, when it was signed, the Spanish Government had never admitted that he had a valid claim upon them for so much as a dollar. Mr. Anduaga did, however, furnish Mr. Meade with his *opinion* that Mr. Meade's claim was embraced by the treaty, and that opinion was laid before the Commissioners. Other claims were also presented to them, involving the same question, whether *contracts* of the Spanish Government had been among the cases provided for by the treaty; and, at the application of one of the suitors, they addressed a letter to the Secretary of State suggesting their impressions that claims of that description, which the American Government had never been under any obligation to enforce, and in favor of which even their *right* to interfere might be questioned, were not included in the treaty, the main and obvious object of which was to obtain indemnity for the wrongs of American citizens entitled, beyond all question, to the full protection of their Government. This letter was laid before the President of the United States, by whose direction the answer was returned, which was conformable to the truth of the facts, and this formed the correspondence which you state to have been communicated by Mr. Meade to Mr. Anduaga, and by him to your Government.

In concluding the treaty, the American Government was well aware, and the Spanish Government could not be ignorant, that, by the laws of eternal justice, a nation has, no more than an individual, the *right* of discharging itself from the obligation of its *contracts*, by the agreement of a third party to assume them, without the consent, express or implied, of the party (whether nation or individual) with whom the contract was made.

The parties to the treaty well knew, also, that *contracts*, and liquidated, acknowledged debts are not, in their nature, subjects of negotiation, especially not of a negotiation between one of the parties with a third party not privy to the contract. The duty of a nation bound by such a contract is not negotiation, but performance.

They likewise knew that, with regard to the contracts of an individual born in one country with the Government of another, most especially when the individual contracting is domiciliated in the country with whose Government he contracts, and formed the contract voluntarily, for his own private emolument, and without the privity of the nation under whose protection he had been born, he has no claim whatsoever to call upon the Government of his nativity to espouse his claim, this Government having no right to compel that with which he voluntary contracted to the performance of that contract.

But unacknowledged, unsettled, unliquidated claims form the natural subject of negotiation; and, of all negotiation, the necessary and essential character is compromise. Of such claims, whether originating in contract or in wrong, the very application of an individual to one Government to assist him in the enforcement of his claims upon another imports, of itself, the consciousness that he cannot obtain his claims without that assistance, and makes them at once a subject of negotiation and compromise.

For such unliquidated claims alone provision was made by the fifth renunciation of the United States in the ninth article of the treaty of 22d February, 1819, which, by its terms, is limited to claims of citizens of the United States upon the Spanish Government, *statements of which, soliciting the interposition of the Government of the United States*, had been exhibited since the convention of 1802, and until the signature of the treaty.

Mr. Meade was a citizen of the United States, who, since the convention of 1802, and before the signature of the treaty, had *solicited* the interposition of the Government of the United States, and had presented some general statement of part of his claims. He had specially desired that they should be

included in the negotiation of the treaty, and had been informed of the only terms upon which they would or could be considered in that negotiation, in *common* with the other claims for which it was to provide. They were and could be known to the American Government only as unsettled and disputed claims, and the *right* to negotiate a compromise for them, in common with the rest, founded upon his own *solicitation* and the acquiescence of Spain, was not for a moment questioned; but, as an acknowledged claim, the amount and validity of which was known and admitted, and about which the United States and Spain had no right to negotiate between themselves a compromise not sanctioned by him, it certainly was not included, nor ever intended to be included, in the treaty. From the moment that Spain considers it as such, she contracts the obligation of discharging it herself as a contract, the compromise of which neither she nor the United States could rightfully negotiate between themselves without the privity of Mr. Meade; and which, not having been so negotiated, she, Spain, is bound, in honor and in justice to him, to discharge, to the last farthing, from her own Treasury.

This is what Spain can perform without injustice to others; but you will perceive, at a glance, that the Government of the United States could not, without the grossest injustice to their nation, and to all the other claimants under the treaty, admit that a transaction between Spanish tribunals and Mr. Meade, between the signature and ratification of the treaty, should change the nature of the compact between the United States and Spain, control the express terms of the treaty itself, and bind the Commissioners, charged with the duty of ascertaining and deciding the amount and validity of unliquidated claims, to take an acknowledgment in 1820 as evidence of the condition of a claim in 1819. The sum stipulated for payment, by the United States, of *all* the claims assumed, was limited to five millions of dollars. The amount due upon the whole mass might ultimately be found less, or it might exceed that sum. If it should prove less, the balance would be so much less of debt to be paid by the people of the United States. If more, a proportional deduction from the sum awarded to every claimant must be made, each of whom must make this small sacrifice to the adjustment of all these long-standing, perplexed, disputed, and, I may safely say, otherwise *desperate* demands. Those of Mr. Meade, in February, 1819, were assuredly not less desperate than the rest. To allow that a Spanish tribunal, long after the treaty ought to have been ratified, and while Spain retained the power of ratifying or rejecting it, should select this claim of Mr. Meade from all the rest, to invest it with the exclusive and invidious exemption from the scrutiny to which all others must be subjected; that it should be taken out of the treaty for examination and settlement, and cast back upon the treaty for payment in full; that it should be screened from all investigation, and privileged from all proportionable deduction; that the people of the United States, and the fund devoted to the just indemnity of many hundred claimants, should be doubly ransomed to satisfy the plenitude of that claim, and in reverence to the dignity of tribunals which, under the treaty, had no right to pass upon it at all, would be as wide from all the duties of the American Government as from the dictates of justice, and as far from its present intentions as from those of either party to the treaty at the time of its conclusion.

It was intended by the Government of the United States that Mr. Meade's claims, as then exhibited to them—unsettled, disputed claims, of a mixed character, for contracts, for losses upon exchange, for depreciation of Spanish Government paper, for interest, and for damages, all, except the first, of most uncertain amount and validity—should, in common with the other claims provided for, have the benefit of the treaty. But no stipulation of special favor to the claims of Mr. Meade, at the expense of other claimants, was or could be intended by the Government of the United States. The claim presented by Mr. Meade to the Commissioners is for an acknowledged *debt* from the Spanish Government to him, dated May, 1820, and directed to be paid *out of the funds of the Royal Finance Department*, with *interest*. To say that this is not the claim which, in February, 1819, the United States had renounced and agreed to compound, would be to say that daylight is not darkness. Mr. Meade might, with as much propriety, have purchased in the market, at its current price, any other order upon the *funds of the Royal Finance* Department, and brought it before the Commissioners as a claim provided for by the treaty, as he could this order, a part of the sum constituting which was for interest *accrued after the treaty had been signed*.

Of the obligation of the *Spanish* Government to pay Mr. Meade, *with interest*, the whole amount of this sum, acknowledged by its own tribunals to be due, there can be no doubt; but it is equally clear that it is *not* the debt which, in February, 1819, the United States had agreed to assume, to consider as cancelled, and to discharge. It was not the claim which had been exhibited, or had even existed, in February, 1819. It was a claim of a totally distinct and different character. It was a new obligation of Spain, for which no provision had been made by the treaty, and with which the United States could not, without injustice to themselves, and to all the other claimants, be charged.

By the intention of including Mr. Meade's claims among those provided for by the treaty at the time of its negotiation, the American Government had shown its kindness towards him to the utmost verge of its compatibility with their duties to others. Mr. Meade's claims, as then existing, however meritorious as against Spain, were far from being, against the United States, as deserving as many others with which they were to share the benefit of the treaty. They were claims, part of which were for supplies to support the *ally* of Spain, then, or very shortly after, the enemy of the United States—supplies to maintain a cause to which, so far as concerned Spain, the United States were neutral, but which, by its inseparable connexion with Great Britain, was the cause of that nation against Mr. Meade's country. There was no one point of view in which those claims could be considered that gave them a title to the special favor or support of the *American* Government or nation; and, by extending to them the advantages of a composition which they were enabled to effect with Spain of numerous other and far more meritorious claims, in meaning to do equal justice to all, they perhaps did more than justice to Mr. Meade.

While, therefore, your position that the Spanish nation was certainly responsible (to Mr. Meade) for the *total* amount of the acknowledged debt is indisputable, his Catholic Majesty will find, by further examination of the treaty, that the Government of the United States *did not* take upon itself, *by the latter ratification of the treaty*, nor ever in any other manner, *this debt*. The fifth renunciation of the ninth article of the treaty neither did nor could, nor was ever intended to, include this debt; and the latter ratification of the United States neither did nor could, in the slightest degree, alter the character of obligation which the United States had contracted, on the face of the treaty, on the 22d February, 1819. The fifth renunciation, upon its face and by its terms, was limited to claims stated, but unsettled, of uncertain amount and validity, as existing at the *signature* of the treaty. The ratification of the United States could no more change the import of this renunciation than it could change the words in which it was expressed. The fourth article of the treaty reserves the examination and decision of the *amount* and *validity* of *all* the claims assumed by the United States for the *exclusive* cognizance of a commission of American citizens; and whoever appears before them as a claimant under the treaty must abide by their decision, conformably

to the treaty. For all subsequent engagements, contracts, and *debts* of the Spanish Government, whether with Mr. Meade or with any other claimants, Spain, and not the United States, is chargeable. If Mr. Meade claims the benefit of the treaty, by the treaty must he submit to be judged, and according to the terms of the treaty must he receive his indemnity. If he means to resort to engagements or *debts* subsequently contracted, or to the decisions of Spanish tribunals, to Spain alone must he have recourse for satisfaction. This conclusion cannot be departed from by the Government of the United States. It is due to the plain intent and unequivocal language of the treaty; it is due to the rights and interests of the people of the United States; it is due to those of many hundreds of their citizens whose demands upon the justice of Spain were at least as strong and clear, and whose right to the support and protection of their country was at least more perfect and unequivocal than those of Mr. Meade. Special, unstipulated *favor* to him would be flagrant injustice to them.

When, therefore, in the conclusion of your letter, you beforehand solemnly and respectfully protest against any decision of the Commissioners appointed in virtue of the treaty which *invalidates*, in any manner, the *acknowledgment* made by your Government of the *total* debt of Mr. Meade, agreeably to the certificate which they sent to him in consequence, and which you state to be in possession of the Commissioners, I am directed to say in answer: First. That the Government of the United States have no more than the Government of Spain the right or authority to dictate or control the decisions of the Commissioners appointed by virtue of the treaty of the 22d of February, 1819, and that, as the United States will not assume themselves, so they will not suffer from Spain the exercise of any such dictation or control, alike repugnant to the principles of impartial justice and to that judicial independence which constitutes the excellence and the glory of the institutions both of this country and of Spain. And secondly. That there neither has been, nor is there reason to expect, any decision of the Commissioners to *invalidate*, in any manner, any *acknowledgment* by your Government of the total debt to Mr. Meade, the *validity* of any such acknowledgment being, like the obligation which it imports, for the exclusive cognizance of the Spanish Government itself, and importing neither obligation nor authority for which the United States are answerable, or the charge of which they have ever consented to assume.

I pray you, sir, to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

Don Hilario de Rivas y Salmon, *Chargé d'Affaires from Spain.*

O.

The Count Ofalia to Mr. Nelson.

[Translation.]

Palace, *March* 8, 1824.

Sir: I have laid before the King, my august master, your note of the 25th of the last month, in which you propose, for the saving of time and expense, to deliver to the legation the original documents which are here, and which may be found necessary for the settlement of the claims of American citizens, in conformity with the treaty of the 22d of February, 1819, in the place of copies of them.

His Majesty being informed, he commands me to say to you that the papers of this office (Secretaria) have been thrown into great confusion by their removal to Seville and Cadiz, whence they are expected in a few days. As soon as they shall arrive we will proceed to search for those which you demand, and all those originals whose delivery may not be inconvenient shall be at your disposal; those, also, which are found to be *not* of this character shall be furnished, that true copies of them may be had, conformably to the treaty. With this, I have the pleasure to renew to you the assurance of my distinguished consideration.

THE CONDE DE OFALIA.

Extract of a letter from the Count de Ofalia, Secretary of State, to Mr. Nelson, dated Aranjuez, May 14, 1824.

"No. 5. To his excellency the Secretary of the Department of Finance, upon the case of Mr. Richard Meade."

Count de Ofalia to the Minister of Finance.

Aranjuez, *May* 14, 1824.

By the treaty of the 22d of February, 1819, Spain obliged itself to furnish the Government of the United States of America all the documents which might be necessary for the adjustment of the reclamations of its subjects, the payment of which it remained bound for by the same treaty.

In consequence thereof, the minister plenipotentiary has claimed various papers relative to the comprobation of said reclamations, and, among them, those relating to the contracts and other affairs of Mr. Richard Meade.

In your Department there exist writings on this important affair, which, it appears, were remitted to the Department under my charge on the 24th of May, 1821, and returned on 26th of the same month, in which there are probably many of the documents that the said minister calls for, agreeably to the tenor of the annexed exposition of the American Commissioners of the 18th of April, 1823, (and which I transmit without a translation on account of the urgency with which the documents are demanded, and from the scarcity of persons in this royal residence,) the despatch of the remainder corresponding to the authorities and offices depending upon your ministry.

The King, our lord, considering, on one side, the obligation contracted by the treaty, and the benefit which has accrued to the royal finance, of being released by it from the payment of near ten millions of reals, to which the claims of Meade amounted, commands me to recommend to your excellency, in the most efficacious manner, that you will facilitate to his excellency, the aforesaid minister of the United States,

or to the person or persons that he may delegate for this purpose, the said documents, in the earliest time possible, &c. By royal order, &c. God preserve your excellency many years.

DEL CONDE DE OFALIA.

His Excellency the SECRETARY OF THE DEPARTMENT OF FINANCE.

Truly extracted. DANIEL BRENT, *Chief Clerk.*

DEPARTMENT OF STATE, *December* 14, 1824.

Extract of a letter from Mr. Nelson, Minister Plenipotentiary of the United States to Spain, to the Secretary of State, dated May 17, 1824.

"Mr. Appleton, who remained at Aranjuez two days after I left it, returned to this place last night, bringing with him the copies of the orders which have been issued from the Department of State to the several offices for supplying the papers which have been demanded under the Florida treaty."

The foregoing is a true extract. DANIEL BRENT, *Chief Clerk.*

DEPARTMENT OF STATE, *December* 14, 1824.

Extract of a letter from Mr. Nelson, Minister Plenipotentiary of the United States to Spain, to the Secretary of State, dated July 31, 1824.

"The Spanish Government seems disposed to proceed with the calls made upon them for papers; and we may now be permitted to indulge the hope that most of the records which have been asked for will be supplied before a very distant day. From this calculation I fear we must exclude the papers in Meade's case, which, being so voluminous, although entered upon by the Spanish officers apparently in good faith to supply them, seem to forbid any well founded expectation that they can be speedily furnished."

The above is a true extract. DANIEL BRENT, *Chief Clerk.*

DEPARTMENT OF STATE, *December* 14, 1824.

Certificate from Dr. Watkins of admission and rejection of R. Meade's claim, June 7, 1824.

OFFICE OF THE COMMISSION UNDER THE 11TH ARTICLE OF THE TREATY BETWEEN THE UNITED STATES AND SPAIN,
Washington, June 7, 1824.

I, Tobias Watkins, secretary of the commission under the 11th article of the treaty of the 22d of February, 1819, between his Catholic Majesty and the United States of America, being thereto requested by Richard W. Meade, Esq., do hereby certify and make known, to all whom it may concern, that, on the 6th day of January, 1822, the said Richard W. Meade presented, to be filed in the office of the said commission, in conformity with public notice, a memorial setting forth the grounds of his claim against the Spanish Government; that said memorial was, by the commission, read and considered on the 27th day of June, 1822; and on the same day, as appears by their journal of proceedings, the said memorial was "received;" which term, *received*, was used by the commission to signify that the memorial recited a claim which was considered to be included within the provisions of the treaty aforesaid; and I do further certify that, on the 29th day of May, 1824, as appears by the said journal of proceedings, the claim set forth in the said memorial, on the part of the said Richard W. Meade, was by the said commission rejected, on the alleged ground that the evidence produced was not sufficient to establish the same. In testimony of all which, and to the end that the same may be used as to the said Richard W. Meade may seem meet and proper, I have granted this present, at the place and date first above written; and have signed and sealed the same with my own proper hand and seal.

T. WATKINS,
Secretary to the Commission under the 11*th article of the treaty aforesaid.*

P.

Deposition of Don José Canga Arguelles.

[Translation.]

In the city of London, on the ninth day of the month of July, in the year one thousand eight hundred and twenty-seven, before me, Daniel Simon Merceron, notary public of this city, and in the presence of the witnesses, after subscribing, appeared the most exellent Señor Don José Canga Arguelles, Knight of the Spanish Order of Charles Third, Honorary Counsellor of State, &c., &c., who said and declared, as by these presents he doth solemnly say and declare for truth, that, in the year one thousand eight hundred and eleven, whilst he, the deponent, was Secretary of State and of the Department of Finances of Spain and the Indies, under the Regency of Cadiz, Richard W. Meade, Esq., a citizen of the United States, through his intervention and at his request, made considerable advances of money and provisions for the maintenance and subsistence of the Spanish troops. That amongst various other contracts entered into with him by Meade, during the year one thousand eight hundred and eleven and the beginning of one

thousand eight hundred and twelve, was one for twelve thousand barrels of flour, which were destined for the relief of the garrisons of Carthagena and Alicant, on the coast of the Mediterranean, and without which relief those garrisons would inevitably have surrendered to the French troops, by which they were besieged. That such contract, which amounted to two hundred and four thousand hard dollars, at the rate of seventeen hard dollars per barrel of flour, was to be paid for out of the first funds that should arrive from the American colonies; which funds were momentarily expected from Lima and Vera Cruz, but, unfortunately, the disturbances which had commenced in the American colonies were the occasion of specie not having been remitted in such large quantities as was expected, and the Regency was obliged to take possession of and appropriate the whole of the specie that arrived to other important services of the State which would not admit of delay; so that the Government, contrary to its inclination and merely from its then urgent necessity, omitted to pay Meade agreeably to the stipulations of the contract, and conformably to the right he had of demanding such payment under the most express privileges granted to him by the Cortes of the year one thousand eight hundred and twelve, which likewise recognized his claim as a national debt, by ordering and directing that the same should be punctually paid out of a moiety of the specie that might arrive from the transmarine colonies in the Spanish Treasury, and out of the duties on the specie that might arrive on account of individuals, which was ratified by the Cortes held in the city of San Fernando in the year one thousand eight hundred and thirteen, there being included in the said accounts a bill of exchange for three hundred thousand hard dollars, given to Meade on the Royal Treasury of Vera Cruz, but which was not honored for want of funds; the same being ordered to be paid in Spain, and the costs and damages to be settled and reimbursed to Meade, conformably to the laws and usages of Spain and the custom of merchants: all of which is well known to the deponent from the circumstance of his having been a deputy to the Cortes in the year one thousand eight hundred and thirteen, and having been a member of the said Commission of Finances thereof, and having energetically supported the same at the public session wherein the business was discussed. That, in the year one thousand eight hundred and fourteen, on the arrival of King Ferdinand in Spain, the Cortes were dissolved by an armed force, and the deponent, one of the deputies thereof, was arrested and imprisoned with the greatest rigor until the month of March, one thousand eight hundred and twenty; at which period the King swore to and re-established the constitution of the year one thousand eight hundred and twelve; and, in the same month, the deponent was called to Madrid, and appointed Minister of the Department of Finances of Spain and the Indies; which office was exercised by him until the month of March, one thousand eight hundred and twenty-one, as appears by public documents and by the Spanish and foreign gazettes of that period. That in the month of March, one thousand eight hundred and twenty, at the petition of Richard Meade, Esq., and after a previous investigation by a Board of Ministers, by his Majesty for that purpose specially appointed; as also, after a previous inquiry on the part of the principal Accountant's Office at the Exchequer, his Majesty sanctioned and approved of the formal liquidation of the sums that remained due to the said Meade under his contracts, advances, and services, aforesaid, and the necessary certificates were granted thereof, legalized by the deponent in his then quality of Secretary of State and of the Department of Finances, recognizing the same as a national debt without any the least reference to the treaty, which was not ratified by Spain until some mouths afterwards. That, at the period at which the document ascertaining the liquidated amount of Meade's debt against the Spanish nation was granted to him, no treaty existed between the Government of Spain and the United States of America touching the cession of the Floridas; the term therein prefixed for the ratification thereof having expired, and the same, for such reason, having been, by the minister of the United States, declared null, and as if it had never existed. That there, moreover, was another reason of infinitely more importance for the annulment of the said treaty, viz: that, by the constitution of the monarchy, it was incompetent to the King either to alien or cede by treaty or sale any part of the territory of the Spanish nation without the previous consent of the Cortes; and that, consequently, the debt of Meade was recognized and judicially substantiated by all the formalities prescribed by the laws as a national debt in the month of March, one thousand eight hundred and twenty, without any sort of reference to, or connexion with, the treaty. That, if the payment did not at that time take place, it was merely to be ascribed to the exhausted state of the Spanish Treasury at the moment of the re-establishment of the constitution, and to the enormous expenses incurred in the various expeditions sent out to the American colonies. That the Cortes having assembled in the month of July, of the said year, one thousand eight hundred and twenty, Meade, by his agent, presented a memorial praying the liquidation of his claim. In the month of October, the Cortes having proceeded to a discussion of the report of the special commission, appointed out of its members, touching the treaty of the Floridas, an account was, at the same time, given by the said commission of the claim of Meade; and it is indisputably true, that the whole of the members were unanimously convinced, by the declarations of his excellency the Secretary of State of Spain, and of his excellency the Minister Plenipotentiary of the United States of America, that, in case of the ratification thereof on the part of the Cortes, the debt of Meade was included therein, and that payment thereof ought to be made by the Government of the United States. That the deponent having read over the annexed deposition of the late Señor Don José Moreno y Guerra, deceased, with whom he was particularly acquainted, he is persuaded that everything therein by him deposed is the truth, and conformable to what passed and took place at that period. And the deponent feels it incumbent upon him solemnly to declare that the Cortes authorized, and the Spanish Government ratified, the treaty under an idea that the debt of Meade was included therein, and that the payment thereof was to be provided for by the American Government, Spain remaining exonerated of and from all results.

In testimony whereof, the said appearer hath signed with me, the said notary, and witnesses, and I have caused my notarial seal to be hereto affixed, to serve and avail where need may require, the day and year aforesaid.

JOSÉ CANGA ARGUELLES.

In testimonium veritatis.

D. S. MERCERON, *Notary Public.* [L. S.]

JUAN RICO,
GEO. ROBERTS, } *Witnesses.*

CONSULATE OF THE UNITED STATES OF AMERICA, *London.*

I, Thomas Aspinwall, consul of the United States of America for London and the dependencies thereof, do hereby make known and certify to all whom it may concern, that Daniel Simon Merceron, who hath

signed the foregoing certificate, is a notary public, duly admitted and sworn, and practicing in the city of London aforesaid, and that to all acts by him so done full faith and credit are and ought to be given in judicature and thereout.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said consulate, in London aforesaid, this seventh day of August, in the year of our Lord one thousand eight hundred and twenty-seven, and in the fifty-second year of the Independence of the United States.

[L. S.]

THOS. ASPINWALL.

The deposition of Joseph Moreno Guerra, taken at Philadelphia, before Francis Hopkinson, and by him reduced to writing, one of the Commissioners appointed to take affidavits by the Circuit Court of the United States for the district of Pennsylvania.

The said Joseph Moreno Guerra, on his solemn oath, doth depose and say: That he is a native of the town of Rumbla, province of Cordova, Andalusia, in Spain, and is aged about forty-six years and upwards; that he was duly elected from his native province a deputy to the National Cortes of Spain in the year 1820, for that and the following year 1821; and that the said Cortes assembled at Madrid on the 7th day of July, 1820; that, on or about the beginning of October, in the same year, the Cortes discussed the question relating to the treaty signed during the year before, at the city of Washington, between Spain and the United States of America, involving a cession of the two Floridas. At the same time a special committee, to whom the business of that treaty had been referred, made a report on a memorial previously presented by the agent of Richard W. Meade, of Philadelphia, in the United States, claiming an appropriation for the payment of a sum acknowledged to be due to him by his Majesty the King of Spain. This committee, in their report, informed the Cortes that, in order to decide definitively upon the claim of the memorialist, it was necessary to ascertain whether the amount of money due to Richard W. Meade, and to those who were represented by him, had been included among those claims which the Government of the United States undertook to pay, and from which it was wholly to exonerate Spain; for, if this should not prove to have been done, the debt owing to Richard W. Meade, in particular, ought immediately to be paid, as it was considered a national debt, arising either directly out of contracts or from the consequences of contracts made by him in aid of the liberty and independence of Spain at the most critical periods of the revolution; that, at the periods of those contracts, and in the full confidence that they would be fulfilled, the services of Meade had been of the most important kind; and that the sum for which payment was required had been liquidated and fixed by a special commission of counsellors appointed for that purpose by his Majesty the King, who had subsequently sanctioned and approved the settlement. In consequence of this report of the committee, it was proposed in the Cortes to address an official letter to the Secretary of State, to ascertain whether or not the sum then claimed in the memorial above mentioned had been included among those which the United States undertook to discharge. Such a letter was accordingly written, by the Secretary of the Cortes, in the usual manner, and a reply from the Secretary of State was received, stating, distinctly, that the debt due to Richard W. Meade was expressly included in the treaty; that the nature and amount of said debt were well known to the Government of the United States, as the same had been officially communicated to the American minister residing at Madrid; but that the same Government of the United States required the large cessions of lands made to the Duke of Alagon, Count Punon Rostro, and Mr. Vargas to be cancelled, considering the entire Floridas appropriated to the payment of the claims of its citizens upon the Spanish Government. In order to avoid any possible misunderstanding or mistake upon this subject, it was proposed in the Cortes that a committee of two of its members should be appointed to wait on the minister of the United States, Mr. Forsyth; and, accordingly, this deponent, with Mr. Thomas Isturio, member of the city of Cadiz, were appointed, did wait on Mr. Forsyth, and obtained from that gentleman the clear and distinct assurance that the debt due to Richard W. Meade would certainly be paid to him by the United States, if the treaty were ratified by the Spanish Government and the cessions above mentioned totally annulled.

And this deponent solemnly declares that these assurances, thus conveyed to the Cortes, and these assurances only, induced that body to annul the grants of land in the Floridas, two of which had been acknowledged valid in the treaty itself; that, had not the Cortes been perfectly satisfied, by these solemn assurances, that the national debt (as it was regarded) due to Richard W. Meade would be fully paid by the United States, it would not have consented to vacate them as respects the individuals to whom they had been made, reserving them to the Spanish nation by the law of reversion, for the express purpose of paying, by them, the debt due to the said Richard W. Meade, either by their transfer to said Meade or by sale, and with the product thereof would have paid the debt and interest.

In this debt to the said Meade, the deponent says that the Cortes took a particular interest, as it arose from contracts, the most of which had been sanctioned by the former Cortes which sat in Cadiz during the years 1811 and 1812. The Cortes deemed itself especially bound to see such engagements complied with; and the said Meade was considered as more than commonly meritorious, having been unjustly persecuted on account of the services he had rendered the Spanish nation. The deponent adds that the Cortes founded their right to vacate, as to the individual grantees, the cessions of land in Florida above referred to, and to reserve them for the nation, to be devoted to any purpose that might be deemed just and proper, upon the law called *reversion* and incorporation, well known in the history and legislation of Spain since the fourteenth century; a law which converts into national property whatever the prodigality of the monarchs might confer on their favorites, as happened with those termed Enrequenas, and with many others. This deponent has been absent from Spain during the last nine months, having left his country on the 2d day of July, 1823. He arrived at New York in October last; left the United States of America for Mexico on the 14th day of October, 1823; and he is now on his return to Spain, intending to embark from this country for Gibraltar in the course of a few days.

JOSÉ MORENO DE GUERRA.

Sworn and subscribed, April 23, 1824, before FRANCIS HOPKINSON, *Commissioner.*

A true copy. R. W. MEADE.

Deposition of Don Alvaro Florez Estrada.

[Translation.]

In the city of London, on the ninth day of the month of July, in the year one thousand eight hundred and twenty-seven, before me, Daniel Simon Merceron, notary public of this city, and in the presence of the undersigned witnesses, appeared Don Alvaro Florez Estrada, Commissary General of the Army and province of Seville, and lastly of Valencia, and late deputy to the Cortes for the province of the Asturias, in the years one thousand eight hundred and twenty and one thousand eight hundred and twenty-one, who, as well from the circumstance of his having held such office as from the particular and intimate knowledge which he had, both prior and subsequent to his election as deputy, of the just claims of citizen Richard Meade, a native of Philadelphia, against the Spanish Government, as also from the interest he took in the payment thereof, seeing the honor of his nation was compromised therein, said and declared, as by these presents he doth solemnly say and declare for truth, that, during the struggles and difficulties experienced by the Spanish nation in maintaining and carrying on the war against the Emperor Bonaparte, from the year one thousand eight hundred and eight to that of one thousand eight hundred and fourteen, the said Meade, by means of certain formal contracts and loans, without interest, facilitated and advanced to the Spanish legitimate Government considerable sums in provisions and money; that the deponent further well knows, in his late quality of Commissary General of the Army, as is equally notorious to those who, at that period, were at the head of the affairs of the Spanish nation, that the latter would have found it almost wholly impracticable to maintain and carry on such a noble achievement had it not been for the services rendered it by Meade by means of the said contracts and loans; that it is likewise well known to him, the deponent, being equally public and notorious, that the Cortes of Cadiz, for the reasons above indicated, expressly and individually declared as a sacred and national debt that which arose from the said contracts, by most strictly charging the Government with the payment of the amount of what was due to Meade out of certain funds exclusively appropriated to that object; that he, the deponent, likewise well knows that the Government, not having been able to complete the payment to Meade, on the return of his Majesty Ferdinand VII from France, acknowledged, as a national debt, the balance which Meade had against it at that period; and his Majesty, in consequence thereof, ordered the formation of a special committee, composed of members of various councils, in order that, after an examination of the whole of the original documents produced by Meade in support of his claim, they might liquidate the total amount thereof, after a previous deduction of the sums antecedently received by Meade; that the said committee, after a careful and mature examination, made a report, which, by a royal order, being referred to the Principal Accountant's Office at the Exchequer, his Majesty, after due consideration of the whole of the proceedings, ordered the most formal and authentic document to be granted and despatched in favor of Meade, and legalized by his excellency Don José Cangar Arguelles, his Secretary of State and of the Department of Finances for Spain and the Indies, whereby it appears that the Spanish Government and the nation are debtors to Richard Meade, a citizen of the United States of America, in the sum of four hundred and ninety-one thousand one hundred and fifty-three hard dollars and twelve reals vellon, which sum was the final close of the account and last result of the balance formed on the amount of the aggregate sum of what, under and by virtue of the most just vouchers, was still due and owing to him at that time. And the deponent equally well knows, as well from his being in possession of the most irrefragible proof thereof as from the circumstance of his having been a deputy to the Cortes at Madrid in the years one thousand eight hundred and twenty and one thousand eight hundred and twenty-one, and, as such, having attended the discussion and voted the approbation of the definitive treaty between his Catholic Majesty and the President of the Republic of the United States of America touching the cession of the Floridas; that, prior to the Cortes deciding on the confirmation of the said treaty, proceeding on the supposition that the cession of the Floridas was made with a view to the indemnification of certain American citizens for various sums which they asserted themselves to be creditors of the Spanish nation, they resolved to ascertain whether in the number of the latter was specifically included citizen Meade; when having ascertained, by the respectable answers of the Secretary of State of his Catholic Majesty, and of Mr. Forsyth, the minister of the United States of America, that citizen Meade was one of those specially included in the indemnification that was to be made for the Floridas, they gave their approbation to the said treaty, by virtue of which alone the same could be carried into effect. That he, the deponent, is in possession of the most indisputable proof that the Cortes of Madrid acceded to the cession of the Floridas on the basis that citizen Richard Meade should be satisfied by the Government of the United States of America for the whole of the sums that were then due and owing him on the part of the Spanish nation, as being the only recognized and liquidated debt amongst all such debts as might be included in the list of claims of the citizens of the United States which occasioned the cession of the two Floridas; and which claims, so far as regards the origin, circumstances, and amount thereof, were not so well known to the Spaniards as that of citizen Richard Meade.

In testimony whereof, the said appearer hath signed with me, the said notary and witnesses, and I have caused my notarial seal to be hereto affixed, to serve and avail where need may require, the day and year aforesaid.

ALVARO FLOREZ ESTRADA.

In testimonium veritatis.
D. S. MERCERON, *Notary Public.* [L. S.]

Witnesses:
JUAN RICO.
GEORGE ROBERTS.

CONSULATE OF THE UNITED STATES OF AMERICA, *London.*

I, Thomas Aspinwall, consul of the United States of America for London and the dependencies thereof, do hereby make known and certify to all whom it may concern, that Daniel Simon Merceron, who hath signed the foregoing certificate, is a notary public, duly admitted and sworn, and practicing in the city of London aforesaid, and that to all acts by him so done full faith and credit are and ought to be given in judicature and thereout.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said consulate, in London aforesaid, this seventh day of August, in the year of our Lord one thousand eight hundred and twenty-seven, and in the fifty-second year of the Independence of the United States.
[L. S.]

THOMAS ASPINWALL.

[To be annexed to the report in the case of R. W. Meade.]

Copy of a letter from the Commissioners under the Florida treaty to the Secretary of State.

SPANISH CLAIMS, OFFICE OF THE COMMISSION, *Washington, April* 18, 1823.

SIR: Richard W. Meade, who is a claimant before us, under the provisions of the treaty of February 22, 1819, and who represents himself to be a citizen of the United States, has, in due form, made application to us to require of the Spanish Government certain papers and documents which are considered as necessary to the establishment of his claim, and which are specified in the enclosed paper.

In consequence of this application we are compelled to trouble you with a request that you will be pleased to adopt such means as you may think proper to require of the Spanish authorities the documents referred to.

We have the honor to be, sir, very respectfully, your obedient servants,

HU. L. WHITE.
LITT. W. TAZEWELL.
WILLIAM KING.

The SECRETARY OF STATE.

Copy of a letter from the Secretary of State to Mr. Nelson, Minister Plenipotentiary of the United States to Spain.

DEPARTMENT OF STATE, *Washington, May* 13, 1823.

SIR: I enclose herewith copies of a letter received at this Department from the Commissioners under the 11th article of the treaty of the 22d February, 1819, and of a schedule, therewith transmitted, of documents and elucidations relating to the claim of R. W. Meade, required by him, and which you will demand of the Spanish Government in execution of the same 11th article of the treaty.

From a communication received from Mr. Forsyth, in a case of another similar requisition, it appears that a backwardness in furnishing these papers has been shown by the Head of the Table, or officer in the Foreign Department whose duty it was to furnish them. As the stipulation in the treaty is clear and explicit, you will press it, if necessary, with earnestness upon the good faith of the Spanish Government.

I am, with great respect, sir, your very humble and obedient servant,

JOHN QUINCY ADAMS.

Schedule of papers, documents, and vouchers relative to the sundry contracts made by R. W. Meade with the Spanish Government from July, 1809, *to May,* 1814.

FIRST ITEM.

A sum allowed for interest on the bill of $300,000 on Vera Cruz, which bill was drawn by Don Antonio Raux Romanillos, Minister of Finance, dated Cadiz, March 11, 1812, at 30 days' sight, to the order of R. W. Meade, on the Viceroy of Mexico.

Documents relative to this claim.

First. One of the original bills.

Secondly. The autos or proceedings instituted in this case by the Treasurer General, together with all the documents on the subject in the Treasury Department.

Thirdly. The autos instituted before the Intendant of Cadiz, and all the documents in that Department.

Fourthly. The autos and antecedentes in the Supreme Council of Hacienda, and all the official communications, both private and public, from the Viceroy of Mexico to the Minister of Finance, and all the other documents relative to this affair in the said Department of Finance.

Fifthly. A certificate from two respectable officers of the Government, stating what the laws of Spain are relative to bills of exchange, whether, when protested, they are not subject to damages, redrafts, and all the expenses incident to similar transactions in other countries; whether the drawer is not bound to pay the amount expressed in the bill without any regard to premium or discount allowed at the time of negotiation; whether the usual allowance of premium or discount on bills of exchange, drawn in Spain on the Americas, is not from 25 to 33⅓ per cent.; and yet, if the bill is protested, whether the drawer is not compelled to pay the full amount *expressed in the bill*, besides interest from the day of protest, with all the damages and expenses that may occur.

Sixthly. The expediente formed by the Captain General at Cadiz, as Intendant of that province, asking information from the Chamber of Commerce; from Don Benito de la Pudra, Chief of the Office of Consolidation, Don Ildefonso Ruis del Rio, and Don Mequil Lobo, as members of the Junta of Cadiz, respecting the customs and usages relative to similar bills; and the answers which were called for by the Intendant of Cadiz, to show the legal right of Mr. Meade to the full amount of the bill, with damages and interest, agreeable to the laws and usages in similar transactions.

SECOND ITEM.

For net amount of provisions delivered in virtue of a contract made with the Government, under the guarantee of Vincent Bertram de Lis, who obliged himself to pay the amount as surety of the Government, with interest, at the rate of 10 per cent. per annum, for which a judgment was obtained in the Royal Tribunal of Commerce against him, and suspended by the Captain General of Madrid, where he resided.

Documents relative to this claim.

° First. The original Treasury note.
Secondly. The autos or proceedings in the suit instituted in the Tribunal of Commerce of Cadiz.
Thirdly. The autos or proceedings in the suit instituted before the Captain General of Madrid.
Fourthly. And all the documents and official papers in the offices of the Intendant of Cadiz, Treasurer General, and of the Minister of Finance, from 1814 to the year 1819, on this subject.

THIRD ITEM.

Balance due for tobacco sold to the Superintendent of Seville in 1807 and 1808, being for a draft on Algesiras unpaid.

Documents relative to this claim.

First. The expedientes of this business, which exist in the Superintendent's Office at Seville, the Treasurer General's Office, and in the Department of the Minister of Finance.
° Secondly. The original acknowledgment of the sum due, and the certificate of the Comptroller of the Treasurer General, Don José Moreno y Martinez, dated September 11, 1811.

FOURTH ITEM.

For amount of a loan in specie of $4,000, made by R. W. Meade to the Government on the 2d March, 1811.

Documents relative to this claim.

° First. The original receipt for this sum.
Secondly. Besides the original receipt, a document is required stating the nature of the loan, and that the sum paid by Mr. Meade was in specie.
Thirdly. A certificate is also required to prove whether the whole of the loan by Government, of which this forms a part, has not since been paid in public stock, and the interest thereon allowed to those who loaned the money, through Spanish citizens or subjects.

FIFTH ITEM.

Amount of a balance due R. W. Meade for flour taken from his agent at Algesiras for the use of the citadel of Ceuta, rls. 21,067.

Document relative to this claim.

° The original papers from the municipality of Ceuta acknowledging this debt.

SIXTH ITEM.

Amount of sundry sums due by the Junta of Cadiz in 1810 for a cargo of barley destroyed by the French batteries after sale and delivery; for some deduction on rice sold, and for the expenses of the Health Office in the discharge of sundry vessels in quarantine, their cargoes being required for immediate use of the Army; which expenses, by agreement, the Junta were to pay.

Documents relative to this claim.

All the original papers relative to this claim in the Department of the Minister of Finance.

SEVENTH ITEM.

For amount of a loan or payment to the colonel of the provincial regiment of Cordova for the equipment of the regiment.

Documents relative to this claim.

° The original document of this payment is required.

The originals of the foregoing documents, marked °, were delivered by R. W. Meade to Don Bruno Vallarino, President of the Junta, appointed by his Majesty in May, 1819, on his demand; and agreeable to his official note to the Minister of Finance, were by him transmitted to that Department on the ——— day of ———, 1820, in order, as he states, to be transmitted to their respective Departments to be cancelled.

EIGHTH ITEM.

Documents relative to this claim.

First. Contract by the Director General of Rents with R. W. Meade, as agent for Captain Dickson, dated Madrid, August 10, 1815, to be found in the office of the Director General of Rents.
Secondly. A certificate of the delivery of the tobacco at Cadiz, consisting of 237 hogsheads.
Note.—In case the original documents cannot, for any motive, be furnished, authenticated copies are required.

NINTH ITEM.

Amount of flour due to James Wardrop and transferred to Mr. Meade as agent of sundry American merchants.

Documents relative to this claim.

First. A certificate from the officers of the Treasury Department of the sum actually due.

Secondly. A receipt for 660,000 reals, with the Treasurer of Cadiz's note at the bottom of the two payments, of 15,000 reals each, making 30,000 reals, and reducing the sum due to 630,000 reals vellon. This receipt was delivered to the president of the commission, Don Bruno Vallarino.

Thirdly. The autos or proceedings in the Tribunal of Commerce of Cadiz, of Don Diego Hagerty against Don Diego Wardrop; Mr. Hagerty being the first agent employed in this business; he transferred it to Mr. Meade. These proceedings prove the judgment obtained against Wardrop, with the interest awarded to be due, at the rate of 10 per cent. per annum, instead of only 6 per cent., allowed by the Commission of Liquidation at Madrid, and proves also the nature and origin of the debt.

Fourthly. Copies of the Royal Orders, also dated 24th November, 1814, 4th April and 13th June, 1815, from the Treasurer General of Rents at Cadiz, and a copy of the official letter of the Treasurer of Cadiz, Don Antonio Alonzo, to R. W. Meade, dated 22d October, 1817.

The five remaining items refer to the failure to comply with the contracts, on the part of the different Spanish Governments that ruled the country, in the absence of Ferdinand, from the year 1809 to 1814, inclusive; the great injuries and damages that resulted from a want of compliance with specific contracts and engagements, and the constant promises of full and ample compensation, whenever circumstances should permit it.

The following documents are therefore necessary.

Contract of 12th July, 1809, made by R. W. Meade, with the intervention of the sworn broker, Don Prote Alvarez Manilla, with the Treasurer General, Don Vicente Alcala Guliano, by order of the Minister of Finance, and approved by the Committee of Finance of the Supreme Junta Contract, and the deliveries made to Don José Maria Vicenty, Director of the Provisions of the Island of St. Leon, consisting of—

926 whole, and
158 half casks rice, at $7 50 per quintal;
10,014 barrels flour, at $11.

Added afterwards—

500 barrels flour,
268½ casks rice, at same prices.

The amount of the account, as per contract, $173,091 20.

Second contract.

On the 14th and 22d August, through the same broker, Don Prote Alvarez Manilla, with the Director General of Provisions—

881 barrels pork,
875 quintals beans,
1,121 quintals peas.

Amount of account, as per contract, $23,885 20.

Third contract.

Contract of 7th December, 1809, through the sworn broker, Don Prote Alvarez Manilla, with the Treasurer General, Don Vincente Alcala Guliano, and approved by the Junta Contract, and delivered to José Maria Vicenty, Director of Provisions at the Island of St. Leon—

20,000 barrels flour, at $12;
2,200 barrels pork, at $23;
3,018½ casks rice, at $7 per quintal.

Total amount of account, as per contract, $418,495 30.

Fourth contract.

Sundry contracts with the Junta of Cadiz, made in the year 1810. Two of these contracts were for one hundred thousand barrels of flour—fifty thousand barrels each contract.

The amount of the contracts with the Junta of Cadiz exceed one million nine hundred thousand dollars, and consisted of the following articles:

285 pieces creas,
2,480 fanegas barley,
2,232 quintals codfish,
900 quintals potatoes,
865 barrels pork,
951 barrels salt beef,
1,037 fanegas Indian corn,
151 quintals biscuit,
40 barrels brandy,
3,938 pipe staves for casks,
366 quintals peas,
855 quintals beans,
223 quintals cheese,
2,000 quintals soap,
14,930 quintals or cwt. rice,
109,000 barrels flour.

Contract of 9th March, 1811, made through the broker of the member, Don Luis de Rebaupierre, with Don José Perez Quintero, Treasurer General of the Kingdom, for the following articles:

12,000 barrels flour, at $15 75;
2,500 barrels beef, at $13;
2,181 barrels pork, at $23;
2,000 casks rice, at $6 50.

Amount of account presented, as per contract, $348,565 65.

Contracts of 16th July, 1811, with the Director General of Provisions, approved by the Regency on the 19th July, and made through the broker of the member, Don Luis Rebaupierre, consisting of the following articles:

25,000 barrels flour, at $15 50;
10,768 quintals rice, at $6;
1,816½ fanegas sarbones, or beans, at $6 75;
1,121 fanegas barley, at $2 90.

Amount of account presented, as per contract, $467,622 65.

Contract made under 18th December, 1811, with a commission of the Junta of Cadiz, duly authorized to that effect by the Regency, and approved of by the same on the 19th of the same month, for the following articles:

13,000 barrels flour, at $16 75;
1,500 quintals rice, at $6 50;
500 barrels salt beef, at $16;
450 barrels pork, at $22.

Amounting, as per account presented, to $245,000.

Contract of 21st January, 1812, made by the Minister of Finance, José Canga Arguelles, by order of the Cortes, for the relief of Alicante and Carthagena—

12,000 barrels flour, at $17.

Amount of account, $204,000.

Contract of 27th February, 1812, by the Junta of Cadiz, commissioned for that purpose by the Regency, and approved of by the same—

14,000 barrels flour, at $16 75;
2,500 quintals rice, at $8;
800 barrels beef, at $18;
600 barrels pork, at $24.

Amount of account furnished, as per contract, $283,300.

Contract made with the Minister of Finance, by order of the Intendant of Cadiz, Don Bernardo Elizalde, and guarantied by Vincent Bertram de Lis. The goods were delivered in August, 1813, and the receipt for them signed by Don Manuel Franco, storekeeper, on the 8th September—

2,950½ barrels flour;
567 barrels pork;
504 barrels beef.

Amount of account furnished, as per contract, $71,453 50.

Contract of 5th April, 1814, made with Don Bernardo Elizalde, Intendant of the Province of Cadiz, through the sworn broker, Don Felipe de los Hurs—

3,000 barrels flour, at $14 75;
4,000 quintals rice, at $6 50;
600 barrels beef, at $20;
450 barrels pork, at $30.

Amount of account furnished, as per contract, $94,250.

General summary of contracts.

Contract of 12th July, 1809	$173,091 20
Contract of 14th and 12th August, 1809	23,885 20
Contract of 7th December, 1809	418,495 00
Contract with Junta Supreme of Cadiz, about	1,900,000 00
Contract of 9th March, 1811	348,565 65
Contract of 16th July, 1811	467,622 65
Contract of 18th December, 1811	245,000 00
Contract of 21st January, 1812	204,000 00
Contract of 27th February, 1812	283,300 00
Contract of August, 1813	71,453 50
Contract of 5th April, 1814	94,250 00
	4,229,663 50

Documents required.

First. The preceding original contracts.

Secondly. An acknowledgment, in due form, of every one of them being faithfully complied with by R. W. Meade.

Thirdly. The correspondence of the Minister of Finance, the Marquis of Hermosos, the Director of Provisions, Don José Maria Vicenty, of Cusoria of Osio, and the Junta Superior of Cadiz, relative to the contract of 7th December, 1809.

Fourthly. The correspondence on this subject between the Minister and the Junta. The reclamation of Mr. Meade, and the acts of the Junta, to show where and how this amount was liquidated. All these papers exist, or ought to be among the archives of the Junta, handed over to the General Government when it ceased its functions, and in the Finance Department.

All the documents relative to the contract of the 9th March, 16th July, and 18th December, 1811, 21st January and 27th February, 1812, are in the archives of the Treasury General, the Director General of Provisions, and the Department of Finance.

The major part of the payments being effected in the Departments of Cadiz, Madrid, Seville, and Alicante, the particulars will be required from each Provincial Treasury of the modes and dates of payments.

The official reclamations in the Finance Department, and in the offices of the different Treasurers, will show the payments, and when and how made.

As the Treasurers were changed every year, and each one reserving his own documents, to cancel his responsibility many of the documents will have been remitted to the Auditor General's office.

A separate expediente, or process verbal, of each contract ought to exist in the Finance Department and the Treasurer General's office, relative to the various orders issued at different periods for the payments, and are required.

The representations of R. W. Meade to the Extraordinary Cortes, in session at Cadiz in July and August, 1812. The Cortes thought the business of so much importance that it occupied their attention several days in their private sessions, and they appointed a committee to examine into the business. This committee was authorized to call for papers and to cite persons, which they did. The committee finally

made a report, which is necessary, together with all the proceedings and documents presented to the Cortes. These proceedings and documents ought to be in the archives of the Cortes.

The following documents are also required:

First. The autos or proceedings commenced against Mr. Meade by Mr. Duff, the British consul, in the Tribunal of Commerce of Cadiz.

Secondly. The official letters of Mr. Duff to the Minister of Finance and the Treasurer General, on the subject of Mr. Meade, are also required.

Thirdly. All the papers and documents relative to a deposit made of large quantity of flour, made by Mr. Meade, in the hands of Mr. Duff.

Fourthly. Expediente and papers relative to a draft through the Minister of Finance, by the Treasurer General, by order of the Cortes, on the corporation of Cadiz, in September, 1812, for fifty thousand dollars, which draft remained unpaid.

Papers and documents relative to the amount awarded, to be due R. W. Meade, for his imprisonment:

First. Autos existing in the Consulado of Cadiz, and in the Supreme Tribunal of War, commenced by John McDermott against R. W. Meade, for the payment, a second time, of a sum of $52,000, deposited by order of the Tribunal of Commerce of Cadiz in the Royal Treasury of that province.

Secondly. Autos on the same subject in the office of the Captain General of Andalusia and Governor of Cadiz, relative to the imprisonment of Mr. Meade.

Thirdly. Copies of the royal orders issued through the Minister of State to the council of war on this subject.

Fourthly. Copies of the royal orders from the Minister of Finance to the council of war, particularly an official private order of Don Manuel Lopez Arango to the said council.

Continuation of documents required:

First. A certificate from the Minister of State or Finance, showing that from the year 1805 to the present period no currency existed in Spain except gold and silver, and, particularly, that no kind of paper money was in circulation, or, indeed, existed, except vales reales, which was a funded debt of the Government, bearing interest at the rate of four per cent. per annum, but which paper has nothing to do with the currency of the nation or the contracts of the Government, and was never bought, sold, or received in payment, except under special contract or agreement between individuals, the same as the funded debt of any other nation.

Secondly. A certificate from the Minister of Finance, stating the rate or rates of interest which was paid during the years 1811 and 1812, and subsequently by the Government, on moneys taken up on loan by it.

Thirdly. A certificate from the Minister of Finance, showing whether the different Governments of Spain complied with the engagements made with Mr. Meade. If they did not, what were the reasons of their not fulfilling their engagements.

Whether Mr. Meade was not entitled by law to ample compensation for the failure on the part of the Government to pay him at the different periods and in the divers modes of payment agreed on. Whether the failure proceeded from misconduct of the agents of the Government, or from circumstances not within the control of the Government.

Whether Mr. Meade was not entitled by law to interest for sums illegally detained from him by the Government and its agents.

Whether the Government has not constantly promised to make full compensation to him for the injuries he had received from want of punctuality on the part of the Government, long prior to the year 1819.

Whether the debt due to Mr. Meade was not considered as one of the most sacred nature due by the Spanish nation.

Whether the Spanish Government would not have paid to Mr. Meade the full sum awarded to be due to him, together with interest thereon till payment was effected, if the Government of the United States had not solemnly agreed to assume and pay the debt.

Whether the Royal Commission named by his Catholic Majesty, in May, 1819, to liquidate the claims of Mr. Meade, was not, in every point of view, competent to decide on the matters submitted to them; and when the award was sanctioned by his Majesty, whether it was not as binding on the nation as any judgment obtained in the supreme councils of the nation.

Whether the appointment of such a special commission or tribunal is not usual in Spain, and resorted to in cases of the highest importance, both civil and criminal. It being one of the highest prerogatives of the royal authority, the designation or appointment of a tribunal, where a demand against the nation shall be heard and decided, and whether such decisions, when approved of by the King, are not binding on the nation.

Whether the Cortes of the nation, in October, 1820, did not acknowledge the debt due to Mr. Meade, as finally settled by the commission, and send the same to the King through the Secretary of State, directing that the same should be paid to Mr. Meade; provided the same had not been assumed by the Government of the United States in the treaty about to be ratified for the cession of the Floridas.

Whether Don Luis de Onis, the minister who negotiated the treaty, did not officially inform the Government of Spain that the claim of Mr. Meade had been specifically and expressly included in the treaty. And whether Mr. Onis did not demand its insertion, by name, in the treaty, which was finally given up for State reasons alone; it not being thought proper to insert the individual name, though the fifth renunciation was inserted for the express object of including this claim.

Whether his Majesty did not in the month of August, 1818, declare, by a royal order, that compensation should be made to Mr. Meade for his unjust and illegal imprisonment from May, 1816, to May, 1818; and if so, a copy of the original document is required.

Extract of a letter from Mr. Nelson, Minister Plenipotentiary of the United States at Madrid, to Mr. Adams, Secretary of State, dated December 26, 1823.

"In the evening of the same day (25th) I received a note from the Count of Ofalia, (Narcisso Heredia,) apprising me that, during the indisposition of the Marquis of Casa Irujo, the King had appointed him (the Count) to execute the duties of First Secretary of State. Before taking leave of the Secretary, on the 18th instant, I stated to him that I was instructed to ask from the Spanish Government certain

records and documents which, by the treaty of February 22, 1819, were stipulated to be furnished on the demand of the American Government. That I would send a note specifying the papers requested, to which he promised readily to give the proper direction to insure the attention of the Spanish Government to the application. On the 19th I addressed to him a note, of which A, enclosed, is a copy, asking for the papers called for by the commission under the 11th article of the treaty: 1st. For those in the case of Messrs. Oliver, in Baltimore, which form the subject of the communication from the Department, No. 3. 2d. Those called for by the same board in the case of R. W. Meade, and which form the subject of the communication, No. 4, from the Department of State."

Extract of a letter from Mr. Nelson to the Marquis of Casa Irujo, (marked A,) dated

MADRID, *December* 19, 1823.

"The undersigned, the minister plenipotentiary of the United States of America, salutes his excellency the Marquis of Casa Irujo, his Catholic Majesty's First Secretary of State and of the Despatch, and begs to express his gratification at the readiness expressed by his excellency at their interview of the 18th instant to give his attention to the affairs of interest between the United States and Spain, which, on the part of the former, have been confided to the care of the undersigned. At the instance of the Commissioners appointed by the Government of the United States, in conformity with the treaty of 22d of February, 1819, the Secretary of State of the United States has directed the undersigned to ask of his Catholic Majesty's Government that they would furnish, as soon as possible, the documents and elucidations which are specified in the enclosed applications, and which are included in the stipulations of the aforesaid treaty. It is only necessary to add, to induce his excellency to give prompt and immediate attention to applications for records and documents under the treaty, that Commissioners appointed under it to administer justice to those whose rights and interests are secured by that instrument are delayed in their proceedings through want of these documents. Some of these boards are limited in their duration by the act of Congress creating them, and the whole exists as a heavy expense to the Government of the United States. The undersigned asks leave to add that he shall feel additional gratification if he shall be enabled, very speedily, to transmit to his Government these records on which the interests of very many individuals entirely depend."

Extract of a letter from Mr. Nelson to the Count of Ofalia, dated

MADRID, *February* 11, 1824.

"The undersigned has the honor to transmit to his excellency the Count of Ofalia the memorandum of cases in which applications have been made, under the Florida treaty, for papers and documents, in compliance with the suggestion made by his excellency in the conversation which the undersigned held with him on the 31st January ultimo, and which have not been complied with, and begs to renew the request for the most prompt furnishing of these documents, to enable the tribunals instituted under that treaty to proceed, as expeditiously as possible, in dispensing justice to those whose rights and interests are intended to be secured by the provisions of that instrument. The undersigned asks of his excellency that the legation of the United States may be furnished, from time to time, with such copies of the papers required as may be prepared at the offices; and that the delay may be avoided which would result from not supplying any until the whole can be furnished. The undersigned begs leave, also, again to suggest that the tribunals constituted in America under the treaty are limited in their duration, and that great inconvenience and injury may arise from the delay which is experienced in these applications. The undersigned hopes that the spirit of justice which was manifested in the conclusion of the Florida treaty may be still found to preside over the councils of his Catholic Majesty in their deliberations; and that the most prompt compliance with these stipulations, which are designed to secure the rights and interests of individuals, too long aggrieved by delays in the prosecution of their claims for just redress, will be accorded in the minor part which Spain has covenanted to perform in regard to these rights and interests."

"Third. In the case of *Richard Meade*, the documents which are required are specifically described in the papers accompanying the application of the 19th of December, 1823."

[Translation.]

Extract of a letter from the Count of Ofalia, Minister of Despatch and of Foreign Affairs of Spain, to Mr. Nelson, dated

ARANJUEZ, *May* 14, 1824.

"Your penetration saves me the trouble of pointing out the absolute impossibility of collecting, in a very short time, the documents which are required, either on account of their extent in some of said cases or their great number in others, especially in that of Mr. Richard Meade, as you will have observed by looking at the list which accompanies the letter of the American Commissioners of the 18th April, 1823."

Extract of a letter from Mr. Nelson to the Secretary of State, (No. 37,) dated

MADRID, *July* 31, 1824.

"The Spanish Government seems disposed to proceed with the calls made upon them for papers, and we may now be permitted to indulge the hope that most of the records which have been asked for will

MAP
of the Northern Part of the
STATE OF MAINE
and of the adjacent
BRITISH PROVINCES,

Shewing the portion of that State to which Great Britain lays claim.

Reduced from the official Map A with corrections from the latest surveys, by S.L. Dashiell, Washington 1830.

A *Northwest angle of Nova Scotia as contended for by the United States*
B *Northwest angle of Nova Scotia as contended for by Great Britain*
C *Northwesternmost head of Connecticut River, as contended for by Great Britain*
D *Northwesternmost head of Connecticut River, as contended for by the United States*

The green colour denotes the Boundary Line, as claimed by the U.S.
The red colour denotes the Boundary Line, as claimed by G.B.
The Yellow line is that of the Arbiter.

Lith. by A Hoen & Co Balto

72 71 70 69

49 48 47 46 45 44

RIVER ST. L A W R E N C E

A D A

Metis R. Metis L. Rimouski R. Metis L.

R. Trois Pistoles Green R. Du Loup Temiscouata Portage Temiscouata L. Madawaska R. Green R. Madawaska Settlement Green M

Kamouraska R. Quelle R. Canada

QUEBEC L. Orleans Rdu Sud Riviere St. Nicholas Black River Eagle Lakes

St. John R. Aigwash R. Restook R. N.W. Branch W. Branch

Hamlin's River Chaudiere River La Famine R. S.W. Branch of St. John Main Branch of St. John

Restook Mt. Chase Mt. Sebois R. Sugarloaf Mt. Mars H.

Penobscot R. Piscataquis R. Passadumkeg R. Penobscot River Boundary contended for by Great Britain in 1798

Kennebec R. Rdu Loup Megiarmette R. N. Russell Mt. S. Russell Mt. Umbazooksus Lake Umbazooksus R. East Branch Penobscot R. Peaked Mt. Katahdin Mt. Penobscot R.

Portage Bald Mt. Spencer Mt. Eberme Mt. Matawamkeg River

Mollunkie L. Moose R. Moose R. Salmon R. Jewett R. Dead R. Bigelow Mt. Amariscoggin R.

Halls Stream Indian St. Parmachenee L. Connecticut L. Connecticut River Margallaway R. Moosetocmaguntic Lake

O F

N E W H A M P S H I R E

M A I N E

Bangor Dixmont Speckled Mt. White Hills Amariscoggin River Kennebec R. Penobscot Bay Portland Casco Bay

A T L

5 10

REFERENCES.

1 *Grant to John Baker.*
2 ..... *to Herbert.*
3 ..... *to Stewart.*
4 ..... *to F. Barnard.*
5 ..... *to E. Fanning.*
6 ..... *to Main and others*

68 67 66 65 64

49

L A W R E N C E

Metis R.

C. Gaspe

C. Rosiers

T.

R.

Matapediac River

Metis L.

Beaver R.

48

BAY CHALEUR

Ristigouche River

Ristigouche

Ristigouche or Grande Fourche R.

Mamphiwoak R.

Parish of Eldon

Nipisiguit River

Green Mt.

Grand R.

N E W

MIRAMICHI BAY

47

Great Falls Salmon R.

Tobique R.

Miramichi R.

YORK CO.

Mars Hill

B

Madawaska R.

NORTHUMBERLAND

B R U N S W I C K

Fed R.

Frederickton

Grand L.

46

Monument

S.

River

Boundary contended for by Great Britain in 1798

Boundary contemplated by the Commissioners in 1798

Chipudiedeock R.

Magaguadavic R.

CHARLOTTE CO

St John

Scoudiac Lakes

R. Scoudiac or S. Croix

Joes P. 4

45

Dred I.

Campo Bello I.

Moo

Machias

Ghoudy Head

C. Manan I.

BAY OF FUNDY

Mary's Bay

N O V A S C O T I A

44

SCALE OF MILES

5 10 20 30 40 50 60 70 80

T L A N T I C O C E A N

Cape Sable

68 67 66 65 Longitude West of Greenwich

EXTRACT FROM A MAP of the British & French Dominions in NORTH AMERICA, by Jno. Mitchell.

This Map was undertaken with the approbation and at the Request of the Lord Commissioners for Trade & Plantations, and is chiefly composed from Draughts, Charts & actual surveys of different parts of his Majesty's Colonies and Plantations in America, Great Part of which have been lately taken by their Lordship's Orders & transmitted to this office, by the Governors of the said Colonies and others.

Plantation Office
Febr 13th 1755.

John Pownall
Secretary

Lith. by A. Hoen & Co. Balto.

71 70 69 68 67

49 48 47 46 45 44

NEW YORK

NEW HAMPSHIRE

MASSACHUSETTS PROVINCE

NOVA SCOTIA or ACADIE

QUEBEC

ATLANTIC

RIVER ST LAWRENCE

Bay of Chaleurs

Gaspe Bay

Bay des Chaleurs

Gaspe

Miramichi

Restigouche R.

Green I.

Basques Is

Pistole R.

Rouge

Hare I.

Pelerins

Wolves R.

Lake Medo

Carriages

R. St Paul

C. Maillard

Pt aux Canebrs

Camourasca

Ouel R.

Gr Cove

Ourangabena L.

Salmon R.

Vincelot

Orleans

St Thomas

Belleluse

Pt Levy

Beaumont

Villiers

Lobinieres

R. du Chene

Rock Cape

Becancour

Godfrey R.

R. Nicolet

R Puante

Wananoak

Sorel

Richelieu

R. Wamaska

R. St Francis

Iroquois or Richelieu R.

L. Memphremagog

Sartigan

Chaudiere

Amaquantick Road about 60m

Carriages to Quebec

R. St Johns

Carriages to Quebec

L. Kersaugo

Chenbesec L.

Penobscot or Pentagouet R.

Penobscot

Schoogun Falls

Norridgewook

Carriages from Norridgewook to Riv St Francis

Madituock R.

Kennebeck R.

Weskeeagan Riv.

Kecdusheeg

Nioue

Schacketacooks

R. Nonscot

Ft Halifax

Accomes Falls

Long Falls

Fort Western

Cushnoc Falls

Frankfort

Sheepscut R.

Sheepscut

Witchasset

Newcastle

Georges R.

Georges Ft

Masseaguas R.

Harrington

Townsend

Pentagouet Old Ft

Long I.

Bellisle R.

St Saviours

Penobscot

Fort I.

Mott I.

Ogunquit R.

Bagad R.

Frederick

Pemaquid Pt

Pemaquid R.

Monhegan I.

Seguin I.

Sheepscut Pt

Casco Bay

Winter H.

Wood I.

Porpoise

Wells B.

Wells

Kennebunk R.

Arundel

Biddeford

Fort

Saco

Scarborough

Spurwick R.

Falmouth

Casco

Marblehead

Corkain

N. Boston

Yarmouth

Brunswick Ft

Topsam

Pejepscut Falls

Richmond Ft

Royals R.

Pejepscut R.

Amariscoggin R.

L. & R. Cobesecontee

Cohasset

White Mountains

Androscoggin R.

Casumpe L.

Lake Winnepissocko

Connecticut River

Sugar R.

Gilman T.

Gerrish T.

Canterbury

Contocook

York

Phillips T.

Ossipee R.

Saco Bay

Mt Desert I.

Schoodic R.

Passamaquoddy B.

Monachegan I.

Penobscot Bay

Penobscot R.

Penobscot

Mt Desert

Schoodic

Passamaquoddy

Monachegan

Penobscot Bay

10 30

67 66 65 64 63

49 48 47 46 45 44

ST. LAURENCE

St Paul or English H

C. Chat C. Anne

Griffin Cove

Basques Is

Oziers Is

Magpie Is

Usual Channel

Mt Lewis

Lady Mountains

Gaspesians

St Peter's Cove

Coal B.

C. Gaspee

Poulo

C. Hope

Grand Cove

GULF OF ST. LAURENCE

Island Pt

Pt David

Bay Chaleur

Pepeudichi Pt

Perce

Bonaventure I.

Malbaie

Mt Camillo

Mitis

St Barnabas

Bic

Ristigouche R.

NOVA SCOTIA

Nipissigouche

R. Nippissiguit

R. Caraguet

R. Poquemouche

R. Tracadi

R. Taboquinquet

Miramichi Bay

Lake Medousa

Carriages to Canada

R. Minage

St. John's River

Ristigouchi

R. Chacody

R. Pippibougi

Richibucto R.

Cocain R.

R. Chediac

Chediac

Shepody Mountains

Petcoudiack R.

Village of Acadians

Jemseg

St. Johns Lake

R. Canabeki

Madoctec

Konsaki L.

R. Chimanusi

Shepody R.

R. Bar

Cumberland Pt

Musaquash R.

Chignecto Pt

Chignecto Bason

Apple R.

Chignecto Mines

Porcupine

Bason of Mines

Noel

Pt Edward

28 M.

R. St Croix

Annapolis R.

Fr. Inhabitants

Annapolis Royal

Pesaquid R.

Pesaquid

Hespotogan Hills

Lunenburg

Old Fort

Port Senior R.

Port Senior

Port Medway

Port Mutton

Mutton Bank

Indians

Sable R.

Saguenove R.

Bear R.

Moose R.

Milk R.

La Heve R.

Gaspereau R.

Habitant R.

Canard R.

Pero R.

C. Porcupine

Annapolis R.

Gaspereau R.

Bear R.

Fork or Horn Har.

Pagnico

Tasket R.

Horn Ledge

C. Horn or Fourchu

Cunnet Rock

Tasket Is

Teboque

C. Sable

Rosway I.

Port La Tour

C. Negro Harb.

C. Negro

Old Brazil

Barrare Pt

Seal Is

West Passage

Ragged As

Green's Har.

Port Wager

Mutton Bank

Mahone Bay

Lunenburg

Port Medway

Port La Heve

La Heve

Gaspereau R.

Canard R.

Habitant R.

Pereau R.

Cornwallis R.

Gaspereau R.

Canard R.

Habitant R.

Pereau R.

Cornwallis R.

Gulliver's Hole

Sable R.

Lat Passage

Gr Passage

Long I.

St Mary's Bay

St Mary's Harb.

C. St Mary

Lat Munan I.

Gr Munan I.

Mechisses Har

Mechisses R.

Little or Flatton R.

Otter Cove

Promet Inl.

Passamaquoddy Bay

Passamaquoddy Is

Passamaquoddy R.

R. St Croix

Carriage Hard.

Mechicar R.

Falls

C. Mispeck

St Johns

Charlebridge I.

Mushamush Cove

Poos Pt

Wolves Is

Passamaquoddy

Passamaquoddy B.

Annapolis R.

Fr. Inhabitants

Annapolis Royal

Milk R.

Moose R.

Bear

be supplied before a very distant day. From this calculation, I fear, we must exclude the papers in Meade's case, which, being so voluminous, although entered upon by the Spanish officers apparently in good faith to supply them, seem to forbid any well founded expectation that they can be very speedily furnished."

20TH CONGRESS.] No. 466. [1ST SESSION.

MITCHELL'S MAP AND MAP A OF THE NORTHEASTERN BOUNDARY OF THE UNITED STATES.

COMMUNICATED TO THE SENATE, IN EXECUTIVE SESSION, JANUARY 9, 1828.

To the Senate of the United States:

In compliance with a resolution of the Senate of the 7th instant,* I transmit herewith Mitchell's map and the map marked A, as requested by the resolution; desiring that, when the Senate shall have no further use for them, they may be returned.

JOHN QUINCY ADAMS.

WASHINGTON, *January* 9, 1828.

20TH CONGRESS.] No. 467. [1ST SESSION.

CLAIMS FOR SLAVES AND OTHER PROPERTY CARRIED AWAY BY THE FORCES OF GREAT BRITAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 11, 1828.

Mr. P. P. BARBOUR, from the Committee on the Judiciary, to whom had been referred the petition of H. P. Cathell, made the following report:

That the memorialist was employed to prosecute the claims of William Harris, Doughty Bounds, James Sampson, John H. Anderson, George Handy, and Henry Foxwell, for slaves and other property alleged to have been carried away or destroyed by the British, in violation of the first article of the treaty of Ghent. That, acting as the agent for these claimants, he wrote four letters, directed to John Hay, Esq., Washington, D. C., which were postmarked Princess Anne, Maryland, two of them dated the 6th May, 1823, the third dated on the 16th June, 1823, and the fourth on the 26th August, 1823, enclosing sundry depositions in support of the said claims, with a request that they might be examined by him, and filed in the office of the Secretary of State. In each of these letters he requested that the name of W. G. D. Worthington, Esq., might be marked with his own, upon the list of claims, as counsel for the claimants. The memorialist was mistaken in the christian name of George Hay, Esq., who had been appointed the agent, and, in consequence thereof, directed his letters to John, instead of George Hay. The difficulty in the present case, no doubt, originated in this mistake.

The memorialist represents that, about the time these letters were written, he removed from the State of Maryland, having left the claims referred to in the particular care of Mr. Worthington; but neither he nor the memorialist appears to have paid any attention to them, nor even to have inquired whether they had been placed on the definitive list from the time they were transmitted to John Hay, Esq., in 1823, until the month of November, 1827. The first intimation which the memorialist received that these claims were not upon this list was contained in a letter from Mr. Worthington to him, dated 20th November, 1827. Immediately upon the receipt of this letter the memorialist came to this city, and here found the four letters which he had directed to John Hay, Esq., in 1823, in the office of dead letters.

Under these circumstances, the memorialist asks Congress to pass a special act placing the said claims on the regular list before the board appointed to decide such claims.

By the third article of the convention concluded at St. Petersburg on the 12th July, 1822, under the mediation of the Emperor of Russia, and for the purpose of carrying into effect his decision upon the construction of the first article of the treaty of Ghent, it was stipulated that, "when the average value of slaves shall have been ascertained and fixed, the two Commissioners shall constitute a board for the examination of claims which are to be submitted to them, and they shall notify to the Secretary of State of the United States that they are ready to receive a definitive list of the slaves and other private property for which the citizens of the United States claim indemnification; *it being understood, and hereby agreed, that the commission shall not take cognizance of, nor receive, and that his Britannic Majesty shall not be required to make compensation for, any claims for private property under the first article of the treaty of Ghent not contained in the said list.*"

* IN SENATE, *January* 7, 1828.

Resolved, That the President of the United States be requested to communicate to the Senate, under such injunctions as he may judge proper, Mitchell's map, and also the agreed map, designated as map A, in the 4th article of the convention relating to the northeastern boundary of the United States.

Difficulties having arisen in the execution of this treaty, a convention was concluded at London on the 13th of November, 1826, by the first article of which "his Majesty the King of the United Kingdom of Great Britain and Ireland agrees to pay, and the United States of America agree to receive, *for the use of the persons entitled to indemnification and compensation by virtue of the said decision and convention*, the sum of twelve hundred and four thousand nine hundred and sixty dollars, current money of the United States, in lieu of, and in full and complete satisfaction for, all sums claimed or claimable from Great Britain, by any person or persons whatsoever, under the said decision and convention." From this statement of facts, the committee are of opinion they have no right to create new claimants upon this fund who were not embraced in the definitive list furnished by the Department of State to the Commissioners under the treaty of St. Petersburg. This fund clearly belongs, in the language of the last treaty, to the persons entitled to indemnification and compensation, by virtue of the decision of the Emperor of Russia and the convention concluded for the purpose of carrying it into execution. Who are those persons? The treaty of St. Petersburg answers this question. It declares, "that the commission shall not take cognizance of, nor receive, and that his Britannic Majesty shall not be required to make compensation for, any claims for private property under the first article of the treaty of Ghent not contained in the definitive list." All other claims are excluded. If, therefore, Congress were to direct the payment of any claim not embraced in that list, its amount must be taken from claimants who have a vested right to the entire fund. Should this fund, contrary to expectation, prove to be more than sufficient to satisfy all the just claims contained in the difinitive list, the surplus will then be subject to any disposition which Congress may think proper to make of it among other claimants.

It is true that Congress, at its last session, provided "that all claims which were deposited in the Department of State, and, by mistake, omitted to be placed on the definitive list," should be added thereto. Although this provision was only intended to cure a mere clerical mistake of the Department, and was in favor of claimants who, on their part, had complied with every requisition of the treaty; yet, in the opinion of the committee, it went quite as far as could be justified upon any correct principle of legislation. That case, however, can certainly not be drawn into a precedent for the purpose of sanctioning such claims as those which have been referred to the committee—claims which never reached the Department of State until several years after the definitive list had been closed and transmitted to the Board of Commissioners.

The committee also deem it proper to state that, in this case, either the memorialist or the other agent of the claimants, or perhaps both of them, have been guilty of gross negligence, having never taken any means to ascertain whether the claims which they represented had been placed upon the definitive list from the time they were first transmitted to Washington, in 1823, until late in the month of November last. If such claims could, at this late period, be added to that list, the wise provision of the seventh section of the act of the 2d March last would be defeated, and the commission could not be closed with the present session of Congress. The committee, therefore, offer the following resolution:

Resolved, That it is inexpedient to grant the prayer of the petitioner.

20TH CONGRESS.] No. 468. [1ST SESSION.

RECOVERY OF DEBTS FROM FUGITIVES TO MEXICO, AND BOUNDARY BETWEEN TEXAS AND LOUISIANA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 15, 1828.

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives of the 2d instant, requesting information respecting the recovery of debts and property in the Mexican States from persons absconding from the United States, and also respecting the boundary between the State of Louisiana and the province of Texas, I now transmit a report from the Secretary of State on the subject-matter of the resolution.

JOHN QUINCY ADAMS.

WASHINGTON, *January* 15, 1828.

DEPARTMENT OF STATE, *Washington, D. C., January* 14, 1828.

The Secretary of State, to whom has been referred, by the President, the resolution of the House of Representatives of the 2d instant, requesting him "to inform the House, if it be not incompatible with the public interest, whether any representation or arrangement to or with the Mexican Government has been made so as to enable citizens of the United States to recover debts and property belonging to them from persons absconding from the United States and taking refuge within the limits of that Government, and whether any steps have been taken to establish the boundary of the United States between the State of Louisiana and the province of Texas," has the honor to report:

That no such representation or arrangement as the above resolution describes has been made; that information reached the Department of State that some impediment existed in some parts of the Mexican States to the recovery of debts from the inhabitants due to foreigners, but the information was not very authentic; and, upon inquiry of the minister of those States residing near this Government, he stated that he was not aware of the existence of any such impediment, but that, on the contrary, he believed the tribunals of his country were open alike to foreigners and inhabitants for the recovery of their debts and the prosecution of all their rights; that, since the adoption of the above resolution, an instruction has

been addressed to the minister of the United States at Mexico to inquire into the true state of the fact and, if necessary, to make such representations or remonstrances as its actual condition may call for.

That the minister of the United States at Mexico, when he was sent on his mission, was charged with a negotiation relating to the territorial boundary between that Republic and the United States in its whole extent, and, consequently, including that portion which divides Louisiana from the province of Texas, but no definitive arrangement on that subject has been yet concluded; and it is respectfully submitted to the President that, in the present stage of the negotiation, it would be premature to publish the correspondence that has passed between the two Governments.

All which is respectfully reported.

H. CLAY.

20TH CONGRESS.] No. 469. [1ST SESSION.

AFFAIRS WITH BRAZIL.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES JANUARY 30, 1828.

To the House of Representatives of the United States:

A report from the Secretary of State, with copies of a recent correspondence betwen the Chargé d'Affaires from Brazil and him, on the subjects of discussion between this Government and that of Brazil, are transmitted to the House of Representatives, in compliance with a resolution of the House of the 2d instant.

JOHN QUINCY ADAMS.

WASHINGTON, *January* 29, 1828.

DEPARTMENT OF STATE, *Washington, January* 25, 1828.

The Secretary of State, to whom has been referred a resolution of the House of Representatives of the 2d instant, requesting the President of the United States to communicate to that House, "if the public interest permit, the recent correspondence between the Governments of the United States and Brazil, and any other documents in the Department of State connected with the subjects of discussion between the two Governments," has the honor to submit to the President the copy of a recent correspondence between the Chargé d'Affaires of Brazil and this Department upon the subjects of discussion between the two Governments.

H. CLAY.

List of papers accompanying the report of the Secretary of State of the 25th January, 1828.

Translation of a letter from Mr. Rebello to Mr. Clay, dated May 30, 1827.
Copy.—Mr. Clay to Mr. Rebello, dated May 31, 1827.
Translation.—Mr. Rebello to Mr. Clay, dated June 1, 1827.
Copy.—Mr. Clay to Mr. Rebello, dated June 2, 1827.

Mr. Rebello to Mr. Clay.

[Translation.]

WASHINGTON, *May* 30, 1827.

The undersigned, officer of the Imperial Order of the Crosiers, and charged with the affairs of his Majesty the Emperor of Brazil near the Government of the United States, has the honor to inform his excellency Mr. Henry Clay, Secretary of State for Foreign Affairs, that questions having arisen with regard to the legality or illegality of the act of detention of various American vessels that attempted (eluding, as is supposed, the blockade which the naval forces of his Majesty the Emperor of Brazil are enforcing against Buenos Ayres, according to the laws of nations) to enter that port, and, at the same time, with respect to the detention of the brig Spark, of New York, which cleared from Rio de Janeiro for Montevideo, the Government of his Majesty the Emperor of Brazil has commanded me to communicate to the Government of the United States that his Majesty the Emperor, desiring to preserve, and even to extend further, if possible, the friendly relations subsisting between the two nations, hopes that the Government of the United States, disapproving the character of the proceedings of Mr. Condy Raguet, the Chargé d'Affaires of the said States at Rio de Janeiro, in suddenly demanding his passports, may appoint a new representative to reside near his Majesty the Emperor, who, being received with the consideration due to his character, will find, in the Government of his Majesty the Emperor, the most pacific dispositions, and

will adjust, in a manner satisfactory to the Government of the United States, the questions pending with regard to the detained vessels and to the brig Spark according to the law of nations. The undersigned hopes for an answer, in writing, that the Government of the United States disapproves the conduct of Mr. Raguet, and that the said Government is ready to meet the pacific views of his Majesty the Emperor of Brazil.

The undersigned reiterates to his excellency the protestations of respect and consideration due to his excellency.

J. SILVESTRE REBELLO.

Mr. Clay to Mr. Rebello.

DEPARTMENT OF STATE, *Washington May* 31, 1827.

SIR: I have received the note which you did me the honor on yesterday to address to me, and submitted it to the President.

He is aware that, during the progress of a maritime war, the commerce of neutral nations is liable to occasional interruption and vexation. That of the United States has been frequently subject to embarrassments and aggressions, under color of Brazilian authority, prior to and during the war unhappily existing between his Majesty the Emperor of Brazil and the Republic of Buenos Ayres. When these injuries are inflicted, it is the just expectation of the neutral that prompt and full redress will be made by the belligerent upon friendly representation. The President regrets that this expectation has not been fulfilled in frequent instances of well-founded complaint on the part of citizens of the United States, urged by Mr. Raguet during his mission to the Court of the Brazils; and, particularly, that satisfaction was not promptly made for the illegal seizure and detention of the Spark under circumstances of no ordinary aggravation. Mr. Raguet's demand of his passports, in consequence of withholding that satisfaction, was without orders, and his personal act—for which he is accountable to his own Government, and that only. The President regrets an occurrence which, in Mr. Raguet's view of it, has led to an interruption at Rio Janeiro of the diplomatic relations of the two countries. But no such interruption exists at Washington, and it would have been agreeable to the President if you had been authorized and empowered to make here that indemnity due to American citizens which has been unavailingly demanded at Rio Janeiro.

The President, however, participating in the desire which the Government of the Brazils professes to preserve, and to extend, still further, if possible, the friendly relations between the two countries, charges me to say that he is disposed to render a new and signal proof of that desire, by nominating a successor to Mr. Raguet, without unnecessary delay, upon the assurance which you have given that he shall be received with the consideration due to his official character; and provided you are also authorized to give the assurance that, in all cases in which injuries have been inflicted on the property or persons of American citizens, contrary to the public law, a prompt arrangement will be made by the Government of Brazil satisfactory to that of the United States.

I pray you to accept the assurances of my distinguished consideration.

H. CLAY.

Mr. Rebello to Mr. Clay.

[Translation.]

WASHINGTON, *June* 1, 1827.

The undersigned, officer of the Imperial Order of the Croisers, and Chargé d'Affaires of his Majesty the Emperor of Brazil near the Government of the United States, has the honor to state to his excellency H. Clay, Minister and Secretary of State for Foreign Affairs, that he has received his excellency's note transmitted yesterday.

The undersigned, confiding in the certainty that a successor to Mr. Raguet will be appointed, (the absence of a representative of the Government of the United States from the Court of Rio de Janeiro being an inconvenience both to that of his Majesty the Emperor and to that of the United States,) hopes that the appointment will be made without unnecessary delay, since, without the presence of an American diplomatic agent, the Government of his Majesty the Emperor can settle no arrangements with that of the United States.

The undersigned, believing that the Government of his Majesty the Emperor scrupulously maintains the observance of public law in all its acts in relation to the Governments and individuals of other nations, feels himself authorized to assure that of the United States that, whenever that Government will make it appear that any injury has been done to the citizens of the United States or to their property under the authority of the flag of his Majesty the Emperor, full and complete indemnity will be promptly afforded, keeping always in view a strict observance of the said public law.

The undersigned, flattered by the desire expressed by his excellency the President that these arrangements should be made in this metropolis with the concurrence of the undersigned, (which may be difficult, since it is at the Court of Rio de Janeiro that are to be found the documents which will prove the justice or injustice of the proceedings,) hopes that your excellency will tender to his excellency the President, in the name of the undersigned, his respectful acknowledgments for this mark of confidence on the part of the Government of the United States—a confidence which he will endeavor to retain by promoting, as far as lies in his power, the interests of both nations and the friendly relations happily subsisting between the Government of his Majesty the Emperor and that of the United States.

The undersigned renews to his excellency the assurances of the high consideration and esteem which he entertains for his excellency.

J. SILVESTRE REBELLO.

Mr. Clay to Mr. Rebello.

DEPARTMENT OF STATE, *Washington, June* 2, 1827.

SIR: Having received and submitted to the President of the United States the official note which you did me the honor to address to me yesterday, I am directed by him to communicate to you, for the information of your Government, that, relying upon the authorized assurance which your note contains, that, on the arrival at Rio Janeiro of a successor to Mr. Raguet, a full and adequate indemnity will be promptly made for any injuries which have been committed on the public law, under color of authority derived from his Imperial Majesty the Emperor of Brazil, such a successor will be accordingly sent; and there will be no other delay than such as may be necessary to the designation of a suitable person, and to those preparations which are incident to his proceeding on the mission.

Confidently anticipating a satisfactory arrangement of all just claims of citizens of the United States upon the Government of the Emperor of Brazil, according to the assurance which has been given, the President hopes that all past unfriendly impressions will be thus entirely effaced, and that fresh vigor will be given to the amicable intercourse which both countries have so much reason to cultivate with each other.

I avail myself, with pleasure, of the occasion to renew to you assurances of my distinguished consideration.

H. CLAY.

20TH CONGRESS.] No. 470. [1ST SESSION.

TRADE WITH THE FRENCH COLONIES OF MARTINIQUE AND GUADALOUPE.

COMMUNICATED TO THE SENATE FEBRUARY 5, 1828.

To the Senate of the United States:

A resolution of the Senate, of the 9th instant, requested information relative to the trade between the United States and the colonies of France. A report from the Secretary of State, with a translation of the ordinance of the King of France, of the 5th of February, 1826, is herewith transmitted, containing the information desired by the resolution.

JOHN QUINCY ADAMS.

WASHINGTON, *January* 23, 1828.

DEPARTMENT OF STATE, *Washington, January* 15, 1828.

The Secretary of State, to whom was referred, by the President, the resolution of the Senate of the 9th instant, requesting "any information that he may possess relative to the trade between the United States and the colonies of France, showing whether the produce and manufactures of the United States, or any portion thereof, are admitted into any of those colonies in American vessels; and if so, on what terms; that is, whether any higher duties are imposed on such articles if imported in American vessels than would be payable if imported in French vessels," has the honor to report a translation of an ordinance adopted by the present King of France, of the 6th of February, 1826, to take effect the first of July following, regulating the trade and navigation of the islands of Martinique and Guadaloupe, the principal colonial possessions of France in this hemisphere: that, by the tables annexed to the ordinance, it will be seen that a number of articles, the produce of the United States, are admitted into those colonies, and the terms of their admission: that, by the third and seventh articles of the ordinance, the importation of the produce thus receivable is allowed in foreign as well as national vessels; and it is expressly declared by the seventh article that foreign vessels "shall not be subject to higher tonnage duties, port charges, payment of light money, or other charges of the same nature, than those to which national vessels shall be subject."

All which is respectfully submitted.

H. CLAY.

[Translation.]

MINISTRY OF THE MARINE AND THE COLONIES.

Ordinance of the King, authorizing the importation, by national and foreign vessels, into the islands of Martinique and Guadaloupe, of the several articles designated by the annexed tariff.

PARIS, *February* 5, 1826.

Charles, by the grace of God, King of France and Navarre, having taken into consideration the act of the Council of 30th August, 1784, concerning the commerce of the colonies with foreign nations, as also the tariffs, at present existing, of the islands of Martinique and Guadaloupe, by virtue of the acts of

our Governors; and wishing to render more uniform the commercial regulations of the said islands, and, at the same time, to extend and facilitate their foreign commercial relations in everything that is not contrary to the interests of the mother country; upon the report of the President of our Council of Ministers, and by the advice of our Superior Council of Commerce and the Colonies, we have ordered and do hereby order, as follows:

ARTICLE 1. From and after the first of July of the present year, vessels, national or foreign, will be permitted to import into the two islands of Martinique and Guadaloupe, but only at the ports hereinafter designated, the several articles of foreign produce and merchandise enumerated in the tables Nos. 1 and 2, annexed to the present ordinance.

ARTICLE 2. The only ports at which the said articles of produce and merchandise can be imported are: for Martinique—St. Pierre, Fort Royal, and Trinity. For Guadaloupe—Basseterre and Point á Pitre.

ARTICLE 3. Those said articles of produce and merchandise which are enumerated in table No. 1 shall pay, on their importation from foreign countries, the duties set forth in the said table, without distinction of flag, whether foreign or national. Articles of the same kind imported from France in French ships shall pay a duty of five centimes per hundred kilogrammes.

ARTICLE 4. The duties declared in the subjoined tariff shall neither be augmented nor diminished by any act of our Governors, nor of any other authority in the colonies; and, to this effect, we hereby issue the most positive orders.

These duties will commence on the 1st July of the present year; and from that day all other duties in the two colonies, on the articles named in the said tariff, shall cease.

ARTICLE 5. There is nothing in this order to affect the laws which fix a duty of one per cent. in the two colonies on merchandise imported from the mother country, so far as they are not named in the tables Nos. 1 and 2; the said duty of one per cent. is, on the contrary, confirmed by these presents; and we issue to the authorities of the colonies the same prohibition to make any change therein, without our express authority, transmitted through our Minister the Secretary of State for the Department of the Marine and the Colonies.

ARTICLE 6. The articles of produce and merchandise enumerated in the table No. 2 shall only be liable to a duty of five centimes per hundred kilogrammes, without regard to the flag under which they may be imported. The authorities of the colonies are prohibited from making any change herein.

ARTICLE 7. Foreign vessels importing the articles of produce and merchandise authorized by this ordinance shall not be subject to higher tonnage duties, port charges, payments of light-money, or other charges of the same nature, than those to which French vessels shall be subject.

ARTICLE 8. No article of merchandise other than those named in the tables Nos. 1 and 2 shall be imported, either in foreign vessels or French vessels coming from any foreign country, under pain of confiscation of vessel and cargo.

ARTICLE 9. No foreign vessel, nor any French vessel coming from foreign countries, though laden with articles the importation of which is permitted, can, except in cases of distress, which must be legally proved, enter any other than the ports opened by this ordinance, under pain of confiscation.

ARTICLE 10. The articles enumerated in the tables Nos. 1 and 2 can, as well as all merchandise coming from France, be re-exported from one colony to the other, but in French vessels only. They shall there be received free of all duties: *Provided always*, That the importer of the articles liable to duty, which are enumerated in the statement No. 1, shall make it manifest that the duties have been paid upon the said merchandise in the colony into which it was first imported.

ARTICLE 11. Foreign as well as French vessels may export to foreign countries free of all duties, but only through the ports opened by Article 2, the articles of produce and merchandise imported into the two colonies, whether from France or other countries.

ARTICLE 12. There is nothing in this to affect the products of the two colonies, of which the exportation is not permitted but to France, and by French vessels. But those said products of which the exportation to foreign nations is or shall be ultimately permitted shall not be subject, when exported in foreign vessels, to higher duties than when exported in French vessels.

ARTICLE 13. The duties mentioned in Article 5, which shall be collected in our colonies on French merchandise, shall continue to be refunded when the same merchandise shall be re-exported from the colonies under any flag whatever.

ARTICLE 14. Whenever imperious and extraordinary circumstances shall make it appear to our Governors, of either colony, that an immediate supply of foreign flour is indispensable, it shall be effected with the forms hereby indicated, which are to be strictly enforced:

1st. The Governor shall convoke a Privy Council, to which, besides the persons who commonly compose it, shall be called three captains of merchant vessels belonging to ports of France. These three captains shall be selected by the captains of the French ships anchored in the ports of the colony open to foreign commerce.

2d. To this Council shall be given in writing: 1st, the rates or price of flour in the principal towns of the colony; 2d, a statement of the quantity in the colony; and 3d, an estimate of the quantity expected from France.

3d. There shall be drawn up minutes of the sittings, in which shall be entered the three documents described in the preceding article. Moreover, the minutes shall exhibit an exact account of the opinions of each of the members called to the council.

4th. These facts being ascertained, and all remarks heard, the Governor, if he thinks it necessary, shall authorize the importation of a certain quantity of foreign flour, which shall not, in any event, exceed four thousand barrels. The power to effect and complete this importation shall in no case extend for a longer period than three months.

5th. Foreign flour, of which the importation may be so permitted, shall pay a duty of 21 francs 50 centimes per barrel of 90 kilogrammes. It is positively prohibited to the Governors to grant, in any case, or under any pretext whatever, an abatement or remission of said duty.

6th. It is equally prohibited to the Governors to give permits or licenses to individuals. Their ordinance shall specify the quantity of foreign flour permitted to be imported, and the period at which the said power of importation shall entirely cease.

That ordinance shall be published and posted up (affichée) in the usual manner, and, as soon as it arrives in France, shall be made public through the Moniteur, as well as the extract from the minutes, showing the rates and quantity of flour in the colonies at the time when the ordinance issued.

ARTICLE 15. The act of August 30, 1784, and all other regulations in operation, shall continue in force as to so much thereof as is not repealed by the present ordinance, or by anterior acts.

ARTICLE 16. The President of our Council of Ministers, and our Minister the Secretary of State for the Marine and the Colonies, are severally charged with the execution of the present ordinance, which shall be inserted in the Bulletin of the Laws.

Given at Paris, at our Palace of the Tuilleries, the 5th February, A. D. 1826, and of our reign the second.

CHARLES.

By the King:

JH. DE VILLELE, *President of the Council of Ministers.*

TABLE No. 1.

Foreign merchandise of which the importation is permitted into the islands of Martinique and Guadaloupe, in payment of the duties hereinafter set forth.

Live stock, 10 per cent. ad valorem.
Salt beef, 15 francs per hundred kilogrammes.
Hoop poles, 10 francs per thousand.
Dried pulse, 3 francs 50 centimes per hectolitre.
Indian corn, in grain, 2 francs per hectolitre.
Cod and other salt fish, 7 francs per hundred kilogrammes.
Rice, 7 francs per hundred kilogrammes.
Salt, 5 francs per hundred kilogrammes.
Tobacco, 7 per cent. ad valorem.
Wood of all kinds, excepting hoop poles, comprising shingles, planks, and staves, 4 per cent. ad valorem.
Pitch, tar, and other resinous extracts of the pine, spruce, and larch, 4 per cent. ad valorem.
Mineral coal, 4 per cent. ad valorem.
Raw hides, in the hair, 4 per cent. ad valorem.
Forage, green and dry, 4 per cent. ad valorem.
Table fruits, 4 per cent. ad valorem.
Garden seeds, 4 per cent. ad valorem.

TABLE No. 2.

Foreign merchandise of which the admission into the islands of Martinique and Guadaloupe is permitted on the payment of five centimes per hundred kilogrammes.

Balm and medical extracts.
Woods, odoriferous, for dyeing, and for the manufacture of cabinet ware.
Cassia.
Raw wax.
Cochineal.
Cocoa-nuts.
Copper, in pigs.
Curcuma.
Elephants' teeth.
Tortoise shell.
Unwrought tin.
Whalebone.
Cloves.
Ginger.
Gums.
Amomum seeds.
Grains durs a tailler, or seeds proper to make necklaces, ornaments, &c.
Fat, except that of fish.
Indigo.
Rushes and reeds.
Kermes.
Green legumes.
Raw gum lac.
Nutmegs.
Mother of pearl.
Gold and silver.
Bones and horns of animals.
Skins, dried and raw.
Peltry, in the hair.
Lead, in pigs.
Pepper.
Potash.
Quercitron.
Jesuit's bark.
Annotto.
Medicinal roots, barks, herbs, leaves, and flowers.
Animal substances proper for medicines and perfumery.
Sumac.
Vanilla.

DEPARTMENT OF STATE, *Washington, March* 4, 1828.

SIR: I have received your note of the 26th ultimo, transmitting a copy of a resolution of the Senate instructing the Committee on Commerce to inquire whether any, and if any, what, legislative measures ought to be adopted in consequence of the French ordinance of the 5th February, 1826, regulating trade with the islands of Guadaloupe and Martinique. You request, by the direction of the committee, that I would communicate such facts and suggestions on the subject-matter of the resolution as may tend to aid the committee in their inquiries. And you state, as facts respecting which they desire information, the time and manner of communicating the ordinance to this Government; the steps which the Executive adopted in consequence of it; the duties imposed on French vessels since arriving here from Guadaloupe

and Martinique, if any; and the regulations now existing at those islands concerning our trade, if differing from this ordinance.

The ordinance above mentioned was communicated to this Department on the 21st June, 1826. It was not communicated by an official note, but was personally delivered by the French minister at the Department as a document which he supposed it might be acceptable to the American Government to possess. He made no proposal or demand at the time to reciprocate to French vessels the privileges which it extends to American, among other foreign vessels, in the trade with those islands, according to the provisions of the act of January, 1824. It was received as a paper communicated in conformity with the usage of diplomatic intercourse. About the time of its reception its publication in some of the American newspapers was noticed; and it was not doubted that persons concerned in the trade were fully acquainted with the provisions of the ordinance.

The ordinance was regarded as a measure adopted by the French Government with a view to its own interests exclusively, and without any purpose of particular accommodation towards foreign Powers. It was revocable at the pleasure of the French Government, and might have, in fact, been revoked the next day after the commencement of its operation. The privileges which are granted to foreign navigation are limited by it to the islands of Guadaloupe and Martinique, and not extended to the other colonial possessions of France. Whether there may not be some local or port regulations within those islands operating unequally between French and American navigation is not known.

The stipulations of the convention with France of the 24th day of June, 1822, do not embrace the French colonies, but are restricted to France proper. The equality for which it ultimately provided between the vessels of the two countries had not taken place when the above ordinance went into effect, and was not attained until October of the last year. The French Government has complained, both at Paris and at Washington, of the disadvantages which it alleges are experienced by French navigation under the operation of the convention, and has intimated a wish to open a negotiation to improve the commercial intercourse between the two countries. We have signified our readiness to receive and consider, in a friendly spirit, any proposals which France may choose to make for the mutual advantage of the parties, and we have accordingly expected that some proposals would be brought forward. On that occasion, should any be offered, a suitable opportunity may present itself of making an arrangement of the colonial intercourse satisfactory to both countries.

A question has arisen in France whether an American vessel laden with the produce of the United States does not forfeit the privileges of the convention, and subject itself to the French discriminating duties by merely touching at the port of a third Power, although only for information and without breaking bulk. A decision having been actually given to that effect, Mr. Brown has been instructed to remonstrate against it as being contrary to the convention; but he had not been able to get it reversed at the date of his last despatch. In the meantime a question had been raised in the ports of the United States whether a French vessel, sailing from France, laden with French produce, and touching at any of the French islands, did not lose the benefit of the convention. The two questions are substantially the same. But the President decided that the French vessel did not, in the case stated, forfeit the privileges of the convention. A copy of the correspondence which passed between the French minister and this Department on that subject is herewith transmitted. The President's decision was communicated to Mr. Brown, and he was instructed to urge the liberality which marked it as a new motive for producing a change of the decision in France in the analogous case.

French vessels, coming directly from the French islands, laden with their produce, are liable to pay the alien duties. If it be thought by the committee to be expedient to open the ports of the United States to French vessels in the direct trade between the islands of Guadaloupe and Martinique and this country on the same terms with American vessels, it may be necessary to propose a bill to that effect. The act of Congress of January, 1824, is not believed to authorize the President to issue the proclamation which it describes, under all the circumstances of the case.

It was reported some short time ago that a change had been made in the ordinance disadvantageous to the commerce and navigation of the United States; but no official information of any such change has reached this Department, and the Chargé d'Affaires of France states that he is not advised of any having been made.

I have the honor to be, with great respect, your obedient servant,

H. CLAY.

LEVI WOODBURY, Esq., *&c., &c., &c.*

Baron de Mareuil to Mr. Clay.

[Translation.]

WASHINGTON, *March* 13, 1827.

SIR: Three French vessels, viz: the *Ville du Hâvre*, the *Sully*, and the *Eugenie*, arrived at Savannah, in December last, from the port of St. Pierre, Martinique, with remnants of cargoes taken in France, have been subjected to the payment of the discriminating duty.

It being the first time, since the concluding of the convention of 1822, that such a duty has been collected on French vessels in the ports of the United States, the Consul General had directed the vice consul residing at Savannah to claim directly from the Collector at that port the repayment of a duty which did not appear to be authorized either by former usages, the spirit of the convention of 1822, or by the principle of reciprocity so often appealed to by the Government of the United States.

The refusal of the Collector of Customs to accede to the request of the vice consul places me under the necessity of laying this claim before you.

The convention of 1822 contains no specific allusion to colonies; but if French vessels, coming from France, and laden with French products, are, by virtue of this convention, exempt from all duties but those authorized by the convention itself, can there be any reason to deprive them of this privilege because they may, on their way, have touched at one of the colonial dependencies of France?

If, in order to prevent fraud, it has been deemed proper to confine to the direct intercourse between the two countries the benefit of the privilege granted under the convention, the exclusion, with the same view, of vessels touching at a foreign port does not necessarily involve vessels which may have visited

a colony of the country to which they belong, and which have not touched at any foreign country or possession.

Furthermore, the royal ordinance of the 5th of February, 1826, which I had the honor of communicating to you, having enacted that vessels of the United States should be admitted into the ports of Martinique and Guadaloupe on equal terms with French vessels coming from the United States, I must find, in this disposition, a motive on which to ground my claim to a reciprocity in favor of French vessels coming from said colonies.

Upon the various considerations I have enumerated above, I deem it just to claim the repayment of the discriminating duties collected at Savannah on the three vessels above mentioned, and to request, through your interference, that the Government of the United States may please to order that no duties of this nature shall, in future, be collected in the ports of the Republic on French vessels loaded with French products, and which may have visited our colonies.

It has been my wish, sir, as I have before stated, to place this claim under your eyes, before communicating it to my Government, that I may have it in my power to transmit, at the same time, the answer with which you will honor me, and which will necessarily influence the light in which the commercial relations between the two countries shall be considered in future.

Accept, sir, my renewed assurances of high consideration.

BARON DE MAREUIL.

Mr. Clay to Baron de Mareuil.

DEPARTMENT OF STATE, *Washington, March* 20, 1827.

SIR: Having submitted to the President of the United States your letter of the 13th instant, in relation to the French vessels, the Ville du Hâvre, the Sully, and the Eugenie, which arrived at Savannah, in December last, from the port of St. Pierre, Martinique, with remnants of cargoes of French produce taken on board in France, and which were subjected to the payment of the discriminating duty, I have the satisfaction now to inform you that the President's decision is, that neither those vessels nor their cargoes were, under the circumstances stated, legally chargeable with the discriminating duty. Orders will be issued from the Treasury Department to refund it, and to prevent, in future, the collection of the duty from French vessels similarly situated.

The President entirely concurs with you in the opinion, that, since the convention of 1822 makes no specific allusion to colonies, French vessels coming from France, and laden with the produce of France, are, by virtue of the stipulations of that instrument, exempt from all duties but those for which it provides; and that this right of exemption is not lost by the fact of such vessels touching, in the course of their voyage, at the colonial dependencies of France.

To entitle the vessels of the two countries reciprocally to the rate of duties which the convention stipulates, all that is necessary is, that their cargoes shall consist of "articles of the growth, produce, or manufacture" of those countries respectively. The convention is equally silent both as to colonies and foreign countries; and, in the opinion of the President, its principles are not forfeited, because, in the course of the voyage, a French or American vessel (as the case may be) shall happen to touch at a colonial port, or the port of a third Power; provided the vessel, on her arrival at her destination, imports only the produce of the country to which she belongs. It has been seen, with regret, that a different interpretation has been put upon the convention in France; and that an American vessel has been deemed to have lost the benefits of the convention, because, during her voyage, she touched at a British port, merely for information, without discharging any part of her cargo, or taking in a single article whatever. This interpretation cannot be considered as authorized; nor is there any justification of it in the desire to repress fraud, which you assign as its motive. The same reason, if it were well founded, would apply equally to vessels touching at colonial ports and at the ports of third Powers, both descriptions of these ports being alike excluded from the terms of the convention, which, however, does not forbid a vessel touching at either. It is certainly practicable to devise some other mode of preventing fraudulent importations of produce, not authorized by the convention to be imported into the two countries in their respective vessels, than that of either prohibiting the importation of that which the convention does authorize, or of subjecting it to a higher rate of duty.

The hope is therefore indulged that, on a reconsideration of this question in France, a different construction will be adopted; and that the duties which have been illegally exacted will be refunded, and proper orders given to prevent the collection of similar illegal duties in future.

I pray you to accept the assurances of my distinguished consideration.

H. CLAY.

20TH CONGRESS.] No. 471. [1ST SESSION.

TREATY OF COMMERCE AND NAVIGATION WITH SWEDEN AND NORWAY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES FEBRUARY 7, 1828.

To the Senate and House of Representatives of the United States:

I communicate herewith to Congress copies of a treaty of commerce and navigation between the United States and his Majesty the King of Sweden and Norway, concluded at Stockholm on the 4th of July, 1827, and the ratifications of which were exchanged on the 18th ultimo at this city.

JOHN QUINCY ADAMS.

WASHINGTON, *February* 6, 1828.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a treaty of commerce and navigation between the United States of America and his Majesty the King of Sweden and Norway, together with a separate article thereto, were concluded and signed by their plenipotentiaries at Stockholm on the fourth day of July, in the year of our Lord one thousand eight hundred and twenty-seven; which treaty and separate article being in the French language, and whereof the annexed is a faithful translation, are, word for word, as follows:

In the name of the Most Holy and Indivisible Trinity.

The United States of America and his Majesty the King of Sweden and Norway, equally animated with the desire of extending and consolidating the commercial relations subsisting between their respective territories, and convinced that this object cannot better be accomplished than by placing them on the basis of a perfect equality and reciprocity, have, in consequence, agreed to enter into negotiation for a new treaty of commerce and navigation, and, to this effect, have appointed plenipotentiaries, to wit: The President of the United States of America, John James Appleton, Chargé d'Affaires of the said States at the Court of his Majesty the King of Sweden and Norway; and his Majesty the King of Sweden and Norway, the Sieur Gustave Count de Wetterstedt, his Minister of State and of Foreign Affairs, Knight Commander of his Orders, Knight of the Orders of St. Andrew, St. Alexander Newsky, and St. Ann, of the first class, of Russia; Knight of the Order of the Red Eagle, of the first class, of Prussia; Grand Cross of the Order of Leopold, of Austria; one of the eighteen of the Swedish Academy: who, after having exchanged their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE 1. The citizens and subjects of each of the two high contracting parties may, with all security for their persons, vessels, and cargoes, freely enter the ports, places, and rivers of the territories of the other, wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories; to rent and occupy houses and warehouses for their commerce; and they shall enjoy, generally, the most entire security and protection in their mercantile transactions, on condition of their submitting to the laws and ordinances of the respective countries.

ARTICLE 2. Swedish and Norwegian vessels, and those of the island of St. Bartholomew, arriving, either laden or in ballast, into the ports of the United States of America, from whatever place they may come, shall be treated on their entrance, during their stay, and at their departure, upon the same footing as national vessels coming from the same place, with respect to the duties of tonnage, light-houses, pilotage, and port charges, as well as to the perquisites of public officers, and all other duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever.

And reciprocally, the vessels of the United States of America arriving, either laden or in ballast, in the ports of the Kingdoms of Sweden and Norway, from whatever place they may come, shall be treated on their entrance, during their stay, and at their departure, upon the same footing as national vessels coming from the same place, with respect to the duties of tonnage, light-houses, pilotage, and port charges, as well as to the perquisites of public officers, and all other duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever.

ARTICLE 3. All that may be lawfully imported into the United States of America in vessels of the said States may also be thereinto imported in Swedish

Au nom de la très Sainte et Indivisible Trinité.

Les Etats Unis d'Amérique, et sa Majesté le Roi de Suède et de Norvège, également animés du désir d'étendre et de consolider les relations commerciales qui subsistent entre leurs territoires respectifs, et convaincus que ce but ne saurait être mieux rempli, qu'en les plaçant sur la base d'une parfaite égalité et réciprocité, sont convenus, en conséquence, d'entrer en négociation pour un nouveau traité de commerce et de navigation, et ont nommé, à cet effet, des plénipotentiaires, savoir: le President des Etats Unis d'Amérique, John James Appleton, Chargé d'Affaires des dits Etats à la Cour de sa Majesté le Roi de Suède et de Norvège; et sa Majesté le Roi de Suède et de Norvège, le Sieur Gustave, Compte de Wetterstedt, son Ministre d'Etat et des Affaires Etrangères, Chevalier Commandeur de ses Ordres, Chevalier des Ordres de Russie, de St. André, de St. Alexandre Newsky, et de Ste. Anne, de la premiere classe, Chevalier de l'Ordre de l'Aigle Rouge de Prusse, de la premiere classe, Grand' Croix de l'Ordre de Léopold d'Autriche, un des Dix-huit de l'Académie Suédoise, lesquels, après avoir echangé leurs pleins pouvoirs, trouvés en bonne et due forme, ont arrêté les articles suivans:

ARTICLE 1. Les citoyens et sujets de chacune des deux hautes parties contractantes, pourront avec toute sureté, pour leurs personnes, vaisseaux et cargaisons, aborder librement dans les ports, places et rivieres des territoires de l'autre, partout où le commerce étranger est permis. Ils pourront s'y arrêter et résider dans quelque partie que ce soit des dits territoires, y louer et occuper des maisons, et des magasins pour leur commerce, et jouiront, généralement de la plus entiere sécurité et protection pour les affaires de leur négoce, à charge de se soumettre aux lois et ordonnances des pays respectifs.

ARTICLE 2. Les bâtimens Suèdois et Norvégiens et ceux de l'ile de St. Barthelemy qui arriveront sur leur lest, ou chargés dans les ports des Etats Unis d'Amérique, de quelque lieu qu'ils viennent, seront traités à leur entrée, pendant leur séjour et à leur sortie, sur le même pied que les bâtimens nationaux venant du même lieu, par rapport aux droits de tonnage, de fanaux, de pilotage, et de port, ainsi qu'aux vacations des officiers publics, et à tout autre droit ou charge, des quelque espèce ou dénomination que ce soit, perçus au nom ou au profit du Gouvernement, des administrations locales, ou d'etablissemens particuliers quelconques.

Et réciproquement, les bâtimens des Etats Unis d'Amérique qui arriveront sur leur lest, ou chargés dans les ports des Royaumes de Suède et de Norvège, de quelque lieu qu'ils viennent, seront traités à leur entrée, pendant leur séjour et à leur sortie, sur le même pied que les bâtimens nationaux venant du même lieu, par rapport aux droits de tonnage, de fanaux, de pilotage et de port, ainsi qu'aux vacations des officiers publics et à tout autre droit ou charge, de quelque espèce ou dénomination que ce soit, perçus au nom, ou au profit, du Gouvernement, des administrations locales, ou d'etablissemens particuliers quelconques.

ARTICLE 3. Tout ce qui pourra légalement être importé dans les Etats Unis d'Amérique, par bâtimens des dits Etats, pourra également y être importé par

and Norwegian vessels, and in those of the island of St. Bartholomew, from whatever place they may come, without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if imported in national vessels.

And reciprocally, all that may be lawfully imported into the Kingdoms of Sweden and Norway in Swedish and Norwegian vessels, or in those of the island of St. Bartholomew, may also be thereinto imported in vessels of the United States of America, from whatever place they may come, without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if imported in national vessels.

ARTICLE 4. All that may be lawfully exported from the United States of America in vessels of the said States may also be exported therefrom in Swedish and Norwegian vessels, or in those of the island of St. Bartholomew, without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if exported in national vessels.

And reciprocally, all that may be lawfully exported from the Kingdoms of Sweden and Norway in Swedish and Norwegian vessels, or in those of the island of St. Bartholomew, may also be exported therefrom in vessels of the United States of America without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if exported in national vessels.

ARTICLE 5. The stipulations contained in the three preceding articles are, to their full extent, applicable to the vessels of the United States of America proceeding, either laden or not laden, to the colony of St. Bartholomew, in the West Indies, whether from the ports of the Kingdoms of Sweden and Norway or from any other place whatsoever; or proceeding from the said colony, either laden or not laden, whether bound for Sweden or Norway, or for any other place whatsoever.

ARTICLE 6. It is expressly understood that the foregoing second, third, and fourth articles are not applicable to the coastwise navigation from one port of the United States of America to another port of the said States; nor to the navigation from one port of the Kingdoms of Sweden or of Norway to another, nor to that between the two latter countries, which navigation each of the two high contracting parties reserves to itself.

ARTICLE 7. Each of the two high contracting parties engages not to grant, in its purchases or in those which might be made by companies or agents acting in its name or under its authority, any preference to importations made in its own vessels, or in those of a third Power, over those made in the vessels of the other contracting party.

ARTICLE 8. The two high contracting parties engage not to impose upon the navigation between their respective territories, in the vessels of either, any tonnage or other duties of any kind or denomination which shall be higher or other than those which shall be imposed on every other navigation, except that which they have reserved to themselves, respectively, by the sixth article of the present treaty.

ARTICLE 9. There shall not be established in the United States of America, upon the products of the soil or industry of the Kingdoms of Sweden and Norway, or of the island of St. Bartholomew, any prohibition or restriction of importation or exporta-

bâtimens Suédois et Norvégiens, ou de l'île de St. Barthelemy, de quelque lieu qu'ils viennent, sans payer d'autres ou plus hauts droits ou charges, de quelque espèce ou dénomination que ce soit, perçus au nom, ou au profit du Gouvernement, des administrations locales, ou d'etablissemens particuliers quelconques, que si l'importation avait lieu en bâtimens nationaux.

Et réciproquement, tout ce qui pourra légalement être importé dans les Royaumes de Suède et de Norvège, par bâtimens Suédois ou Norvégiens, ou de l'île de St. Barthelemy, pourra également y être importé par bâtimens des Etats Unis d'Amérique, de quelque lieu qu'ils viennent, sans payer d'autres ou plus hauts droits ou charges, de quelque espèce ou dénomination que ce soit, perçus au nom, ou au profit du Gouvernement, des administrations locales, ou d'etablissemens particuliers, quelconques, que si l'importation avait lieu en bâtimens nationaux.

ARTICLE 4. Tout ce qui pourra légalement être exporté des Etats Unis d'Amérique, par bâtimens des dits Etats, pourra également en être exporté par bâtimens Suédois et Norvégiens, ou de l'île de St. Barthelemy, sans payer d'autres ou plus hauts droits ou charges, de quelque espèce ou dénomination que se soit perçus au nom, ou au profit, du Gouvernement, des administrations locales, ou d'etablissemens particuliers quelconques, que si l'exportation avait eu lieu en bâtimens nationaux.

Et réciproquement, tout ce qui pourra légalement être exporté des Royaumes de Suède et de Norvège, par bâtimens Suédois et Novégiens, ou de l'île de St. Barthelemy, pourra également en être exporté par bâtimens des Etats Unis d'Amérique, sans payer d'autres ou plus haut droits ou charges, de quelque espèce ou dénomination que ce soit, perçus au nom, ou au profit, du Gouvernement, des administrations locales, ou d'etablissemens particuliers quelconques, que si l'exportation avait lieu en bâtimens nationaux.

ARTICLE 5. Les stipulations des trois articles précédens sont dans toute leur plénitude, applicables aux bâtimens des Etats Unis d'Amérique qui se rendront charges, ou non chargés dans la colonie de St. Barthelemy, aux Indes Occidentales, soit des ports des Royaumes de Suède et de Norvège, soit de tout autre lieu quelconque, ou qui sortiront de la dite colonie, chargés ou non chargés, pour se rendre, soit en Suède ou en Norvège, soit en tout autre lieu quelconque.

ARTICLE 6. Il est expressément entendu que les articles précédens, deux, trois, et quatre, ne sont point applicables à la navigation de côte ou de cabotage d'un port des Etats Unis d'Amérique, à un autre port des dits Etats, ni à la navigation d'un port des Royaumes de Suède ou de Norvège à un autre, ou a celle entre ces deux dernier pays, navigation que chacune des deux hautes parties contractantes se réserve.

ARTICLE 7. Chacune des deux hautes parties contractantes s'engage à ne donner dans ses achats, ou dans ceux qui seraient faits par des compagnies ou des agens agissant en son nom ou sous son autorité, aucune préférence aux importations faites par ses bâtimens ou par ceux d'une nation tierce, sur celles faites dans les bâtimens de l'autre partie contractante.

ARTICLE 8. Les deux hautes parties contractantes s'engagent à ne pas établir sur la navigation entre leur territoires respectifs, pâr les bâtimens de l'une ou de l'autre, des droits de tonnage ou autres, de quelque espèce ou dénomination que ce soit, plus hauts ou autres que ceux qui seront établis sur toute autre navigation, excepté celle qu'elles se sont respectivement reservée par le sixieme article du present traité.

ARTICLE 9. Il ne pourra pas être établi dans les Etats Unis d'Amérique, sur les productions du sol ou de l'industrie des Royaumes de Suède et de Norvège, et de l'île de St. Barthelemy, aucune prohibition ou restriction d'importation ou d'exportation, ni aucune

tion, nor any duties of any kind or denomination whatsoever, unless such prohibitions, restrictions, and duties shall likewise be established upon articles of like nature, the growth of any other country.

And reciprocally, there shall not be established in the Kingdoms of Sweden and Norway, nor in the island of St. Bartholomew, on the products of the soil or industry of the United States of America, any prohibition or restriction of importation or exportation, nor any duties of any kind or denomination whatsoever, unless such prohibitions, restrictions, and duties be likewise established upon articles of like nature the growth of the island of St. Bartholomew, or of any other place, in case such importation be made into or from the Kingdoms of Sweden and Norway, or of the Kingdoms of Sweden and Norway, or of any other place, in case such importation or exportation be made into or from the island of St. Bartholomew.

droits, de quelque espèce ou dénomination que ce soit, qu'autant que ces prohibitions, ces restrictions et ces droits seraient également établis sur les objets de même nature provenant de toute autre contrée.

Et réciproquement, il ne pourra pas être établi dans les Royaumes de Suède et de Norvège, ni dans l'île de St. Barthelemy, sur les productions du sol ou de l'industrie des Etats Unis d'Amérique, aucune prohibition ou restriction d'importation ou d'exportation, ni aucuns droits, de quelques espèce ou dénomination que ce soit, qu'autant que ces prohibitions, ces restrictions et ces droits, seraient également etablis sur les objets de même nature provenant, dans le cas où l'importation ou l'exportation aurait lieu dans ou hors des Royaumes de Suède et de Norvège, de l'île de St. Barthelemy ou de tout autre endroit; et, dans le cas où l'importation ou l'exportation aurait lieu dans ou hors l'île de St. Barthelemy, des Royaumes de Suède et de Norvège ou de tout autre endroit.

Article 10. All privileges of transit, and all bounties and drawbacks which may be allowed within the territories of one of the high contracting parties upon the importation or exportation of any article whatsoever, shall likewise be allowed on the articles of like nature, the products of the soil or industry of the other contracting party, and on the importations and exportations made in its vessels.

Article 10. Toute faculté d'entrepôt et toutes primes et remboursemens de droits, qui seroient accordés dans les territoires d'une des hautes parties contractantes, à l'importation ou à l'exportation de quelque objet que ce soit, seront également accordés aux objets de même nature produits du sol ou de l'industrie de l'autre partie contractante, et aux importations et exportations faites dans ses bâtimens.

Article 11. The citizens or subjects of one of the high contracting parties arriving with their vessels on the coasts belonging to the other, but not wishing to enter the port, or after having entered therein not wishing to unload any part of their cargo, shall be at liberty to depart and continue their voyage without paying any other duties, imposts, or charges whatsoever for the vessel and cargo than those of pilotage, wharfage, and for the support of lighthouses, when such duties shall be levied on national vessels in similar cases. It is understood, however, that they shall always conform to such regulations and ordinances concerning navigation and the places and ports which they may enter as are, or shall be, in force with regard to national vessels; and that the custom-house officers shall be permitted to visit them, to remain on board, and to take all such precautions as may be necessary to prevent all unlawful commerce as long as the vessels shall remain within the limits of their jurisdiction.

Article 11. Le citoyens ou sujets de l'une des hautes parties contractantes, arrivant avec leurs bâtimens à l'une des côtes appartenant à l'autre, mais ne voulant pas entrer dans le port, ou, après y être entrés, ne voulant décharger aucune partie de leur cargaison, auront la liberté de partir et de poursuivre leur voyage, sans payer d'autres droits, impôts ou charges quelconques, pour le bâtiment ou la cargaison, que les droits de pilotage, de quayage, et d'entretien de fanaux, quand ces droits sont perçus sur les nationaux dans les mêmes cas. Bien entendu, cependant, qu'ils se conformeront toujours aux règlemens et ordonnances concernant la navigation et les places ou ports dans lesquels ils pourront aborder, qui sont, ou seront en vigueur pour les nationaux, et qu'il sera permis aux officiers des doûanes de les visiter, de rester à bord, et de prendre telles précautions, qui pourraient être necessaires pour prévener tout commerce illicite, pendant que les bâtimens resteront dans l'enceinte de leur jurisdiction.

Article 12. It is further agreed that the vessels of one of the high contracting parties, having entered into the ports of the other, will be permitted to confine themselves to unlading such part only of their cargoes as the captain or owner may wish, and that they may freely depart with the remainder without paying any duties, imposts, or charges whatsoever, except for that part which shall have been landed, and which shall be marked upon and erased from the manifest exhibiting the enumeration of the articles with which the vessel was laden; which manifest shall be presented entire at the custom-house of the place where the vessel shall have entered. Nothing shall be paid on that part of the cargo which the vessel shall carry away, and with which it may continue its voyage to one or several other ports of the same country, there to dispose of the remainder of its cargo, if composed of articles whose importation is permitted, on paying the duties chargeable upon it, or it may proceed to any other country. It is understood, however, that all duties, imposts, or charges whatsoever, which are or may become chargeable upon the vessels themselves, must be paid at the first port where they shall break bulk or unlade part of their cargoes; but that no duties, imposts, or charges, of the same description, shall be demanded anew in the ports of the same country which such vessels might afterwards wish to enter, unless national vessels be, in similar cases, subject to some ulterior duties.

Article 12. Il est aussi convenu que les bâtimens de l'une des hautes parties contractantes, étant éntres dans les ports de l'autre, pourront se borner à ne décharger qu'une partie de leur cargaison, selon que le capitaine ou propriétaire le desirera, et qu'ils pourront s'en aller librement avec le reste, sans payer de droits, impôts ou charges quelconques, que pour la partie qui aura été mise à terre, et qui sera marquée et biffée sur le manifeste, qui contiendra l'enumeration des effets dont le bâtiment était chargé, lequel manifeste devra être présenté en entier à la douane du lieu où le bâtiment aura abordé. Il ne sera rien payé pour la partie de la cargaison que le bâtiment remportera, et avec la quelle il pourra continuer sa route pour un ou plusieurs autres ports du même pays, et y disposer du reste de sa cargaison, si elle est composée d'objets dont l'importations est permise, en payant les droits qui y sont applicables, ou bien il pourra s'en aller dans tout autre pays. Il est cependant entendu que les droits, impôts ou charges quelconques, qui sont ou seront payables pour les bâtimens même, doivent être acquittés au premier port où ils romproient le chargement, ou en dechargeroient une partie, mais qu'aucuns droits, impôts ou charges parcils ne seront demandés de nouveau dans les ports du même pays où lesdits bâtimens pourroient vouloir entrer après, à moins que les nationaux ne soient sujets à quelques droits ultériéurs dans le même cas.

Article 13. Each of the high contracting parties

Article 13. Chacune des hautes parties contract-

grants to the other the privilege of appointing, in its commercial ports and places, consuls, vice consuls, and commercial agents, who shall enjoy the full protection and receive every assistance necessary for the due exercise of their functions; but it is expressly declared that, in case of illegal or improper conduct with respect to the laws or Government of the country in which said consuls, vice consuls, or commercial agents shall reside, they may be prosecuted and punished conformably to the laws, and deprived of the exercise of their functions by the offended Government, which shall acquaint the other with its motives for having thus acted; it being understood, however, that the archives and documents relative to the affairs of the consulate shall be exempt from all search, and shall be carefully preserved under the seals of the consuls, vice consuls, or commercial agents, and of the authority of the place where they may reside.

The consuls, vice consuls, or commercial agents, or the persons duly authorized to supply their places, shall have the right, as such, to sit as judges and arbitrators in such differences as may arise between the captains and crews of the vessels belonging to the nation whose interests are committed to their charge, without the interference of the local authorities, unless the conduct of the crews, or of the captain, should disturb the order or tranquillity of the country, or the said consuls, vice consuls, or commercial agents should require their assistance to cause their decisions to be carried into effect or supported. It is however understood that this species of judgment or arbitration shall not deprive the contending parties of the right they have to resort, on their return, to the judicial authority of their country.

ARTICLE 14. The said consuls, vice consuls, or commercial agents are authorized to require the assistance of the local authorities for the arrest, detention, and imprisonment of the deserters from the ships of war and merchant vessels of their country; and for this purpose they shall apply to the competent tribunals, judges, and officers, and shall, in writing, demand said deserters, proving, by the exhibition of the registers of the vessels, the rolls of the crews, or by other official documents, that such individuals formed part of the crews; and on this reclamation being thus substantiated, the surrender shall not be refused.

Such deserters, when arrested, shall be placed at the disposal of the said consuls, vice consuls, or commercial agents, and may be confined in the public prisons at the request and cost of those who claim them, in order to be sent to the vessels to which they belonged, or to others of the same country. But if not sent back within the space of two months, reckoning from the day of their arrest, they shall be set at liberty, and shall not be again arrested for the same cause.

It is understood, however, that, if the deserter should be found to have committed any crime or offence, his surrender may be delayed until the tribunal before which the case shall be depending shall have pronounced its sentence, and such sentence shall have been carried into effect.

ARTICLE 15. In case any vessel of one of the high contracting parties shall have been stranded or shipwrecked, or shall have suffered any other damage on the coasts of the dominions of the other, every aid and assistance shall be given to the persons shipwrecked or in danger, and passports shall be granted to them to return to their country. The shipwrecked vessels and merchandise, or their proceeds if the same shall have been sold, shall be restored to their owners, or those entitled thereto, if claimed within a year and a day, upon paying such costs of salvage as would be paid by national vessels in the same circumstances; and the salvage companies shall not compel the acceptance of their services, except in the same cases, and after the same delays, as shall be granted to the captains and

antes accorde à l'autre la faculté d'entretenir dans ses ports et places de commerce, des consuls, vice consuls, ou agens de commerce, qui jouiront de toute la protection, et recevront toute l'assistance nécessaire pour remplir duement leurs fonctions; mais il est expressément déclaré que dans le cas d'une conduite illégale ou impropre envers les lois ou le Gouvernement du pays dans lesquels lesdits consuls, vice consuls, ou agens de commerce, résideroient ils pourront être poursuivis et punis conformément aux lois, et privés de l'exercice de leurs fonctions par le Gouvernement offensé qui fera connoitre à l'autre ses motifs pour avoir agi ainsi, bien entendu cependant que les archives et documens relatifs aux affaires du consulat seront à l'abri de toute recherche, et devront être soigneusement conservés sous le scellé des consuls, vice consuls, ou agens commerciaux, et de l'autorité de l'endroit où ils résideroient.

Les consuls, vice consuls, et agens commerciaux, ou ceux qui seroient duement autorisés à les suppléer, auront le droit, comme tels, de servir de juges et d'arbitres dans les differens qui pourroient s'elever entre les capitaines et les équipages des bâtimens de la nation dont ils soignent les intérêts, sans que les autorités locales puissent y intervenir, à moins que la conduite des équipages ou du capitaine ne troublât l'ordre ou la tranquillité du pays, ou que lesdits consuls, vice consuls, ou agens commerciaux ne réquissent leur intervention pour faire exécuter ou maintenir leurs décisions. Bien entendu que cette espèce de jugement ou d'arbitrage ne saurait pourtant priver les parties contendantes du droit qu'elles ont, à leur retour de recourir aux autorités judiciaires de leur patrie.

ARTICLE 14. Les dits consuls, vice consuls, ou agens commerciaux, seront autorisés à requérir l'assistance des autorités locales pour l'arrestation, la détention, et l'emprisonnement de déserteurs des navires de guerre et marchands de leur pays, et ils s'adresseront, pour cet objet, aux tribunaux, juges et officiers compétens, et reclameront, par écrit, les deserteurs sus mentionnés, en prouvant, par la communication des régistres des navires, ou rôles de l'équipage, ou par d'autres documens officiels, que de tels individus ont fait partie desdits équipages, et cette reclamation ainsi prouvée, l'extradition ne sera point refusée.

De tels déserteurs, lorsqu'ils auront été arrêtés, seront mis à la disposition desdits consuls, vice consuls, ou agens commerciaux, et pourront être enfermés dans les prisons publiques, à la réquisition et aux frais de ceux qui les reclament, pour être envoyé saux navires auxquels ils appartenoient, ou à d'autres de la même nation. Mais s'ils ne sont pa renvoyés dans l'espace de deux mois, à compter du jour de leur arrestation, ils seront mis en liberté et ne seront plus arrêtés pour la même cause.

Il est entendu, toutefois, que si le déserteur se trouvoit avoir commis quelque crime ou délit, il pourra être sursis à son extradition, jusqu' à ce que le tribunal nanti de l'affaire aura rendu sa sentence, et que celle-ci ait reçu son exécution.

ARTICLE 15. Dans le cas où quelque bâtiment de l'une des hautes parties contractantes, aura échoué fait naufrage, ou souffert quelqu' autre dommage sur les côtes de la domination de l'autre, il sera donné toute aide et assistance aux personnes naufragées, ou qui se trouveraient en danger, et il leur sera accordé des passeports pour retourner dans leur patrie. Les bâtimens et les marchandises naufragés, ou leur produit, s'ils ont été vendus, seront restitués à leurs propriétaires ou ayant cause, s'ils sont réclamés dans l'an et jour, en payant les frais de sauvetage que payeroient les nationaux dans les mêmes cas. Et les compagnies de sauvetage ne pourront faire accepter leurs services que dans les mêmes cas, et après les mêmes délais qui seraient accordés aux capitaines et aux equipages nationaux. Les Gouv-

crews of national vessels. Moreover, the respective Governments will take care that these companies do not commit any vexatious or arbitary acts.

ARTICLE 16. It is agreed that vessels arriving directly from the United States of America at a port within the dominions of his Majesty the King of Sweden and Norway, or from the territories of his said Majesty in Europe, at a port of the United States, and provided with a bill of health granted by an officer having competent power to that effect, at the port whence such vessel shall have sailed, setting forth that no malignant or contagious diseases prevailed in that port, shall be subjected to no other quarantine than such as may be necessary for the visit of the health officer of the port where such vessels shall have arrived; after which said vessels shall be allowed immediately to enter and unload their cargoes: provided, always, that there shall be on board no person who, during the voyage, shall have been attacked with any malignant or contagious diseases; that such vessels shall not, during their passage, have communicated with any vessel liable itself to undergo a quarantine; and that the country whence they came shall not at that time be so far infected or suspected that, before their arrival, an ordinance had been issued in consequence of which all vessels coming from that country should be considered as suspected, and consequently subject to quarantine.

ARTICLE 17. The second, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twenty-first, twenty-second, twenty-third, and twenty-fifth articles of the treaty of amity and commerce, concluded at Paris on the third of April, one thousand seven hundred and eighty-three, by the plenipotentiaries of the United States of America and of his Majesty the King of Sweden, together with the first, second, fourth, and fifth separate articles, signed on the same day by the same plenipotentiaries, are revived and made applicable to all the countries under the dominion of the present high contracting parties, and shall have the same force and value as if they were inserted in the context of the present treaty. It being understood that the stipulations contained in the articles above cited shall always be considered as in no manner affecting the conventions concluded by either party with other nations during the interval between the expiration of the said treaty of one thousand seven hundred and eighty-three, and the revival of said articles by the treaty of commerce and navigation concluded at Stockholm by the present high contracting parties on the fourth of September, one thousand eight hundred and sixteen.

ARTICLE 18. Considering the remoteness of the respective countries of the two high contracting parties, and the uncertainty resulting therefrom with respect to the various events which may take place, it is agreed that a merchant vessel belonging to either of them which may be bound to a port supposed, at the time of its departure, to be blockaded, shall not, however, be captured or condemned for having attempted, a first time, to enter said port, unless it can be proved that said vessel could and ought to have learned during its voyage that the blockade of the place in question still continued. But all vessels which, after having been warned off once, shall, during the same voyage, attempt a second time to enter the same blockaded port during the continuance of said blockade, shall then subject themselves to be detained and condemned.

ARTICLE 19. The present treaty shall continue in force for ten years, counting from the day of the exchange of the ratifications; and if, before the expiration of the first nine years, neither of the high contracting parties shall have announced, by an official notification, to the other its intention to arrest the operation of said treaty, it shall remain binding for one year beyond that time, and so on until the

ernemens respectifs veilleront d'ailleurs à ce que ces compagnies ne se permettent point de vexations ou d'actes arbitraires.

ARTICLE 16. Il est convenu que les bâtimens qui arriveront directement des Etats Unis d'Amérique, à un port de la domination de sa Majesté le Roi de Suède et de Norvège, ou des territoires de sa dite Majesté en Europe, à un port des Etats Unis, et qui seroient pourvus d'un certificat de santé, donné par l'officier compétent à cet égard du port d'ou les bâtimens sont sortis, et assurant qu'aucune maladie maligne ou contagieuse n'existait dans ce port, ne seront soumis à aucune autre quarantaine que celle qui sera nécessaire pour la visite de l'officier de santé du port où les bâtimens seroient arrivés, après laquelle il sera permis a ces bâtimens d'entrer immédiatement, et de discharger leurs cargaisons, bien entendu, toutefois, qu'il n'y ait eu personne à leur bord, qui ait été attaqué pendant le voyage d'une maladie maligne ou contagieuse, que les bâtimens n'aient point communiqué dans leur traverseé avec un bâtiment qui seroit lui même dans les cas de subir une quarantaine, et que la contrée d'où ils viendroient ne fut pas, à cette époque si généralement infectée ou suspecte, qu'on ait rendu, avant leur arrivée, une ordonnance, d'après laquelle tous les bâtimens venant de cette contrée seroient regardés comme suspects, et en conséquence assujettis à une quarantaine.

ARTICLE 17. Les articles deux, cinq, six, sept, huit, neuf, dix, onze, douze, treize, quatorze, quinze, seize, dix-sept, dix-huit, dix-neuf, vingt-un, vingt-deux, vingt-trois, et vingt-cinq, du traité d'amitié et de commerce conclu à Paris le trois Avril, mil sept cent quatre-vingt-trois, par les plénipotentiaires des Etats Unis d'Amerique et de sa Majesté le Roi de Suède, ainsi que les articles séparés un, deux, quatre et cinq, qui furent signés le même jour par les mêmes plénipotentiaires, sont remis en vigueur et rendus applicables à tous les pays sous la domination des hautes parties, actuellement contractantes, et auront la même force et valeur que s'ils etaient insérés textuellement dans le présent traité. Bien entendu que les stipulations contenues dans les articles précités seront toujours censés ne rien changer aux conventions conclues de part et d'autre, avec d'autres nations dans l'intervalle ecoulé entre l'expiration dudit traité de mil sept-cent quatre-vingt-trois, et la remise en vigueur des dits articles par le traité de commerce et de navigation, conclu par les hautes parties actuellement contractantes, à Stockholm, le quatre Septembre, mil huit cent seize.

ARTICLE 18. Vû l'éloignement des pays respectifs des deux hautes parties contractantes, et l'incertitude qui en résulte sur les divers événemens qui peuvent avoir lieu, il est convenu qu'un bâtiment marchand appartenant à l'une d'elles, qui se trouverait destiné pour un port supposé bloqué au moment du départ de ce bâtiment, ne sera cependant pas capturé ou condamné pour avoir essayé une premiere fois d'entrer dans ledit port, à moins qu'il ne puisse être prouvé que ledit bâtiment avait pû et dû apprendre en route que l'état de blocus de la place en question duroits encore: mais les bâtimens qui après avoir été renvoyés une fois, essayeroient pendant le même voyage d'entrer une seconde fois dans le même port bloqué, durant la continuation de ce blocus, se trouveront alors sujets à être détenus et condamnés.

ARTICLE 19. Le présent traité sera en vigueur pendant dix années, à partir du jour de l'échange des ratifications, et, si avant l'expiration des neuf premieres années, l'une ou l'autre des hautes parties contractantes n'avait pas annoncé à l'autre, par une notification officielle, son intention d'en faire cesser l'effet, ce traité restera obligatoire une anneé au delà, et ainsi de suite jusqu' à l'expiration des douze

expiration of the twelve months which will follow a similar notification, whatever the time at which it may take place.

ARTICLE 20. The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate, and by his Majesty the King of Sweden and Norway, and the ratifications shall be exchanged at Washington within the space of nine months from the signature, or sooner, if possible.

In faith whereof, the respective plenipotentiaries have signed the present treaty by duplicates, and have affixed thereto the seals of their arms. Done at Stockholm, the fourth of July, in the year of Grace one thousand eight hundred and twenty-seven.

J. J. APPLETON. [L. S.]
G. COUNT DE WETTERSTEDT. [L. S.]

SEPARATE ARTICLE.

Certain relations of proximity and ancient connexions having led to regulations for the importation of the products of the Kingdoms of Sweden and Norway into the Grand Duchy of Finland, and that of the products of Finland into Sweden and Norway, in vessels of the respective countries, by special stipulations of a treaty still in force, and whose renewal forms, at this time, the subject of a negotiation between the Courts of Sweden and Norway and Russia, said stipulations being in no manner connected with the existing regulations for foreign commerce in general, the two high contracting parties, anxious to remove from their commercial relations all kinds of ambiguity or motives of discussion, have agreed that the eighth, ninth, and tenth articles of the present treaty shall not be applicable either to the navigation and commerce above mentioned, nor, consequently, to the exceptions in the general tariff of custom-house duties, and in the regulations of navigation resulting therefrom, nor to the special advantages which are, or may be, granted to the importation of tallow and candles from Russia, founded upon equivalent advantages granted by Russia on certain articles of importation from Sweden and Norway.

The present separate article shall have the same force and value as if it were inserted, word for word, in the treaty signed this day, and shall be ratified at the same time.

In faith whereof, we the undersigned, by virtue of our respective full powers, have signed the present separate article, and affixed thereto the seals of our arms.

Done at Stockholm, the fourth of July, one thousand eight hundred and twenty-seven.

J. J. APPLETON. [L. S.]
G. COUNT DE WETTERSTEDT. [L. S.]

mois qui suivront une semblable notification, à qu'elque époque quelle ait lieu.

ARTICLE 20. Le présent traité sera ratifié par le Président des Etats Unis d'Amérique, par et avec l'avis et le consentement du Sénat, et par sa Majesté le Roi de Suède et de Norvège, et les ratifications en seront echangées à Washington, dans l'espace de neuf, mois après la signature, ou plutôt, si faire se peut.

En foi de quoi les plénipotentiaires respectifs ont signé le présent traité en duplicata, et y ont apposé le cachet de leurs armes. Fait à Stockholm, le quatre Juillet, l'an de Grâce mil huit cent vingt sept.

J. J. APPLETON. [L. S.]
G. COMTE DE WETTERSTEDT. [L. S.]

ARTICLE SÉPARÉ.

Des rapports de proximité et d'anciennes relations ayant fait regler l'importation des productions des Royaumes des Suède et de Norvège dans le Grand Duché de Finlande, et celle des productions de la Finlande en Suède et en Norvège sur les bâtimens des pays respectifs, par des stipulations spéciales d'un traité encore en vigueur, et dont le renouvellement forme un objet de négociation actuelle, entre les cours de Suède et de Norvège et de Russie, sans que lesdites stipulations soient liées aux règlemens existans pour le commerce étranger en général, les deux hautes parties contractantes voulant écarter de leurs relations commerciales toute espèce d'équivoque ou de motif de discussion, sont tombées d'accord que les articles huit, neuf et dix du présent traité, ne seront point applicables ní à la navigation et au commerce susmentionnés, et par conséquent aux exceptions dans les tarifs generaux des douanes, et dans les reglemens de navigation qui en résultent, ni aux avantages speciaux qui sont ou pourroient être donnés à l'importation du suif et des chandelles de Russie, motivés par des avantages equivalens accordés en Russie à des articles d'importation de Suède et de Norvège.

Le présent article séparé aura la même force et valeur que s'il etait inséré mot à dans le traité signé aujourd'hui, et sera ratifié en même tems.

En foi de quoi, nous soussignés, en vertu de nos pleins pouvoirs respectifs, avons signé le présent article séparé, et y avons apposé le cachet de nos armes.

Fait à Stockholm, le quatre Juillet, mil huit cent vingt-sept.

J. J. APPLETON. [L. S.]
G. COMTE DE WETTERSTEDT. [L. S.]

And whereas the said treaty and separate article have been duly ratified on both parts, and the respective ratifications of the same were exchanged at Washington, on the eighteenth day of January, one thousand eight hundred and twenty-eight, by Henry Clay, Secretary of State of the United States, and Robert, Baron de Stackelberg, Colonel, Knight of the Order of the Sword, and Chargé d'Affaires of his Majesty the King of Sweden and Norway near the said United States, on the part of their respective Governments:

Now, therefore, be it known that I, John Quincy Adams, President of the United States of America, have caused the said treaty and separate article to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington, this nineteenth day of January, in the year of our Lord one thousand eight hundred and twenty-eight, and of the Independence of the United States the fifty-second. [L. S.]

JOHN QUINCY ADAMS.

By the President:
H. CLAY, *Secretary of State.*

20TH CONGRESS.] No. 472. [1ST SESSION.

BOUNDARY LINE BETWEEN GEORGIA AND FLORIDA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MARCH 3, 1828.

To the House of Representatives of the United States:

I transmit to the House of Representatives a report from the Secretary of State, with documents containing the instructions of the Government of the United States to Thomas Pinckney, under which was negotiated the treaty of San Lorenzo el Real, and relating to the boundary line between the United States and the dominions at that time of Spain, as requested by a resolution of the House of the 18th ultimo.

JOHN QUINCY ADAMS.

WASHINGTON, *March* 3, 1828.

DEPARTMENT OF STATE, *Washington, February* 29, 1828.

The Secretary of State, to whom has been referred a resolution of the House of Representatives of the 18th instant requesting the President to communicate to the House copies of the instructions of the Government of the United States, given to Thomas Pinckney, its minister in Spain, in pursuance of which the treaty of San Lorenzo el Real was entered into by said minister with the Government of Spain, so far as said instructions relate to the designation of the dividing line between the territories of Spain and the United States, has the honor to submit to the President the accompanying extracts, the first from a letter of instructions from Mr. Edmund Randolph, then Secretary of State, under date the 28th November, 1794, to Mr. Thomas Pinckney, appointed minister plenipotentiary to Spain, and the other from a report referred to therein, which comprehend the particular instructions required by the resolution of the House.

All which is respectfully submitted.

H. CLAY.

Extract from instructions of Edmund Randolph, Secretary of State, to Thomas Pinckney, Minister Plenipotentiary of the United States at Madrid, dated November 28, 1794.

"Your powers inform you, in general terms, of the subjects with which you are charged. The development of the principles upon which they are to be contended for will be found in the documents of which Mr. Short is possessed. But, for the sake of enabling you to avail yourself of every opportunity before you reach Madrid, I send a statement of our pretensions as they were laid before Congress, comprehending Mr. Jay's discussions with Mr. Gardoqui, and the instructions and arguments transmitted to Messrs. Carmichael and Short. In these the President sees no reason for a change."

Extract from instructions of Mr. Jefferson, Secretary of State, to Messrs. Carmichael and Short, Ministers Plenipotentiary to Madrid, dated March 18, 1792.

"The President having thought proper to appoint you joint Commissioners Plenipotentiary, on the part of the United States, to treat with the Court of Madrid on the subjects of the navigation of the Mississippi, arrangements on our limits, and commerce, you will herewith receive your commission; as, also, observations on these several subjects reported to the President and approved by him, which will, therefore, serve as instructions for you. These expressing minutely the sense of our Government, and what they wish to have done, it is unnecessary for me to do more here than desire you to pursue these objects unremittingly, and endeavor to bring them to an issue in the course of the ensuing summer.

Extract from a report of Mr. Jefferson, Secretary of State, to the President of the United States, dated March 18, 1792.

The appointment of Mr. Carmichael and Mr. Short as Commissioners to negotiate, with the Court of Spain, a treaty or convention relative to the navigation of the Mississippi, and which, perhaps, may be extended to other interests, rendering it necessary that the subjects to be treated of should be developed and the conditions of arrangement explained, the Secretary of State reports to the President of the United States the following observations on the subjects of negotiation between the United States of America and the Court of Spain, to be communicated by way of instruction to the Commissioners of the United States appointed, as before mentioned, to manage that negotiation. These subjects are—

1. Boundary.
2. The navigation of the Mississippi.
3. Commerce.

1. As to boundary, that between Georgia and Florida is the only one which will need any explanation. Spain sets up a claim to possessions within the State of Georgia, founded on her having rescued them, by force, from the British during the late war. The following view of that subject seems to admit no reply:

The several States now composing the United States of America were, from their first establishment, separate and distinct societies, dependent on no other society of men whatever; they continued at the head of their respective Governments the Executive Magistrate who presided over the one they had left, and thereby secured, in effect, a constant amity with the nation. In this stage of their Government their several boundaries were fixed, and particularly the southern boundary of Georgia, the only one now in question, was established at the 31st degree of latitude from the Apalachicola, westwardly; and the western boundary, originally the Pacific Ocean, was, by the treaty of Paris, reduced to the middle of the Mississippi. The part which our Chief Magistrate took in a war waged against us by the nation among whom he resided obliged us to discontinue him, and to name one within every State. In the course of this war we were joined by France as an ally, and by Spain and Holland as associates, having a common enemy; each sought that common enemy wherever they could find him. France, on our invitation, landed a large army within our territories, continued it with us two years, and aided us in recovering sundry places from the possession of the enemy; but she did not pretend to keep possession of the places rescued. Spain entered into the remote western part of our territory, dislodged the common enemy from several posts they held therein, to the annoyance of Spain, and perhaps thought it necessary to remain in some of them, as the only means of preventing their return. We, in like manner, dislodged them from several posts in the same western territory, to wit: Vincennes, Cahokia, Caskaskia, &c., rescued the inhabitants, and retained, constantly afterwards, both them and the territory under our possession and Government. At the conclusion of the war Great Britain, on the 30th of November, 1782, by treaty, acknowledged our independence and our boundary, to wit: the Mississippi to the west, and the completion of the 31st degree, &c., to the south. In her treaty with Spain, concluded seven weeks afterwards, to wit: January 20, 1783, she ceded to her the two Floridas (which had been defined in the proclamation of 1763) and Minorca; and, by the 8th article of the treaty, Spain agreed to *restore, without compensation*, all the territories conquered by her, and not included in the treaty, either under the head of cession or restitutions—that is to say, all except Minorca and the Floridas. According to this stipulation, Spain was expressly bound to have delivered up the possessions she had taken within the limits of Georgia to Great Britain, if they were conquests on Great Britain, who was to deliver them over to the United States; or, rather, she should have delivered them to the United States themselves, as standing, *quoad hoc*, in the place of Great Britain; and she was bound, by natural right, to deliver them to the same United States, on a much stronger ground, as the real and only proprietors of those places which she had taken possession of, in a moment of danger, without having had any cause of war with the United States, to whom they belonged, and without having declared any, but, on the contrary, conducting herself, in other respects, as a friend and associate.—(Vattel, l. 3, 122.)

It is an established principle that conquest gives only an inchoate right, which does not become perfect till confirmed by the treaty of peace, and by a renunciation or abandonment by the former proprietor. Had Great Britain been that former proprietor, she was so far from confirming to Spain the right to the territory of Georgia invaded by Spain that she expressly relinquished to the United States any right that might remain in her, and afterwards completed that relinquishment by procuring and consolidating with it the agreement of Spain herself to restore such territory without compensation. It is still more palpable that a war existing between two nations, as Spain and Great Britain, could give to neither the right to seize and appropriate the territory of a third, which is even neutral, much less which is an associate in the war, as the United States were with Spain.—(See, on this subject, Grotius, l. 3, c. 6, § 26; Puffend., l. 8, c. 6, § 17, 23; Vattel, l. 3, § 197, 198.)

On the conclusion of the general peace the United States lost no time in requiring from Spain an evacuation of their territory: that it has been hitherto delayed, by means which we need not explain to that Court, but which have been equally contrary to our right and to our consent.

Should Spain pretend, as has been intimated, that there was a secret article of treaty between the United States and Great Britain, agreeing if, at the close of the war, the latter should retain the Floridas, that then the southern boundary of Georgia should be the completion of the 32d degree of north latitude, the Commissioners may safely deny all knowledge of the fact, and refuse conference on any such postulatum; or should they find it necessary to enter into argument on the subject, they will, of course, do it hypothetically, and, in that way, may justly say, on the part of the United States: "Suppose that the United States, exhausted by a bloody and expensive war with Great Britain, might have been willing to have purchased peace by relinquishing, under a particular contingency, a small part of their territory, it does not follow that the same United States, recruited and better organized, must relinquish the same territory to Spain without striking a blow. The United States, too, have irrevocably put it out of their power to do it by a new Constitution, which guaranties every State against the invasion of its territory. A disastrous war, indeed, might, by necessity, supersede this stipulation, (as necessity is above all law,) and oblige them to abandon a part of a State; but nothing short of this can justify or obtain such an abandonment."

The southern limits of Georgia depend chiefly on—

1st. The charter of Carolina to the lords proprietors, in 1663, extending southwardly to the river Matheo, now called St. John's, supposed in the charter to be in latitude 31°, and so west, in a direct line, as far as the South Sea.

2d. On the proclamation of the British King, in 1763, establishing the boundary between Georgia and the two Floridas, to begin on the Mississippi, in 31° of latitude north of the equator, and running eastwardly to the Apalachicola; thence along the said river to the mouth of the Flint; thence, in a direct line, to the source of St. Mary's river, and down the same to the ocean. This proclamation will be found in Postlethwayte voce "British America."

3d. On the treaties between the United States and Great Britain of November 30, 1782, and September 3, 1783, repeating and confirming these ancient boundaries.

There was an intermediate transaction, to wit: a convention concluded at the Pardo in 1739, whereby it was agreed that ministers plenipotentiary should be immediately appointed by Spain and Great Britain for settling the limits of Florida and Carolina. The convention is to be found in the collections of treaties; but the proceedings of the plenipotentiaries are unknown here. *Qu.* If it was on that occasion that the southern boundary of Carolina was transferred from the latitude of Matheo, or St. John's river, further north to the St. Mary's? or was it the proclamation of 1763 which first removed this boundary? [If the Commissioners can procure in Spain a copy of whatever was agreed on in consequence of the convention of the Pardo, it is a desirable State paper here.]

To this demonstration of our rights may be added the explicit declaration of the Court of Spain, that she would accede to them. This took place in conversations and correspondence thereon between Mr.

Jay, minister plenipotentiary for the United States at the Court of Madrid, the Marquis de Lafayette, and the Count de Florida Blanca. Monsieur de Lafayette, in his letter of February 19, 1783, to the Count de Florida Blanca, states the result of their conversations on limits in these words: "With respect to limits, his Catholic Majesty has adopted those that are determined by the preliminaries of the 30th of November between the United States and the Court of London." The Count de Florida Blanca, in his answer of February 22 to M. de Lafayette, says: "Although it is his Majesty's intention, for the present, by the limits established by the treaty of the 30th of November, 1782, between the English and Americans, the King intends to inform himself, particularly, whether it can be, in anyways, inconvenient or prejudicial to settle that affair amicably with the United States." And M. de Lafayette, in his letter of the same day, to Mr. Jay, wherein he had inserted the preceding, says: "On receiving the answer of the Count Florida Blanca, (to wit, his answer, before mentioned, to M. de Lafayette,) I desired an explanation respecting the addition that relates to the limits. I was answered that it was a fixed principle to abide by the limits established by the treaty between the English and the Americans; that his remark related only to mere unimportant details, which he wished to receive from the Spanish commandants, which would be amicably regulated, *and would by no means oppose the general principle.* I asked him, before the Ambassador of France, [M. de Montmorin,] whether he would give me his *word of honor* for it? He assured me *he would*, and that *I might engage it to the United States.*"

20TH CONGRESS.] No. 473. [1ST SESSION.

AGGRESSIONS ON JOHN BAKER AND OTHER CITIZENS OF THE UNITED STATES BY THE AUTHORITIES OF GREAT BRITAIN IN NEW BRUNSWICK.

COMMUNICATED TO THE SENATE MARCH 4, 1828.

To the Senate of the United States:

In compliance with a resolution of the Senate, of the 3d of January last, requesting the communication of information in my possession relative to alleged aggression on the rights of citizens of the United States by persons claiming authority under the Government of the province of New Brunswick, I communicate a report from the Secretary of State, with a copy of that of the special agent mentioned in my message at the commencement of the present session of Congress as having been sent to visit the spot where the cause of complaint had occurred to ascertain the state of the facts, and the result of whose inquiries I then promised to communicate to Congress when it should be received.

The Senate are requested to receive this communication as the fulfilment of that engagement; and, in making it, I deem it proper to notice, with just acknowledgment, the liberality with which the minister of his Britannic Majesty residing here, and the Government of the province of New Brunswick, have furnished the agent of the United States with every facility for the attainment of the information which it was the object of his mission to procure.

Considering the exercise of exclusive territorial jurisdiction upon the grounds in controversy by the Government of New Brunswick, in the arrest and imprisonment of John Baker, as incompatible with the mutual understanding existing between the Governments of the United States and of Great Britain on this subject, a demand has been addressed to the provincial authorities, through the minister of Great Britain, for the release of that individual from prison, and of indemnity to him for his detention. In doing this, it has not been intended to maintain the regularity of his own proceedings, or of those with whom he was associated, to which they were not authorized by any sovereign authority of this country.

The documents appended to the report of the agent being original papers, belonging to the files of the Department of State, a return of them is requested when the Senate shall have no further use for them.

JOHN QUINCY ADAMS.

WASHINGTON, *March* 3, 1828.

DEPARTMENT OF STATE, *Washington, February* 28, 1828.

The Secretary of State, to whom has been referred, by the President, the resolution of the Senate of the third ultimo, requesting him to communicate to the Senate (so far as may be compatible with the public interest) any information in his possession relative to any alleged aggression on the rights of the citizens of the United States by persons claiming authority under the Government of the province of New Brunswick, has the honor to report herewith a copy of the instructions given to S. B. Barrell, who was deputed to collect information in relation to the subject mentioned in the resolution, and a copy of his report made in conformity with them.

All which is respectfully submitted.

H. CLAY.

DEPARTMENT OF STATE, *Washington, November* 19, 1827.

SIR: Some difficulties having arisen on our northeastern border between the Government and people of New Brunswick and the State of Maine, in regard to certain settlements within the territory mutually claimed by the United States and Great Britain, the President is desirous of possessing information on

particular points, which it is thought can be best acquired by sending some person to collect it on the disputed ground. He has accordingly authorized me to engage some person in this service; and as you have consented to accept it, I will now direct your attention to the particular points regarding which information is desired.

From the perusal of the affidavits,* copies of which you will receive herewith, you will perceive that collisions have arisen between the British authorities of New Brunswick and some of the settlers on the Madawaska and the Aroostook, branches of the St. John; that these authorities claim to exercise a jurisdiction over those settlements, although they are within the above disputed territory, and that they have, in fact, exercised it in various ways, and finally by the arrest of an American citizen, by the name of John Baker, who, after being carried from his home some distance to Fredericton, was there tried, convicted, and sentenced to an imprisonment of six months, and the payment of a fine of £150. The President wishes to know when and by whom these settlements on the Madawaska and Aroostook were first made? Whether they were under American or British authority, or of French origin? By whom have they been governed? Have both the American and British Governments exercised acts of jurisdiction over them, or only one Government, and which, exclusively? Have the settlers generally acquiesced in the exercise of that authority, whether British or American, which has been extended over them? If these settlements were originally American, when did the British authorities first attempt to exercise jurisdiction over them? If they were originally British, when was an objection first made to the exercise of British jurisdiction over them? And when was the right first asserted, if it has been asserted at all, to exercise authority from the State of Massachusetts or of Maine over them? From what Government do the settlers deduce their land titles? If both from an American and a British source, from which has the greater number been obtained? Which are the oldest?

You are also requested to inquire particularly into the causes of the arrest and condemnation of John Baker, and his present situation, and to procure official copies of the process and judicial proceedings against him. It being alleged that he is confined in a loathsome and unhealthy jail, you will examine, as far as you can, into his condition, and for that purpose, if you shall deem it necessary, you will proceed to the place of his confinement and apply to the proper authority for permission to see him, and to ascertain the circumstances of his situation.

If it should turn out, upon investigation, that the abovementioned settlements were made and have been governed under the authority of Massachusetts and Maine, or either of them, you will please to take the affidavits of some three or four or more persons to establish that fact.

Measures being in a course of adoption or operation to settle between the United States and Great Britain the question of right in the disputed territory, it is the wish of the Government of the United States, and it is professed to be that of the Government of Great Britain, that nothing should occur within the disputed territory to disturb the harmony between the two countries. We have inculcated forbearance and moderation on our side, and we are officially assured that it has been and will be practiced on the other. Should you have intercourse with any of the inhabitants of the disputed territory, you may explain to them this mutual understanding between the two Governments. Whilst measures are in progress to adjust, in a regular way, by the two Governments themselves, the disputed boundary, abstinance from all acts of individual violence, and from all unnecessary collision is the interest on both sides. Such acts and collisions might retard, but are not likely to advance the work of amicable settlement between the two nations.

You will proceed, in the first place, and before you go upon the disputed ground, to his excellency Enoch Lincoln, Governor of Maine, and explain to him fully the object of this commission. You will request of him such assistance and information in the execution of it as he may be able and think proper to render. A letter of introduction to Governor Lincoln is herewith delivered to you; and I expect also to procure for you a letter of introduction to Sir Howard Douglas, the Governor of New Brunswick, from the British minister, which will be delivered or forwarded to you.

The sum of $300 is now advanced to you on account of your expenses. On your return a reasonable allowance will be made for your services, and your reasonable expenses will also be reimbursed you.

I am, sir, &c., &c., &c.,

H. CLAY.

S. B. BARRELL, Esq.

Report of the Special Agent.

WASHINGTON, *February* 11, 1828.

The undersigned has the honor to report that, in pursuance of the instructions which he received from the Department of State on the 19th day of November last, he proceeded to Portland, in the State of Maine, and explained to his excellency Enoch Lincoln, the Governor of that State, the object of his commission, and requested of him such assistance and information, in the execution of it, as he was able and might think proper to render. His excellency expressed his ready compliance with the request of the undersigned, and in reply to a letter addressed to him the undersigned received the letter from his excellency, with its accompanying document, herewith presented, and marked A and B.

From Portland the undersigned proceeded to Fredericton, the capital of New Brunswick, and the residence of Sir Howard Douglas, the Lieutenant Governor of that province, to whom he transmitted, upon his arrival, a letter of introduction from the minister of his Britannic Majesty near the United States, a copy of which is herewith presented, marked C.

In consequence of severe bodily indisposition Sir Howard Douglas was unable to give the undersigned a personal interview; but he was, without delay, informed, by other members of the Government of New Brunswick, that he was fully accredited as the representative of his Government; and that any information, documentary or otherwise, relating to his mission, which he desired, should be promptly furnished.

Soon after his arrival at Fredericton the undersigned received a letter from the Attorney General of the province, under date of December 23, which, together with a copy of his letter in reply, are herewith presented, marked D and E.

* These affidavits were communicated to Congress at the opening of the present session of Congress, with the President's message.

On the 23d of December the Attorney General transmitted to the undersigned the letter herewith presented, and marked F, together with sundry documents, which are also herewith presented, and numbered from 1 to 6, inclusive. And on the 25th of December the undersigned received from the Attorney General his letter of that date, marked C, and which, with the accompanying documents, numbered from 7 to 10, inclusive, are also herewith presented.

The undersigned, while at Fredericton, had repeated interviews with Mr. John Baker, whom he found confined in prison at that place. In conformity with his instructions, he applied for permission to see Mr. Baker in prison, in order that he might ascertain the circumstances of his situation, and an opportunity was readily afforded him for that purpose. The apartment of the prison in which Mr. Baker is confined is of a description that precludes the possibility of rendering its tenants comfortable. But the prison affords none better, and it is appropriated to prisoners in confinement for debt. The undersigned found in the same apartment with Mr. Baker an individual who was imprisoned at the suit of a creditor. It is but justice to add, that the undersigned was informed by Mr. Baker that both the high sheriff of the county and the keeper of the prison had done all which, consistently with their duty, they could do to alleviate his situation and to render him as comfortable as circumstances would authorize. The undersigned was informed, at Fredericton, that the prison had been recently presented by the grand jury of the county as a public nusiance.

It will be found from an examination of the document (No. 2) accompanying the letter from the Attorney General of New Brunswick to the undersigned, under the date of December 23, that the offences with which Mr. Baker stands charged, and for which he is to be tried at Fredericton, are for exciting sedition among the French settlers at Madawaska, and endeavoring to obstruct the passage of the British mail upon the river St. John. Mr. Baker is also imprisoned on civil process at the suit of Robert Shear, residing in Lower Canada. He confessed a judgment to Shear, at Quebec, for about two hundred and thirty pounds, in the year 1821, and upon this judgment the present suit is founded. On the criminal suit he was required to find bail for his appearance in the sum of one hundred pounds, which he informed the undersigned he could readily obtain if he could be discharged from the civil process.

The undersigned proceeded from Fredericton to Houlton Plantation, a settlement within the aknowledged bounds of the State of Maine, and about twelve miles distant from Woodstock, upon the river St. John. At this place he met with several of the settlers upon the Aroostook river, from whom he received all the information he sought respecting the first settlements upon that river, and the causes of recent disturbances among the setflers.

The earliest settlement upon the Aroostook was made about six years since. The settlers are about forty in number, nine of whom are citizens of the United States, and the residue are British subjects. No one of them has a grant of land either from the Government of the province of New Brunswick or that of the States of Massachusetts or Maine; nor any other title to the land occupied than that which arises from possession. Lewis Johnson and Charles Johnson, born in the British province of Nova Scotia, and William McCrea, born in Ireland, were the earliest settlers. The disturbances which have taken place have been confined almost exclusively to what is termed the Upper Settlement upon the Aroostook, about thirty miles from the mouth of the river. The settlers, generally, are composed of individuals who have fled from the British provinces involved in debt, and probably with a view of avoiding their creditors, and who settled themselves upon the Aroostook under an impression, as they state, that they were going upon American ground, and doubtless under the expectation that they should find themselves beyond the reach of the laws of Great Britain. Of this description, as the undersigned was informed, was *William Dalton*, the individual whose statement, under oath, was transmitted to the Department of State in November last, and which has been productive of such excitement in all parts of the United States, and more especially in the State of Maine. Dalton was born in the State of Maine; but for some years before he settled upon the Aroostook he resided in the province of New Brunswick, and at different places upon the river St. John, where he was engaged in the business of lumbering. It is said that he failed in business, and left the province of New Brunswick, deeply involved in debt, and took up his residence upon the Aroostook river, where the undersigned has reason to believe he would have remained to the present time if he had found himself without the reach of his British creditors. From information derived from other settlers upon the Aroostook, the undersigned is himself satisfied, and feels it to be his duty to report to the Government, that the statement of Mr. Dalton, above alluded to, is substantially, and in every material point, absolutely false. The facts respecting the taking away of Joseph Arnold's cow, as represented by James Armstrong, one of the settlers, as well as by Arnold himself, are briefly these: Arnold had exchanged a cow belonging to him for another in possession of one William McCrea, and which the latter claimed as his property. The cow received from McCrea by Arnold was subsequently taken from the latter by due process of law by one John Bradley, who claimed to be the owner of the cow, and who stated that he had sold the cow to McCrea only *conditionally*, and that, as McCrea had not complied with the terms of the contract, he (Bradley) was entitled to his cow again. Arnold applied for relief to the magistrate by whom the writ of replevin had been issued, under which the cow he had received from McCrea had been taken from him; but failing to procure redress he returned home and told McCrea that he must either furnish him with legal evidence of his ownership in the cow which he had received from him, or return to him the cow which he had given in exchange for that which Bradley had taken from him. McCrea refused to deliver up the cow, but consented to leave the matter to be settled by referees. Referees were agreed upon by the parties, who decided that if McCrea, within a certain specified period, should not furnish Arnold with proof of his being the owner of the cow which he had exchanged for that of Arnold, that he should restore to Arnold the cow he had received from him. The time prescribed having elapsed, and McCrea having neglected to furnish the proof required, and the cow received from Arnold being yet in McCrea's possession, Arnold took the cow from McCrea and carried her to his own house; thus exercising a summary act of justice not unusual, it is believed, in communities like that at the Aroostook. McCrea pretended that he had sold Arnold's cow to one Michael Cummings, whom he had accompanied to the residence of Mr. Justice Morehouse, and procured in his behalf a writ of replevin for the return of the animal. It was the service of this writ that was successfully resisted by the settlers, (as stated in document No. 9, furnished by the Attorney General of New Brunswick,) and the cow has since remained in the possession of Arnold. According to Dalton's statement, the cow was *taken away from Arnold*, and, the public are led to infer, was restored to McCrea. That part of Dalton's statement, relative to the loss he sustained in removing from the Aroostook, was represented to the undersigned as exaggerated. Armstrong states that his property was not of the value he represents it, and was disposed of by him for a larger amount than he acknowledges to have received. The concluding

and most material part of his statement, that "for the last seven weeks the inhabitants of Aroostook settlement have been unwilling and afraid to sleep in their own houses, and have retired to the lower part of the settlement and spent the night on the banks of the river and in the woods, and kept watch night and day as in an Indian war," is stated by others of the settlers to be absolutely false; and the fact is said to be that for *two nights* only, and when a force was expected to arrive at the settlement from Fredericton, sent thither by the Government for the purpose of apprehending those who were concerned in the rescue of Arnold's cow from the constable, some of the settlers, to use their own term, "mustered together," and lodged *one* night in a barn, and *one* night in a house belonging to one of them.

The undersigned deems it proper, in this place, to remark upon the testimony of Jonathan Wilson, whose statement was taken under oath, and transmitted to the Government at the same time with that of Dalton's, that his statement is founded entirely upon hearsay testimony, which, upon investigation, has been ascertained, in every material respect, to be entirely unfounded.

Civil process has been occasionally issued against the settlers upon the Aroostook by British magistrates for three or four years past, and during the last summer process for trespass and intrusion was issued, at the instance of the Attorney General of the province of New Brunswick, against the settlers generally, who were compelled to go to Fredericton and employ counsel in their defence. These suits are still pending.

It was the intention of the undersigned, in conformity with his instructions, to have gone from Houlton Plantation to the settlement upon the river Aroostook; but he was informed that a journey to that settlement was, at that time, hazardous and almost impracticable, and it would have necessarily produced in his progress great delay; and as he had seen at Houlton some of the settlers, who appeared to be men of intelligence, and had received from them the information which it would have been the principal object of his journey there to procure, he deemed it inexpedient to do so, and proceeded directly to the Madawaska settlement.

This settlement derives its name from the river Madawaska, which empties itself into the river St. John, about thirty-six miles above the Grand Falls, and about one hundred and sixty miles above Fredericton. The first settlers arrived soon after the treaty of 1783, and the first grant, which was "*of fifty-one several lots or plantations of land*," was made to Joseph Muzeroll and fifty-one other French settlers, in the month of October, 1790, by Thomas Carleton, Esquire, the then Lieutenant Governor of the province of New Brunswick. The land granted lay at intervals between the river Verte and the Madawaska river, nine miles distant from each other, and on both sides of the river St. John. The second grant was of five thousand two hundred and fifty-three acres of land lying below the river Verte, and was made to Joseph Soucer and others, by Lieutenant Governor Carleton, in August, 1794. These are the only grants ever made by the British Government within the settlement, excepting one to Limo Hibert, of two hundred and fifty acres of land, opposite to and upon the river Madawaska, in May, 1825.

The laws of the province of New Brunswick appear to have been always in force since the origin of that settlement. The settlers have acquiesced in the exercise of British authority, both civil and military, among them, and have for many years had an organized militia in the settlement. In 1824 there were but two companies of militia in the settlement. In 1826 three new companies were organized, and the number of enrolled militia now exceeds four hundred. The population of Madawaska amounts to about two thousand, and is almost exclusively French. The French settlement commences a few miles above the Grand Falls, and extends to the Marigoumtegook (or Mariumplicook) creek. There was one French settler within the distance of half a mile from the mouth of that creek at the period when the earliest of the American settlers went to reside there; and, at the distance of about six miles further down the river St. John, there now resides Joseph Mishut, a Frenchman, the wife of whom informed the undersigned that her former husband settled upon the spot where they now reside, and built the house they now occupy, about thirty years ago. The number of American settlers is about twenty-five.

The undersigned proceeded up the river St. John as far as the mouth of the Mariumplicook creek, which is about fifteen miles above the river Madawaska. At the mouth of this creek is the residence of several of the American settlers, and among others is that of Mr. John Baker. The undersigned had free and unreserved communications with all the American settlers upon the river St. John; and, from information derived from them, corroborated in all material points from other sources, he is enabled to make the statement which follows respecting the origin of the American settlement, and the causes of recent disturbances among the settlers.

Nathan Baker, John Harford, and his son John Harford, jr., were the first American citizens who settled upon the river St. John, within the territory mutually claimed by the United States and Great Britain. John Harford and his son came in June, 1817, and were followed a few months afterwards by Nathan Baker, and were all engaged in the lumbering business. In the summer of 1818 they removed their respective families from the Kennebec river. Baker established himself at the mouth of the Mariumplicook, and Harford about fifteen miles further up the river St. John. The undersigned was informed by John Harford that Nathan Baker formed a connexion in business with Mr. Samuel Nevers, a merchant of St. John, and under Nevers, who had obtained license from the Government of New Brunswick to cut timber, he engaged in the lumbering business. In the summer of 1819 a subpœna was served upon John Harford, (which is herewith presented, and marked H,) requiring him to appear at Fredericton to answer to a suit for trespass and intrusion on Crown lands, instituted by the Attorney General. Similar process was issued against his son, John Harford, jr., and also against Nathan Baker. John Harford states that he went to Fredericton in obedience to the summons, and that he, together with Nathan Baker, submitted to the authority of the Government of New Brunswick, and were both permitted to return to their settlements.

John Baker, the brother of Nathan Baker, was born in Moscow, in the county of Somerset, in the then district of Maine, in the year 1787. In 1816 he left the United States, and took up his residence in the province of New Brunswick, where he remained about two years, and then left New Brunswick for the province of Lower Canada, where he resided about the same length of time. During the whole of this period he was engaged in the lumbering business. In 1820 he left the British provinces, and went to reside with his brother Nathan, at the Madawaska settlement, and engaged in the lumbering business with him, under Nevers. In 1821 Nathan Baker died, and John Baker continued to carry on the lumbering business under Nevers.

On the 4th of October, 1825, deeds were given by the agents of the States of Massachusetts and Maine to John Baker and James Bacon, two of the American settlers. Each deed was for one hundred acres of land, of which the grantees were previously in possession; and on the 10th of the same month Bacon was

authorized by the same agents to grant licenses to cut timber within the disputed territory, as appears from the document herewith presented, and marked I. This authority was subsequently revoked. The undersigned was informed by the settlers that John Baker had previously made application to the authorities at Fredericton to become a naturalized British subject, and that he was actually upon his way to Fredericton, for the purpose of becoming naturalized, when he met with the agents of Massachusetts and Maine, with whom he returned to the settlement, and from whom he subsequently received a deed for the property he then had in possession. They state, also, that in 1822 he applied for and received from the Government of New Brunswick the bounty paid to those who raise grain upon lands recently cleared and cultivated; that Mr. Nevers, with the knowledge, consent, and concurrence of Mr. Baker, had applied for a grant of the very tract of land for which Baker afterwards received a deed from the States of Massachusetts and Maine, but the grant was refused by the Governor of New Brunswick; and that Baker and others of the settlers, both before and subsequent to the period when deeds were given by the agents of Massachusetts and Maine, voluntarily applied to the British authorities for the enforcement of the British laws among the American settlers, both in civil and criminal matters.

The fourth of July last was celebrated by the American settlers at the Madawaska. A flagstaff was raised by them upon the land of John Baker, and the American flag displayed thereon. Many of the French settlers were invited to join in the celebration, several of whom accepted the invitation and were present, and two assisted in the ceremony of raising the American flag. Most of the American settlers participated in the proceeding of the day, and it was represented to the undersigned by others of the American settlers that Mr. Baker was the principal personage among them, and it was he who proposed the celebration and the raising of the American flag. An address was delivered, and the party dined together at Mr. Baker's house. A ball in the evening at the house of Mr. Bacon, where were present, by invitation, many of the French settlers of both sexes, concluded the festivities of the day.

On the day following a paper was drawn up by one of the settlers which, it said, was dictated by Baker and Bacon. This document, as the undersigned was informed by several of the settlers, was in the form of by-laws; and the purport of it was, that the signers, in consequence of their great distance from their own Government, thinking it expedient to form themselves into a society and have laws of their own, agreed that they would resist any further attempt to enforce the laws of Great Britain among them, and would make laws for themselves. John Baker, James Bacon, and Daniel Savage, were constituted a tribunal for the enforcement of law among them, with power to seize and sell property in satisfaction of debts contracted among the settlers. One of the settlers was appointed to the office of constable. These by-laws were to be in force for one year, unless sooner annulled by the American Government. This document, they state, was signed by most of the American settlers, and was offered for signature, and the contents explained to several of the French settlers, one of whom was induced to put his name to it. It was destroyed about a month afterwards.

On the 11th August last a suit was instituted before Mr. Justice Morehouse by Phineas R. Harford against James Bacon for a debt of about eight dollars due from Bacon to Harford. A writ was issued against Bacon by Mr. Morehouse, and delivered to a constable for service. It was the service of this writ which was successfully resisted by the American settlers, who rescued Bacon from the hands of the officer, and drove the latter, but without either threatening or attempting his personal injury, from the settlement. The debt was afterwards paid by Bacon to Harford. Baker is represented by the settlers to have taken the lead in this affair. The undersigned deems it scarcely necessary to add that the proceeding of the settlers on the fourth and fifth of July last, and on the eleventh of August following, were without the authority or knowledge of the Executive of the State of Maine.

The undersigned recommended to the American settlers at Madawaska forbearance and moderation in their future proceedings during the pendency of the existing negotiation between their Government and that of Great Britain in relation to the disputed territory, assuring them that, if their conduct should be inoffensive and peaceable, they might rely upon the protection of their Government; and he has the satisfaction to believe that reliance may be placed upon the assurances he received from the settlers generally that they would hereafter abstain from all acts of individual violence, and from all unnecessary collision with the authorities of the neighboring province.

All which is respectfully submitted.

S. B. BARRELL.

Hon. HENRY CLAY, *Secretary of State.*

A.

Letter from Governor Lincoln to S. B. Barrell.

STATE OF MAINE.

EXECUTIVE DEPARTMENT, *Portland, December* 10, 1827.

SIR: I have the honor, in reply to your letter received on the 8th instant, to state that the right to assert jurisdiction over the country watered by the Madawaska and Aroostook, however and whenever it may have been settled, commenced with the period of the first assignment of the boundary of Massachusetts. That right has been relied upon also by Maine, as an independent State, during the whole term of her existence in that capacity, and it seems to be her intention to maintain, as far as the Constitution will permit, the claim she has made. That the whole of the territory adjacent to New Brunswick, now in dispute under the provision of the treaty of 1783, has been considered as American property, must have been a matter of notoriety throughout this country and the contiguous province. Indeed, the claim made by that province to soil and jurisdiction northward and westwardly of Mars Hill is viewed as an astonishing novelty. The acts which are below noticed are regarded as having attached to them a constructive possession of the whole territory claimed, and as evidence of authority over any settlements on the same. There was no occasion for more particular acts immediately applying to every spot. It is not believed that British jurisdiction ever invaded the Aroostook until very recently. The

instances of the special application of the power of the State Governments to which you advert are included in the following schedule.

I am, with the most respectful consideration, your obedient servant,

ENOCH LINCOLN.

SAMUEL B. BARRELL, Esq., *Fredericton.*

P. S.—Please to submit the contents to the inspection of Mr. Davies.

B.

Document accompanying the letter from Governor Lincoln to S. B. Barrell.

ACTS OF MASSACHUSETTS.

Grant to certain soldiers of Mars Hill, "on the eastern line of this Commonwealth," dated March 5, 1801.

Same to General William Eaton, "near the eastern boundary line," March 4, 1806.

Various other subsequent grants.

The resolves under which the above grants were made were published, and no remonstrance is known to have been offered by the British Government. There may have been previous acts of jurisdiction, but there has not been time for an examination by which to ascertain them.

ACT OF THE UNITED STATES.

The census of the Madawaska settlement was taken in 1820, under the authority of the United States, and adopted by them as correct.

ACTS OF MAINE AND MASSACHUSETTS.

In 1822 Benjamin J. Porter, of Topsham, was commissioned by Governor King, and instructed to proceed to the Aroostook and take into his possession any timber that might have been cut by trespassers.

In 1823 James Irish was commissioned by Governor Parris, and directed to proceed to the Aroostook and seize and take all such timber as should be found cut by trespassers on said river westward of the line between Maine and New Brunswick, which was done.

In 1825 James Irish, land agent for Maine, and George W. Coffin, land agent for Massachusetts, were directed by their respective States, pursuant to joint resolves passed by both States, to repair to the Madawaska settlements and there convey such lands as might be applied for; pursuant to which authority said agents did bargain, sell, and convey, to John Baker and James Bacon, one hundred acres of land each, as will appear by said Baker and Bacon's deeds, dated October 4, 1825. Said agents posted up notice at the Catholic church of their authority and intention to sell lands in the Madawaska settlement. Several applications were made to purchase.

The States of Maine and Massachusetts now hold sundry notes of hand for timber cut on the Aroostook by trespassers, with whom the agents have settled, and some money has been received.

C.

Letter from Mr. Vaughan to Sir Howard Douglas.

WASHINGTON, *November* 20, 1827.

SIR: The Government of the United States having resolved to send Mr. S. B. Barrell to the State of Maine and to the province of New Brunswick for the purpose of obtaining information in regard to the settlements on the Madawaska and the Aroostook, to the causes of recent disturbances there, and especially in respect to the late arrest, trial, and conviction of John Baker, I beg leave to present to you Mr. Barrell, and to request that he may receive from your excellency every assistance in prosecuting the inquiries which he is commissioned by his Government to make.

Mr. Barrell is also directed to procure copies of the process and judicial proceedings which have been instituted against Mr. Baker, and I venture to solicit every indulgence in that part of his commission which your excellency may be able to grant.

I have the honor to be, with great truth and regard, sir, your excellency's most obedient, humble servant,

CHAS. R. VAUGHAN.

His Excellency Sir HOWARD DOUGLAS, *Bar't,*
His Majesty's Lieutenant Governor of New Brunswick, &c., &c., &c., Fredericton.

D.

Letter from the Attorney General to S. B. Barrell.

FREDERICTON, *December* 21, 1827.

SIR: Having received directions from his excellency, the Lieutenant Governor, to furnish you with every information within my power which you may require in regard to the object of your present mission

to this province, I beg you will have the goodness to favor me with the particulars of what you may wish, that I may perform the duty required of me by his excellency, who has authorized me to be unreserved in any communication which I may make upon this occasion.

I have the honor to be, sir, your most obedient servant,

T. WETMORE, *Attorney General.*

SAMUEL B. BARRELL, Esq., *&c., &c., &c.*

E.

Letter from S. B. Barrell to the Attorney General.

FREDERICTON, *December* 21, 1827.

SIR: I have the honor to acknowledge the receipt of your letter requesting me to designate particularly the information which I am desirous to obtain on subjects connected with my mission to this province, and, in reply, I beg leave to state that I have been requested to inquire particularly into the causes of the arrest of John Baker, and to procure official copies of the process and judicial proceedings against him. Any information, documentary or otherwise, which, in your opinion, may have a tendency to elucidate and explain the late proceedings of the Government of this province in relation to Mr Baker, and with which you may think proper to furnish me, I will receive and convey to the Government of the United States.

I have the honor to be, sir, your obedient servant,

S. B. BARRELL.

HON. THOMAS WETMORE, *Attorney General, &c., &c., &c.*

F.

Letter to S. B. Barrell, Esq.

FREDERICTON, *December* 23, 1827.

SIR: In compliance with the request contained in your letter of the 21st instant, (which I had the honor to receive this day,) "to be informed particularly as to the causes of the arrest of John Baker, and to be furnished with copies of the process and judicial proceedings against him," I had prepared a number of papers with an intention of conveying the same to you, but finding by a Halifax paper received by to-day's mail that several of those papers had been communicated to Congress with the President's message of the 4th instant, it has become necessary for me to alter, in some degree, the arrangement I had previously made.

The affidavits referred to in Mr. Vaughan's letter to Mr. Clay were the foundation of the magistrate's warrant against Baker, Bacon, and Studson, the three persons named therein. A copy of that warrant, and the return endorsed thereon, I have the honor to send herewith, (marked No. 1.) Upon my return from the northern circuit, which happened after the commencement of the last term of the Supreme Court, I found the defendant, Baker, was in custody, against whom I exhibited an *ex officio* information, a copy of which accompanies this letter, (marked No. 2.) Upon which information he was charged, and to which he pleaded *not guilty*, and was committed until he found two sureties, in £50 each, to appear at the next term to take his trial. I well remember he named in court one person who was approved of, but that person was not present, and he could not then name another. That cause stands for trial in the usual course at the next term in February next. Previous to the preparing of the above mentioned warrant, a report had been received from Justice Morehouse of the commission of a very high handed riot and rescue by a party of American citizens in the Madawaska settlement, but no affidavit accompanied the report, and none reached me until the 26th of last month. I now beg leave to refer you to the enclosed documents, (marked No. 3,) being copies of the original report, and the affidavit of Sanfaçon, the constable, and also of the affidavit which was the foundation of the warrant to take James Bacon. Both of the parties in the suit before the magistrate were American citizens, inhabitants of Madawaska.

The want of sufficient information prevented me from proceeding against those rioters, who were, as you will perceive, headed by Baker, at the last term. A suit is also depending against Mr. Baker for trespass and intrusion. I herewith enclose copies of the proceedings therein, (marked No. 4.) He has not yet entered his appearance. Being prevented by the present indisposition of his excellency from having a personal interview with him, I avail myself of the general direction given to me to be unreserved in my communication to you, to enclose to you copies (marked No. 5) of certain documents relating to similar conduct on the part of a late brother of John Baker and other American citizens in 1818. Upon that occasion suits were instituted by me for trespass and intrusion against Nathan Baker and John Harford & Son, which suits, in consequence of their submission, were not further proceeded in.

With great pleasure I also further avail myself of that general direction in sending to you copies (marked No. 6) of the correspondence relating to the mode of executing the first mentioned warrant against John Baker and others, as it will thereby manifestly appear how extremely desirous his excellency has been that the proceedings against those persons should be conducted in such a way as to avoid any just cause of complaint; in short, to have no more done than was absolutely necessary to preserve the supremacy of the laws, without which there would be an end of liberty and all personal security.

I have the honor to be, sir, your most obedient servant,

T. WETMORE, *Attorney General, New Brunswick.*

SAMUEL B. BARRELL, Esq., *Agent from the United States of America, &c., &c., &c.*

G.

Letter to S. B. Barrell.

KINGSWOOD, NEAR FREDERICTON, *December* 25, 1827.

SIR: From the suggestions made at our conference yesterday, I now have the honor of furnishing you with, not only the copies of the documents which I perceive have already been communicated to your Government, and on the 4th instant submitted to Congress, but of other papers which may have a tendency to give a true complexion to those proceedings, which, partly from the want of correct information, but principally from wilful misrepresentation, have produced excitements that have in some degree threatened the disturbance of the peace and harmony which have heretofore prevailed between our neighbors and us. The documents that accompany this are—

1st. A copy of my letter to Justice Morehouse, of the 31st July last, with copies of Adjutant Rice's letter to him of the 25th, and his letter to Mr. Secretary Odell, of the 26th of the same month, relating to the conduct of Baker and others; in a file marked No. 7.

2d. Copies of the depositions of Feirio, Silesté, Chamberland, and Markee, made on the 7th, 8th, and 9th of August last, and Justice Morehouse's letter to me on the 11th of that month, with his list of American citizens settled in Madawaska; in a file marked No. 8.

3d. Copies of Justice Morehouse's report to Mr. Secretary Odell, and the affidavit of Stephen McNiel, the constable, dated the 20th of last September, relating to a riot and rescue, and false imprisonment of the constable, by an armed party of thirteen men, principally British subjects, on the river Restook; in file marked No. 9.

4th. Copies of my letters of the 7th of last September to the Sheriff of York and Justice Morehouse, relating to the issuing of process against Baker, Bacon, and Studson, and directing the manner of executing the same, marked No. 10.

I have the honor to be, sir, your most obedient servant,

T. WETMORE, *Attorney General, New Brunswick.*

SAMUEL B. BARRELL, Esq., *Agent of the United States, &c., &c.,*

H.

Subpœna ad respondendum.

[L. S.] George the Fourth, by the grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, &c., to John Harford, greeting:

We command you that, laying aside all excuses whatsoever, you be and appear, in your proper person, before our justices of our Supreme Court for our province of New Brunswick, at Fredericton, on Saturday next, after the second Tuesday in July next, to answer to us of and concerning certain matters which our behalf shall be then and there objected against you. And this you are by no means to omit, under the penalty of one hundred pounds, which we will cause to be levied on your goods and chattels, lands and tenements, to our use, if you neglect to obey this our present command.

Witness Jonathan Bliss, Esquire, our Chief Justice of Fredericton, the twentieth day of May, in the first year of our reign.

By the Justices.

ODELL.

Endorsed: At the suit of the Attorney General for trespass and intrusion on the Crown lands.

T. WETMORE, *Attorney General.*

I.

OCTOBER 10, 1825.

SIR: We hereby authorize and direct you to ascertain the amount of timber that may be cut the approaching season upon the St. John river, and upon the several streams and rivers emptying into St. John river above the Grand Falls; and, where permits have been granted by us, settle with the holders of said permits, conformably to the conditions thereof; but where any persons have presumed to cut without our permission, or permission obtained from you upon the same terms, (a copy of one of said permits is here enclosed,) you will require such persons to pay fifty cents per ton for timber, and one dollar and twenty-five cents per thousand for boards; or, on refusing to pay as aforesaid, seize the logs and timber, and sell the same at public auction for the benefit of said Commonwealth and State, first giving thirty days' public notice of the time and place of sale, by posting the advertisement at one or more public places within your district.

GEO. W. COFFIN, *Land Agent for the Commonwealth of Massachusetts.*
JAMES IRISH, *Land Agent for the State of Maine.*

MR. JAMES BACON.

No. 1.

Justice Morehouse's warrant against John Baker and two others.

YORK. To the high sheriff of the county of York, and his deputies, and to all and singular the
[L. S.] constables of the respective towns and parishes in the same county, and to every one of them, greeting:

Forasmuch as it appears to me, George Morehouse, Esquire, one of his Majesty's justices, assigned to keep the peace in and for the said county, as well by the oath of Peter Markee and others as upon my

own view, that John Baker, James Bacon, and Charles Studson, all of the parish of Kent, in the county of York, aforesaid, laborers, have been guilty of a high misdemeanor, by endeavoring to persuade and procure divers of the inhabitants of the said parish, his Majesty's loyal subjects, to depart from the allegiance which they owe to his said Majesty, and in violently opposing the execution of the laws of the Realm of England and of this province within the said parish, and opposing and resisting the authority of his Majesty's Government there, and conspiring together to subvert his Majesty's authority and Government in that part of this province: These are, in his Majesty's name, to command you, and every one of you, forthwith to apprehend the said John Baker, James Bacon, and Charles Studson, and bring them before me, the said justice, at my dwelling-house in the said parish, to answer to the said charge, and further to be dealt with according to law. Hereof fail not at your peril. Given under my hand and seal, at the parish of Kent, aforesaid, the twenty-second day of September, in the year of our Lord one thousand eight hundred and twenty-seven, and in the eighth year of the reign of his Majesty King George the Fourth.

GEORGE MOREHOUSE, *Justice of the Peace.*

I have taken the body of John Baker, and had him before George Morehouse, Esq., on Tuesday, the twenty-fifth day of September, who referred me to the Attorney General for examination. The said John Baker I have now in custody, to be dealt with as the law may direct. The other offenders, Bacon and Studson, could not be arrested.

E. W. MILLER, *Sheriff.*

No. 2.

Copy of information against John Baker for a misdemeanor, October 13, 1827.

NEW BRUNSWICK, SUPREME COURT. YORK, TO WIT: } *Michaelmas term, in the eighth year of the reign of King George IV.*

Be it remembered, that Thomas Wetmore, Esq., Attorney General of our sovereign lord the now King for his Majesty's province of New Brunswick, who, for our said lord the King, prosecutes in this behalf, in his own proper person, comes here into the court of our said lord the King, before the King himself, at Fredericton, in the county of York, on Saturday next, after the second Tuesday in October, in this same term, and, for our said lord the King, gives the court here to understand and be informed that John Baker, of the parish of Kent, in the county of York, laborer, being a person greatly disaffected to our said lord the now King and his Government, within this, his Majesty's province of New Brunswick, and contriving, endeavoring, and unlawfully, maliciously, factiously, and seditiously intending to vex, molest, and disturb the peace and common tranquillity of this province, and to bring into hatred and contempt our most serene lord the now King and his Government, and for creating false opinions and suspicions in the people and subjects of our said lord the King, of and concerning the Government and administration of our said lord the King, and of the royal power and undisputed prerogative of our said lord the King within this province, he, the said John Baker, for performing, perfecting, and effecting his said most wicked contrivances and intentions, on the fifteenth day of July, in the eighth year of the reign of our sovereign lord King George the Fourth, at the parish of Kent aforesaid, in the county aforesaid, with force and arms, contemptuously, maliciously, factiously, and seditiously applied to one Peter Markee, being one of the subjects of our said lord the King, residing and inhabiting within the said parish, and then and there endeavored to persuade and seduce the said Peter Markee to depart from and violate the allegiance which he owed to our said lord the King, and did then and there present to the said Peter Markee a written paper, then and there requesting and persuading him, the said Peter Markee, to subscribe his name thereto; then and there stating to the said Peter Markee that the same paper was drawn up by him, the said John Baker, and others residing in the Madawaska settlement, in the parish aforesaid, and county aforesaid, with an intent thereby to bind those who subscribed the same paper to defend one another against any act of a British officer, civil or military, and not to allow the British laws to be put in force among them in the said Madawaska settlement aforesaid, (to wit, in the parish aforesaid, and county aforesaid,) he, the said John Baker, then and there declaring that the British Government, meaning the Government of our said lord the King, had no right to exercise any authority over the inhabitants of the said settlement, and that the Government of the United States of America would protect him, the said John Baker, and others his confederates, as aforesaid, in what they were then doing. And that he, the said John Baker, in order further to perform, perfect, and effect his malicious, factious, and seditious intentions and designs aforesaid, afterwards, to wit, on the eighteenth day of the same month of July, in the year aforesaid, at the parish aforesaid, in the county aforesaid, endeavored to oppose and obstruct the postman, then and there having the custody and carriage of his Majesty's mail to Canada, in the prosecution of his journey with the same mail, he, the said John Baker, then and there declaring, with a loud voice, in presence and hearing of divers of the subjects of our said lord the King, that England had no right to send her mails by that route, (meaning through that part of the said parish of Kent,) and that he, the said John Baker, had received orders from the said Government of the United States to stop the conveyance of the said mails through the same; to the derogation, great damage, diminution, and prejudice of our said lord the King and his prerogative, in very great contempt of our said lord the King and his laws, to the evil example of all others in the like case offending, and against the peace of our said lord the King, his crown, and dignity.

Whereupon the said Attorney General of our said lord the King, who for our said lord the King in this behalf prosecutes for our said lord the King, prays the consideration of the court here in the premises, and that due process of law may be awarded against the said John Baker, in this behalf, to make him answer to our said lord the King touching and concerning the premises aforesaid.

T. WETMORE, *Attorney pro Dom. Reg. Gen.*

No. 3.

Copies of report of Justice Morehouse, and other documents relating to the riot and rescue of James Bacon.

KENT, *August* 22, 1827.

SIR: A few days subsequent to my inquiries into the late conduct of American citizens in Madawaska, application was made to me by one Phineas R. Hofford for a capias to hold James Bacon, one of the ring-leaders in their refractory conduct, to bail for debt. I issued the writ, and the constable, Joseph Sanfaçon, has this day made report to me that he served it on Bacon, but that Bacon was rescued and taken out of his hands by a party of Americans, about twelve in number, all armed with muskets and swords, who ordered him to go about his business, and threatened to take his life if he returned, as well as the person who applied for the writ, thus putting in execution their threats that they would not allow the laws of England to be put in force amongst them. From this flagrant conduct of them, I shall not attempt to issue any more writs against them until they are reduced and compelled to adopt a more friendly line of conduct towards us, as I conceive that sending constables among them will be running an unnecessary risk of their lives.

I have the honor to be, sir, your most obedient servant,

GEORGE MOREHOUSE.

THOMAS WETMORE, Esq.

NEW BRUNSWICK, *York, ss.*

Joseph Sanfaçon, of Madawaska, and one of the constables of the parish of Kent, in the county of York, and province of New Brunswick, maketh oath and saith: That having a capias to hold to bail James Bacon, an American citizen, residing in Madawaska, at the suit of Phineas Reynold Hofford, deponent proceeded for that purpose to the residence of the said James Bacon, in Madawaska, on the morning of the 11th of August last, between the hours of 7 and 9 o'clock a. m., when deponent took the said Bacon prisoner, and demanded bail. That Bacon declared he would not submit to the authority of that writ, but immediately sent a man to bring John Baker and others to rescue him. That the said John Baker, an American citizen, resident there, came armed with a sword, and with him a party of men, American citizens, to wit: John Schoedder, armed with a musket; Walter Powers, Nathaniel Bartlett, Daniel Savage, Isaac Jones, and John Baker, jr., all armed with clubs, as well as others, American citizens, unknown to this dependent. That John Baker, Nathaniel Bartlett, and Daniel Savage acted as leaders in the fray, and encouraged the others to assist in rescuing Bacon; that they demanded of deponent to give up his prisoner, and on his refusal so to do, stepped forward and by force took him away; at the same time they formed a ring, putting Bacon in the midst of them, and declaring that if it was a writ from the United States they would submit to its authority, but that they had bound themselves not to submit to the laws of England.

That John Baker addressed himself to this deponent in most violent language, threatening to take his life for attempting to serve that writ, when this deponent, finding any further attempts to do his duty useless, desisted and went away.

JOSEPH SANFAÇON.

Sworn before me, at Kent, this 9th day of November, 1827.

GEORGE MOREHOUSE, *Justice of the Peace.*

YORK, *ss.*

Phineas Reynold Hofford, of the town or parish of Kent, in the county of York, maketh oath and saith: That James Bacon, of the town or parish of Kent, in the said county of York, is justly and truly indebted unto this deponent in the sum of five pounds of lawful money of New Brunswick, over and above all discounts; and that he, the said James Bacon, is about to abscond or depart from this county, as he, the deponent, is informed and verily believes; and that he, the deponent, will be in danger of losing his said debt unless the said debtor be held to bail for the said sum, so due as aforesaid, in an action which the deponent is now about to commence for the recovery of the same.

PHINEAS R. HOFFORD.

Sworn before me, this 9th day of August, 1827.

GEORGE MOREHOUSE, *Justice of the Peace for the County of York.*

YORK, *ss.—George Morehouse, Esq., one of his Majesty's Justices of the Peace in and for the County of York:*

To either of the constables of the town or parish of Kent, in the said county, greeting: You are hereby commanded to take James Bacon, if he shall be found in your parish, and him safely keep, so that you may have his body before me, at my office, in Kent, in the said county, on ———day, the ——— day of August, to answer Phineas Reynold Hofford in an action for debt in the sum of five pounds, and have you then there this precept.

Given under my hand and seal, at Kent, this 9th day of August, in the year of our Lord one thousand eight hundred and twenty-seven.

GEORGE MOREHOUSE, [L. S.]
Justice of the Peace.

Take bail for £5.

No. 4.

Information and process against John Baker for trespass and intrusion.

In the Supreme Court.—*Exchequer side.*

York, *to wit:*

Be it remembered, that Thomas Wetmore, Esq., Attorney General of our sovereign lord the King for this his Majesty's province of New Brunswick, who prosecutes for our said lord the King, comes, in his own proper person, into the court of our said lord the King, before the justices of our said lord the King at Fredericton, on the seventeenth day of September, in the eighth year of the reign of our sovereign lord the now King, and for our said lord the King gives the court here to understand and be informed: That, whereas a certain tract or parcel of land, situated in the parish of Kent, in the county of York, in the said province, and lying on both sides of the river St. John, between the mouth of the Madawaska river and the river St. Francis, and containing, in the whole, fifty thousand acres, in the hands and possession of our said lord the King, on the first day of February, in the first year of his reign, and before and continually after, was, and of right ought to be, and yet ought to be, in the right of his Imperial Crown of the United Kingdom of Great Britain and Ireland, and as part of the dominions of our said lord the King in this province, and for so long a time as there is no remembrance of any man to the contrary, has been in the possession of the said lord the King and his predecessors, the Kings and Queens of Great Britain and Ireland, and a part of the dominions of the said Crown. Nevertheless, one John Baker, of the parish aforesaid, in the county aforesaid, farmer, the laws of the said lord the King in nowise regarding, but intending the disherison of the said lord the King in the premises, on the first day of February, in the second year of the reign of our said present sovereign lord the King, and on divers days and times before and since, with force and arms, and without any lawful authority, in and upon the possession of the said lord the King, of a part of his said lands, to wit: One hundred acres thereof lying on the westerly side of the Land Turtle, or Mereumpticook river, a branch of the said river St. John, at the parish aforesaid, in the county aforesaid, intruded and entered and erected, and built thereon a certain house, and other edifices, and cut and felled divers, to wit: five hundred timber and other trees thereon standing and growing, of the value, together, of one hundred pounds, and took and carried away the timber and wood arising from the said trees, and of his own will disposed thereof, and the issues and profits of the same land coming, received, and had, and as yet doth receive and have, to his own use, and still holds and keeps possession of the same lands. And the said trespass aforesaid hitherto and yet continuing, to the great annoyance of our said lord the King, in contempt of our said lord the King, and contrary to his laws and against the peace of our said lord the King: Whereupon the said Attorney General of our said lord the King, for the said lord the King, prays the advice of the court here in the premises. And that the aforesaid John Baker come here to answer the said lord the King in the premises.

T. WETMORE, *Attorney General.*

[L. S.] George the Fourth, by the grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, &c., to John Baker, greeting:

We command you, firmly enjoining that, laying aside all excuses whatsoever, you be, in your own proper person, before the justices of our Supreme Court of judicature for our province of New Brunswick, at Fredericton, on the second Tuesday in October next, to answer to us of and concerning certain matters which on our behalf shall be then and there objected against you. And this you are by no means to omit, under the penalty of one hundred pounds, which we will cause to be levied on your goods and chattels, lands and tenements, to our use, if you neglect to obey this our present command.

Witness John Saunders, Esquire, our Chief Justice at Fredericton, the seventeenth day of September, in the eighth year of our reign.

By the Justices.

PUTNAM.

Endorsed: At the suit of the Attorney General for trespass and intrusion on the Crown lands.

T. WETMORE, *Attorney General.*

September 17, 1827.

No. 5.

Correspondence, &c., relating to the intrusions of Nathan Baker and others, in 1818.

St. John, *December* 29, 1818.

Sir: Some short time since the enclosed letter was forwarded to me by the honorable Judge Bliss, from a Mr. Du Perreé, at the Grand Falls, stating that some Americans had recently set themselves down at the Madawaska settlement, on the plea that the ground belonged to the United States.

A copy of Mr. Du Perreé's letter has been shown to our minister at Washington by Colonel Barclay, and I now send you a copy of Mr. Bagot's communication on the subject, and from a consideration of which I have to request that you will take immediate steps to get more particular information from Mr. Du Perreé, and further act in the affair as you may judge legal and expedient.

I have to request to be acquainted, from time to time, as to the exact state of this transaction.

I have the honor to be, sir, your humble servant,

G. S. SMYTH.

The Hon. Attorney General.

WASHINGTON, *December* 8, 1818.

SIR: I received on the 4th your letter of the 2d instant, and have since had an opportunity of speaking upon the subject of it with Mr. Adams.

From my conversation with him, I have every reason to be assured that the American Government will readily take whatever measure may be necessary to prevent the occupation of American citizens of any part of the territory, which, until otherwise decided by the Commissioners of Boundary, is considered to be ours; but Mr. Adams appears to think that the persons referred to in Mr. Du Perreé's letter to Judge Bliss, are, in reality, what are called squatters, and must be dealt with accordingly.

In this view of the subject, it appears to me that the Governor of New Brunswick need not scruple to displace them by whatever is the ordinary process resorted to against persons of this description; and if their names can be ascertained and communicated to me, this Government will not delay to request the Governor of Massachusetts to take such steps in respect to them as may depend upon him.

I have the honor to be, sir, your most obedient servant,

CHARLES BAGOT.

Colonel BARCLAY.

[Translation.]

MADAWASKA, *September* 5, 1818.

SIR: After paying you my best respects, I shall be very glad if our jurisdiction be enforced as usual in Madawaska, because there are several American families arrived amongst us from the Kennebec river, who would induce many of the inhabitants of this district to believe that the jurisdiction of the United States is in force, and that of New Brunswick not, which I do not believe; and I hope that your honor will be pleased to have me in your consideration in relation to this matter.

I have the honor to be, sir, your obedient servant,

P. DU PERREÉ.

Hon. J. MURRAY BLISS.

FREDERICTON, *January* 8, 1819.

SIR: Your letter to the honorable Judge Bliss, of the 5th of last September, stating "that some Americans had recently set themselves down at the Madawaska settlement, on the plea that the ground belonged to the United States," having been sent by him to his excellency the Lieutenant Governor, and a copy of it shown to his Majesty's envoy to the United States, and a conference had thereon with the Secretary of State of that Government, I have received the Lieutenant Governor's commands to get more particular information from you on the subject, and to take such steps in the affair as may be legal and expedient. I must, therefore, request that you will, as soon as possible, inform me of the names of any American citizens who have within the last eight months taken up their residence in the Madawaska settlement, or anywhere in the neighborhood of it, to the westward of the line of experiment lately run across the river St. John, and the particular places where they may have set themselves down, and the time when, and whether on ungranted lands or lands bought from individuals, and from whom; and, also, whether any surveys have been lately made by any American surveyors on the Madawaska or St. John rivers to the westward of the said line. In short, I must beg of you to give me the fullest and most particular information of any attempt that has been, since the running of that line, made by any Americans to encroach upon that part of his Majesty's territory; for, until it is otherwise decided by the Commissioners of Boundary, the whole of the river St. John, and, of course, the Madawaska river, must be considered as belonging to his Majesty.

I am, sir, your most obedient servant,

THOMAS WETMORE, *Attorney General.*

Captain PETER DU PERREÉ, *Madawaska.*

MADAWASKA, *February* 20, 1819.

HONORED SIR: In answer to your letter of the 8th of January, I have sent you a particular account of the Americans who have taken up their residence in the Madawaska settlement. Captain Nathan Baker came to Madawaska twelve months ago. At that time he wished to introduce the laws of the States; brought a magistrate along with him from the States to form a corporation, and desired my concurrence. I told him I would have nothing to do with such matters before the line was settled between the British Government and the States. I likewise told the rest of the French settlers to have nothing to do with him about such matters, which they did. In August last he brought his wife and family from Kennebec river, and took up his residence in the upper settlement of Madawaska, and built a house. In the beginning of October he began to lumber, and with five men took a range for wood through ten lots, on all which there are settlers, and some of them established fifteen years ago, and have made considerable improvements. Some of the inhabitants forbade him to cut wood upon their lots; he said it did not belong to them but to the States. He has already about ten or twelve hundred tons of timber, a great part of which I saw, on the 19th February, upon the banks of the river St. John, on the north side. He appears to me to be a man who takes much upon him. In August last Captain Flecher came from the States and entered into partnership with him in the lumber trade.

John Herford came from the States with his wife and family at the same time, and took up his residence in the upper settlement of Madawaska, built a house, and is carrying on improvements on his land.

Likewise his son, George Herford, with his wife and family, settled beside his father and built a house, and is improving his land. About three months ago they came down to make shingles, at the mouth of the Madawaska river, upon the land belonging to the Indians, but will return to their settlements, when the river opens, to plant. In the last of September, Esquire Johnson's son, one of the American surveyors, made a survey upon the north side of the river St. John, beginning at the mouth of the Madawaska river, up to the river St. Francis; he measured the French settlement at the same time. If you want any more information respecting these or other matters, I shall be happy to give you all the information in my power.

I am, honored sir, your most obedient servant,

P. DU PERREÉ, *Captain of the Militia.*

THOMAS WETMORE, Esq., *Attorney General, Fredericton.*

No. 6.

Letters to Sheriff Miller, report to the Lieutenant Governor, and his excellency's approval of the course pursued by the Attorney General.

KINGSWOOD, *September* 13, 1827.

SIR: Upon my arrival here last night I was much surprised and a little alarmed at the intelligence I received, of the manner in which the sheriff had commenced his journey up the river to perform the service required of him in regard to the execution of process on the Madawaska intruders; and I this morning early despatched my son Robert in pursuit of him with a letter, of which I beg to trouble your excellency with a copy. That letter reached him at the distance of about eight miles from town. The effect it produced will appear by the certificate thereon endorsed.

A few moments' consideration led to the conclusion that my duty was not discharged until I had used my utmost exertion to put a stop to the execution of a project which I was very apprehensive might produce serious mischief and greatly embarrass your excellency in any attempt at explanation why, instead of only two or three attendants, the sheriff should have proceeded with a party of sixteen men, armed and equipped as a military body. I therefore wrote another letter to the sheriff, which overtook him at the distance of about twenty-two miles from town. To a copy of that letter, and the certificate thereunder written, I crave leave also to refer your excellency.

The sheriff intends, as my son informs me, to proceed in the morning on horseback, in the way pointed out in my letter of the 7th instant.

The steps which I have taken, although they may be disapproved of by some, will, I hope, be considered by your excellency to be such as could not have been omitted, under existing circumstances, without a neglect of my duty.

I have the honor to be, with great respect, sir, your excellency's most obedient and very humble servant,

T. WETMORE, *Attorney General.*

His Excellency Sir HOWARD DOUGLAS, *Baronet, Lieutenant Governor and Commander in Chief, &c., &c.*

No. 7.

Copies of letters relating to the conduct of John Baker and others, and directing an inquiry into the same.

KINGSWOOD, *September* 13, 1827.

SIR: Being informed upon my arrival last night from the city that you had, contrary to the direction contained in my letter of the 7th, proceeded on your journey up the river with a posse from Fredericton to execute the process which Mr. Justice Morehouse is requested to issue against Baker and two others, I have considered it a matter of sufficient importance to despatch my son express after you with this my protest against that measure, or any other deviation from his excellency's commands, as expressed in that letter, which has received his entire approbation. Two attendants will be amply sufficient, and better than three, and those not armed in any unusual way. The process is to be executed in the usual and ordinary manner, and it is committed to you to induce a ready submission to the laws when carried into execution by an officer of your rank; and if you make any parade of force until after you meet with opposition and resistance, you will incur his excellency's great displeasure.

I have the honor to be, sir, your obedient servant,

T. WETMORE, *Attorney General.*

Mr. Sheriff MILLER.

[Endorsed on the preceding.]

SEPTEMBER 13, 1827.

I do certify that I did this day deliver to Mr. Sheriff Miller a letter of which this is a copy; and at the same time intimated that his proceeding upon his expedition with so many attendants, and in such a manner, would be acting in direct violation of his excellency's commands; and that it must be upon his own responsibility.

His reply to me was, that he had taken the advice of the council, and that, at all events, he would not now return.

T. R. WETMORE, *Clerk to the Attorney General.*

KINGSWOOD, *September* 13, 1827.

SIR: Finding from my son's report to me that you are determined to act in opposition to the wishes and commands of his excellency the Lieutenant Governor in the business which has been the subject of my letter to you of this morning, it becomes my indispensable duty to require that you return to me by the bearer the despatch which I intrusted to your care, addressed to Mr. Justice George Morehouse, in my letter to you of the 7th instant, as all further proceedings in the affair must be suspended until his excellency's pleasure shall be known in regard to the extraordinary course you are pursuing, of which I shall make an immediate report.

If you withhold that letter after this requisition, you will reduce me to the necessity of sending an express to Mr. Morehouse to countermand the directions therein contained.

I have the honor to be, sir, your obedient servant,

T. WETMORE, *Attorney General.*

EDWARD WINSLOW MILLER, Esq., *High Sheriff of York.*

P. S.—As it is his excellency's wish that no time should be lost in performing the service in which you are now engaged, you are at liberty to proceed, upon condition *only* that you take with you but two attendants; and it appears to me that were you to go on horseback you would execute the duty in one-fourth of the time.

T. W.

[Endorsed upon the preceding letter.]

Mr. Sheriff Miller, upon seeing me, having concluded immediately to return, and having anticipated the nature of my errand, I deemed it unnecessary to deliver him the despatch of which the preceding is a copy, but read to him such parts of the same as were necessary for his information, particularly the postscript, by which he was at liberty to retain the despatch to Mr. Justice Morehouse upon the condition therein stated.

T. R. WETMORE, *Clerk to the Attorney General.*

ST. JOHN, *September* 18, 1827.

SIR: I am commanded by his excellency the Lieutenant Governor to acknowledge the receipt of your letter of the 13th instant, and its several enclosures, reporting to his excellency the manner in which the sheriff of York county had commenced his journey up the river to perform the service required of him, in regard to the execution of process on the Madawaska intruders.

His excellency desires me to convey to you his excellency's entire sanction and approbation of the course you have pursued, and of the directions which you gave the sheriff on this occasion, who would have incurred his excellency's most severe displeasure had he persisted in the manner of proceeding in which it appears he had commenced his journey.

I have the honor to be, sir, your obedient, humble servant,

C. DOUGLAS, *Private Secretary.*

The ATTORNEY GENERAL.

FREDERICTON, *July* 31, 1827.

SIR: Your letter of the 26th to the provincial Secretary, enclosing a letter from Mr. Francis Rice to you, dated 25th instant, having been referred to me by his excellency the Lieutenant Governor, with directions to procure the necessary affidavits of the facts stated by Mr. Rice, I must request you will be pleased, with the least possible delay, to proceed to the place, and possess yourself of the best proofs of the conduct of Baker and others, which you will forward to me under cover to the Secretary. I send herewith a copy of Mr. Rice's letter for your guidance.

You will be particularly careful to ascertain, if possible, whether Baker is acting under pretended authority or not; and procure, if you can, a copy of the paper which has been offered for signature.

Should Baker or any other person use any violence or force to obstruct the post, you will of course consider it your duty, upon receiving the complaint under oath, to cause the offender to be arrested and committed to jail, unless he gives satisfactory security for his appearance at the next Supreme Court to answer to the charge.

I must beg you will furnish me with a sketch or general description of the lands which Baker or any other American citizen is in possession of in the neighborhood of Madawaska, and the length of time they have possessed the same.

I have the honor to be, sir, your most obedient servant,

T. WETMORE, *Attorney General.*

GEORGE MOREHOUSE, Esq.

No. 8

Copies of Justice Morehouse's report, with affidavits of Peter Markee and others, and a list of American citizens settled in Madawaska.

KENT, *July* 25, 1827.

SIR: I have the honor to enclose a letter addressed to me by Mr. Francis Rice, adjutant of the Madawaska militia, by which you will see the American subjects residing in that settlement are disposed

to acts of aggression which his excellency may think proper to take measures to put a stop to. I therefore request that you will lay this before his excellency for his consideration.

I have the honor to be, sir, your most obedient, humble servant,

GEORGE MOREHOUSE.

W. F. ODELL, Esq., *&c., &c., &c.*

GRAND RIVER, MADAWASKA, *July* 25, 1827.

SIR: Having commenced, Saturday, 21st instant, the militia company training, and finding some disorder amongst the people, occasioned by Baker and others in the upper settlement, I find it my duty to let you know as much as I am informed concerning them. In the first place, they have a written document, wherein they say they have authority from the States to have it signed by the French people of Madawaska. This they have proposed to many of the inhabitants, and, I am sorry to say, they have persuaded some of them to sign it; the name of one of the signers is *Abraham Chamberland. Baker is the head man.* All this can be proven by oath. In the second place, Baker met the postman, and asked him what he had got with him; he told him it was the province mail. Then Baker told the post that he had orders from the States to stop it. The man told him that if he was a better man than him, to try and take it. Baker answered and said, he would let it pass for this time, but at a future period he would put his orders in execution.

Sir, if this Baker and others are not stopped immediately, they will corrupt a great part of our militia. You have heard of the liberty pole they have raised in this settlement. I need not give you any information as to that: anything strange that may happen in this place I will trouble you with the shortest notice.

I am, sir, with greatest respect, your humble and obedient servant,

FRANCIS RICE, *Adjutant.*

NEW BRUNSWICK, *York, ss.*

William Feirio, of Madawaska, in the parish of Kent, county of York, and province of New Brunswick, maketh oath and saith: That by an invitation from John Baker, an American citizen, who resides in Madawaska, he, the deponent, went to the said Baker on the fourth day of July last, one thousand eight hundred and twenty-seven; that Baker and the other American citizens then raised a flagstaff and placed the American flag thereon; that the said Baker then declared that place to be American territory, which he repeated to this deponent and other French settlers then there, and that they must, for the future, look upon themselves as subjects of the United States, who would protect them and him in what he was doing.

WILLIAM his ⋈ mark. FEIRIO.

Sworn before me, at Madawaska, in Kent, this 8th day of August, 1827.

GEORGE MOREHOUSE,
Justice of the Peace.

NEW BRUNSWICK, *York, ss:*

Peter Sileste, of the Madawaska settlement, in the parish of Kent and county of York, in the province of New Brunswick, maketh oath and saith: That on the 18th day of July, one thousand eight hundred and twenty-seven, as this deponent was proceeding up the river St. John, in charge of the mail for Canada, one John Baker, an American citizen, who resides in Madawaska, met him near the chapel, when the said Baker demanded of this deponent what he had in his canoe; on being told by this deponent it was the mail for Canada, the said Baker then declared that England had no right to send her mails that route, and that he (Baker) had received orders from the Government of the United States to stop them; but on the deponent's saying that he should not have that mail without he was a better man than deponent, he (Baker) said it might pass for that time, but for the future it should not, as he was determined to put the orders of his Government into execution.

PETER his ⋈ mark. SILESTE.

Sworn before me, at Madawaska, in the parish of Kent, this 9th day of August, 1827.

GEORGE MOREHOUSE,
Magistrate for the County of York.

NEW BRUNSWICK, *York, ss:*

Abraham Chamberland, of the Madawaska settlement, in the parish of Kent and county of York, in the province of New Brunswick, maketh oath and saith: That on or about the fifteenth day of July, one thousand eight hundred and twenty-seven, one Charles Studson, an American citizen, residing in Madawaska, presented a written paper to deponent, and asked him to sign it; that deponent asked him the contents of the said paper, when the said Studson informed him that by that paper they bound themselves to oppose the execution of the laws of England amongst them in Madawaska, and that his Government, the United States, would protect them in what they were doing.

ABRAHAM his ⋈ mark. CHAMBERLAND.

Sworn before me, at Madawaska, in the parish of Kent and county of York, this 7th day of August, 1827.

GEORGE MOREHOUSE.
Justice of the Peace for the County of Kent.

NEW BRUNSWICK, *York, ss:*

Peter Markee, of the Madawaska settlement, in the parish of Kent and county of York, in the province of New Brusnwick, maketh oath and saith: That on or about the fifteenth day of July last, one thousand eight hundred and twenty-seven, three persons, John Baker, James Bacon, and Charles Studson, American citizens, residing in the Madawaska settlement, came to this deponent and presented a paper to him to sign his name thereto. That on deponent asking them the contents of it, they declared that it was a document drawn up by them and others residing in Madawaska, the intention of which was that they bound themselves to defend each other against any act of a British officer, civil or military; that they did not intend to allow the British laws to be put in force amongst them in the Madawaska settlement; that the British Government had no right to exercise any authority over them, as that was American territory, and the Government of the United States would protect them in what they were doing.

his
PETER ⋈ MARKEE.
mark.

Sworn before me, at Kent, in the county of York, this 7th day of August, 1827.

GEORGE MOREHOUSE,
Justice of the Peace for the County of York.

KENT, *August* 11, 1827.

SIR: In compliance with your request, contained in your letter of the 31st of July, I proceeded, without delay, to Madawaska to inquire into the conduct of Baker and other American citizens in that settlement, on which, for the information of Government, I beg leave to make the following report:

After getting the affidavits of some of the French settlers, I went up the river to where there is a settlement forming by Americans, and endeavored to get in my possession the paper which had been offered for signatures, but found that quite out of the question; they pointedly refused to let me see it. As soon as it was known that I was in their settlement, Baker and others hoisted the American flag as a token of defiance. I ordered him to pull it down, but instead of complying, Baker, as their organ, made the following declaration:

That they had hoisted that flag, and they had mutually entered into a written agreement to keep it there, and that nothing but a force superior to their own should take it down. That they considered, and had a right to consider, themselves on the territory of the United States, and that they had bound themselves to resist by force the execution of the laws of Great Britain amongst them; and that they had a right to expect, and would receive, the protection and support of their Government in what they were doing.

It seems the flag in question was first raised on the 4th of July last, when Baker, a few days previous, personally invited the most of the French settlers to join them in that act; but I am happy to have it in my power to say that but few complied.

I find that they are using every argument to induce the French people to declare themselves American subjects, and I fear if those fellows are not well looked after they will eventually succeed in their designs, for I find their insinuations have already had the effect to throw some of the people in doubt whether they are to consider themselves British or American subjects. And I trust his Majesty's Government will speedily take such measures as will convince the French settlers of Madawaska that the Americans have no right to act as they do, and crush this banditti, for I feel convinced that, unless this transaction is promptly followed by some other to suppress them, the French, it is more than probable, will shortly consider us the intruders.

I herewith send the affidavits of the postman whom Baker was said to have stopped, which will show what passed between them; also a list of American citizens settled on the river St. John, above the French settlement.

I have the honor to be, sir, your most obedient,

GEORGE MOREHOUSE.

THOMAS WETMORE, Esq.

List of American citizens in possession of lands in Madawaska, quantity, &c.

James Bacon, on the lower or southeast side of the Mereumpticook creek, fronting the river St. John, 100 acres, deeded to him in 1825 by James Irish and George W. Coffin; settled nine years.

John Baker, on the upper or southwest side of the creek, 100 acres, deeded to him by Coffin and Irish; settled nine years.

Charles Studson, joining Bacon, on the lower side, 100 acres; settled three years.

Mathias Acorn, joining Baker, on the northwest; settled one year; in possession of 100 acres.

John Scheodder joins Acorn on the west; in possession of 100 acres; settled two years.

Stephen Grover, joining Scheodder, on the west side; one year settled; 100 acres.

John Hofford, about two miles above Grover's; settled ten years.

Oakes, about three miles above the Mereumpticook, on the southwest side of the river St. John; in possession of 100 acres; three years settled.

John Hofford, about five miles above Fish river, 200 acres; settled ten years.

Fish river empties into the St. John, on the southwest side, about five miles above the Mereumpticook.

John Hofford, jr., joining the last mentioned, on the west side, 100 acres; settled one year.

Samuel Hofford joins John Hofford, jr., on the west; settled one year; 100 acres.

Phineas Reynold Hofford joins Samuel Hofford, on the west side; settled nine years.

Isaac Jones, in possession of an island about eight miles above Fish river.

Jacob Goldthrite, in possession of an island lying near that in possession of Isaac Jones.

David Esansey, in possession of a lot about five miles above Fish river; two years settled.

Nathaniel Bartlette and David Savage, jointly, in possession of 500 acres at Fish river; the lands on which the mills are built and that adjacent.

GEORGE MOREHOUSE.

P. S.—The Mereumpticook is a creek or small river; empties into the river St. John on the east side, about fifteen miles above the Madawaska river.

No. 9.

Copy of Justice Morehouse's report to the Attorney General, and of the affidavit of McNiel, the constable, relating to a riot and rescue, &c., on the river Restook.

KENT, *September* 20, 1827.

SIR: Stephen McNiel, one of the constables of Kent, came before me this day and made a deposition respecting the treatment he has met with from the Restook settlers, in the execution of his duty as a constable. He had a writ against the property of one Joseph Arnold, a Restook settler, which he served, and was proceeding down the river with the property levied on, and was overtaken by a party of the settlers, armed with fire-arms, when they took him prisoner and rescued the cow, (the property by him taken;) they kept him a prisoner during the night, and threatened him that if Johnstone, their magistrate, (nominated by themselves,) would give a *mittimus*, they would carry him a prisoner to some of the jails in the State of Maine. They despatched a messenger to him, (Johnstone,) and it seems he would not comply with their demand. They then released McNiel and sent him off, declaring that they were American citizens, and they would not allow the laws of Great Britain to be put in force against them or their property; and that they would take the life of any sheriff or constable that should attempt to come amongst them again. In consequence of this outrageous and highhanded conduct of theirs, I shall desist from sending any constable amongst them until I hear from you on the subject. Their names are given in McNiel's deposition. The most of them are British subjects, removed from different parts of this province to the Restook. Dalton, Stewart, and Morton are known to be American citizens.

I beg you will be pleased to lay this before his excellency the Lieutenant Governor for his consideration.

I have the honor to be, sir, your most obedient servant,

GEORGE MOREHOUSE.

WILLIAM F. ODELL, Esq.

YORK, *to wit:*

Stephen McNiel, one of the constables of the parish of Kent, in the said county of York, maketh oath and saith: That on Monday, the 17th day of this present month of September, 1827, he proceeded up the Restook river to serve a writ on Joseph Arnold, and also to seize property of said Arnold. That having taken, by virtue of the said authority, a cow from him, proceeded down the river to William McCrea's, where he put up for the night. That between the hours of seven and nine o'clock in the evening, thirteen men, (settlers on the Restook,) armed with fusees, followed, and there overtook deponent, when they demanded of him to restore the cow, and give himself up as a prisoner, which he was compelled to do. That they then sent off two of their party to collect more of the said settlers to their assistance, and also to bring to them one Lewis Johnstone, whom they said to deponent that they had nominated a magistrate, and that if he would give a *mittimus* to carry him to jail, in the State of Maine, they would carry him there; but Johnstone refusing to do so, they then released deponent, and desired him to go home, and at his peril never to come there as a constable again, nor any other person under the authority of the British laws, as they considered themselves American subjects, and were determined not to submit to the laws of England, but would resist them by force. That the party who came armed against him are as follows: Joseph Arnold, William Dalton, Seth Stewart, Peter Bull, Joshua Christie, Thomas Beckwith, John Beckwith, Ferdinand Armstrong, Thomas Feeby, William Brown, James Rau, —— Morton, and John Rafford.

STEPHEN McNIEL.

Sworn before me, at Kent, this 20th day of September, 1827.

GEORGE MOREHOUSE,
Justice of the Peace.

No. 10.

Copies of letters from the Attorney General to Sheriff Miller and Justice Morehouse, relating to the issuing and service of process on Baker, Bacon, and Studson.

ST. JOHN, *September* 7, 1827.

SIR: His excellency having had under consideration your report to me of the 11th ultimo, and the affidavits accompanying the same, has deemed it expedient to direct that legal steps should be immediately taken against Baker and others for the high misdemeanor committed by them, and that the high sheriff should in person execute the process.

I send to you herewith copies of the affidavits, and a warrant, which the Solicitor General and myself are of opinion the report and affidavits will justify you in issuing.

When the defendants are arrested, you will please to offer to take bail for their appearance at the next Supreme Court to answer to the charge, and in the meantime to keep the peace and to be of good

behavior. I think they should each be bound in £100, with two sureties, each in £50. Perhaps your accompanying the sheriff up may save time and trouble to both of you.

It will be advisable for you to renew the process which the constable was prevented from executing, and the sheriff will see it duly executed; and perhaps you may find it expedient to issue other warrants against those who oppose the constable, and for other breaches of the peace, of which you must be the judge.

I have the honor to be, sir, your obedient servant,

T. WETMORE, *Attorney General.*

GEORGE MOREHOUSE, Esq.

ST. JOHN, *September* 7, 1827.

SIR: Having received the commands of his excellency the Lieutenant Governor to carry into effect a certain course of proceedings against John Baker and other American citizens for violently opposing and resisting his Majesty's authority and the execution of the laws in the upper part of the parish of Kent, and attempting to seduce his Majesty's subjects there to depart from their allegiance to his Majesty, I have written to Mr. Justice George Morehouse to issue his warrant for the arrest of the offenders, which warrant his excellency the Lieutenant Governor now deems it expedient should be delivered to you, to be executed in person, on account of the resistance which it is supposed may be made.

In the performance of this service it will be advisable for you, while acting with firmness, to be careful to use no more force than will be necessary for the execution of the warrant. Two or three attendants will be quite sufficient to take with you from Fredericton, as you can obtain as much assistance as will be required in the neighborhood of Madawaska; and it is very desirable that the service should be performed quietly, and with the least possible parade.

The enclosed despatch I will thank you to deliver to Justice Morehouse as soon as you can possibly make it convenient.

I have the honor to be, sir, your most obedient servant,

T. WETMORE, *Attorney General.*

EDWARD W. MILLER, Esq., *High Sheriff of York.*

20TH CONGRESS.] No. 474. [1ST SESSION

CLAIMS OF INDEMNITY FOR SLAVES AND OTHER PROPERTY UNDER THE FIRST ARTICLE OF THE TREATY OF GHENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MARCH 10, 1828.

To the honorable the House of Representatives:

A Memorial on behalf of the Virginia and Maryland claimants under the first article of the treaty of Ghent.

The claim for slaves and other private property grew out of the first article of the treaty of Ghent. The Governments of the United States and Great Britain, widely differing as to the construction of the said article, submitted the whole subject to the decision and award of the Emperor of all the Russias. Upon the rendition of his award, his further mediation was invoked to have prepared a convention at St. Petersburg, to carry into effect the objects of his award, as expounding the first article of the treaty of Ghent. A mixed commission was constituted soon after, which met in the city of Washington. After continuing from 1824 until 1826, it was well ascertained that the British and American Commissioners would never agree as to the true construction of the said convention. They submitted the points of difference and their arguments to their respective Governments, and Mr. Gallatin, the minister of the United States, concluded with the British Government the convention of London, in November, 1826, which was duly ratified. In the said last convention it was stipulated, *in effect*, that the British Government was to be wholly released and exonerated from all claims for slaves and other private property, upon the payment of "twelve hundred and four thousand nine hundred and sixty dollars."

This amount has been paid. Congress, about the 1st of March, 1827, passed a law constituting a Board of Commissioners to carry into effect the first article of the treaty. The St. Petersburg convention was dissolved, save only as to two particulars:

1. The definitive list was not to be disturbed.
2. The average value of the slaves was to remain the same as fixed upon by the mixed commission.

The commission, recently appointed, was untrammelled by any other of the provisions of the convention concluded at St. Petersburg, and were left free to act in conformity with the stipulations of the first article of the treaty of Ghent, as expounded by the Russian Emperor.

The board, composed of the Honorable Langdon Cheves, James P. Pleasants, and Henry Sewell, formed in the city of Washington in July last, and proceeded to the discharge of their duties.

The southern claims were mainly put down for decision. There were doubts upon two very important points: First, whether the ships that lay off the islands of Cumberland and Amelia were within the jurisdictional limits of the United States at the time of the ratification of the treaty? Secondly, whether Dauphin island, at the time of the peace, was in the possession of the United States?

The board decided both questions in favor of the claimants, and forthwith some two or three hundred thousand dollars were awarded and paid over. Much, very much, depended upon the decision of these two questions, as they related to the interest of the south; and I dare say that the Virginia and Maryland

claimants and agents would have thought it improper and unfair to have interfered in the least to hurt the interest, or to defeat the claims of their south countrymen.

The Chesapeake claimants had lost their property at various times during the war and up to the return of peace. They and their friends were almost broken down by the frequent calls of the military authorities to defend the repeated and annoying invasions of the predatory and incendiary enemy, who burnt their houses, despoiled their improvements, and robbed them of their property; amid all these ills they were the truest and the most devoted patriots. I cannot forbear to give one instance which occurred in the northern neck of Virginia.

In July and August, 1814, the enemy made several landings, and, with increased fierceness, inflicted numerous wrongs upon the people. All the militia in this peninsula were called into service, and the property was pretty well protected. On a sudden, an order came (I think it was from General Winder) that all the troops should forthwith be marched to the defence of Washington; which order was promptly obeyed; and this neck of eighteen miles wide, upwards of one hundred miles long, washed by bold and navigable waters, a hostile fleet in sight, was emptied of all its efficient forces for nearly six weeks. None but our women, children, and old men remained. During the absence of the forces there was nothing to restrain our slaves, and they flocked in hundreds to the enemy.

But to return. It had been urged, during the time of the mixed commission, upon the part of the claimants, that, when they had proved the taking of their slaves by the enemy, it would then devolve upon the British Government to show, by satisfactory evidence, the precise point of time when the slaves were deported. But we are told now that this is a new point: it is as old as the existence of the mixed commission.

The Virginia and Maryland claimants could never produce but very little positive evidence of the exact place where their slaves were at the time of the return of peace. It was not within the nature of the relation in which they stood with the enemy for them to do so. But it was within the power of the British Government, through their naval records; and that Government had stipulated, in the St. Petersburg convention, to furnish the evidence, if in her power. In conformity with this stipulation, a formal call was made upon the British Government by a resolution offered before the mixed commission, (a copy of which resolution will accompany this address.) That call has been answered by sending a parcel of copies, deranged, and almost unintelligible. But it is now pretended that better evidence can be got; that is to say, evidence to defeat the claims of those who have not yet succeeded.

It was understood in July last that Mr. Wirt would prepare an argument in support of the Virginia and Maryland claims, involving chiefly the old question of the *onus probandi*. When the board met, on the 1st of November last, this argument was offered, and copies printed. There were others who wrote arguments on the same side of the question, which were filed with the board. A decision was at that time pressed; but it was asked by an agent, who is largely concerned on behalf of the Georgia claimants, of the board, to wait a short time, that the Hon. Mr. Berrien was preparing, or would prepare, a reply to the argument of the Hon. William Wirt. It is stated that, in order to give as much effect as possible to the reply, leave of the Senate was obtained to make public the views of the Government in the creation of the convention of London of November, 1826. The argument of Mr. Berrien has been printed and laid before the board, and Mr. Wirt has rejoined.

It seems by this new attempt to get this law passed that the southern claimants, their agents, and their distinguished counsel, are afraid to risk a decision even now before the board.

In the argument before the Senate I understand there were two reasons urged in support of the bill: *one was*, that some of the claimants were not prepared to try their cases. If this be a fact, I do not know it: at all events, they can have time; but those who are ready should not be postponed. Secondly, that if the claims from Virginia and Maryland are allowed, there will not be a sufficient fund to pay the *principal* sums awarded. I am sure there is an ample fund, and I do invoke the members of the House of Representatives to require information on this point. So certain am I of the fact that, so far as I am concerned, I am willing that a law be immediately passed directing the payment of the twenty-five per cent. unpaid upon awards heretofore entered up, and that awards shall be wholly paid as they may be entered up hereafter.

There are about $600,000 dollars awarded, and, as far as I can make the estimate, (it is true I have not certain data before me,) there will not be claims established to the amount of more than about $500,000 more; which will then leave a surplus of upwards of $100,000 to be distributed, in the nature of interest or otherwise, among the successful claimants.

Whatever were the real motives of those who originated the bill which passed the Senate I do not know; but it is stated that the south claimants are desirous to destroy the claims from the Chesapeake and its waters, under the hope that the residue of the British money would then be divided among those who had succeeded before the commission. The subject of interest upon their claims is only secondary to the main object they have in view. It has been urged that some new question has arisen; therefore, further time is required. Why, the main evidence in support of the undecided claims has been filed ever since the years 1822, 1823, or 1824. A few depositions were filed in *November last*, with the arguments upon the general question, and to which every person had access, if required.

In November and December last some hundreds of cases were put down for trial and decision. The board waited, at the intimation of the south claimants' agents, till the next meeting, (which was to be in March,) in order to receive arguments and to hear evidence in opposition to the claims from Virginia and Maryland. Rules for the taking of evidence were prescribed in December and January, and a gentleman (and there probably were many others) of great industry and intelligence has made a tour in pursuit of this evidence. He has now returned, and, I understand, was wholly disappointed. It may be inferred that, anticipating this result, the said bill was offered to the Senate.

I have come here now, and it is the sixth time since the constitution of the mixed commission, as agent on behalf of claimants for more than six hundred slaves, and other private property; and it was confidently expected that a final decision would now be had of all the cases ready for trial. I put down some one or two hundred cases for trial in November and December last. I was then postponed till March, and it is now asked to postpone us till November next, without any sufficient reason. The south claimants have seventy-five per cent. of their money in their pockets, and now demand that Congress will estop us, or lay an injunction, *in effect*, upon our claims until they can traverse the seas and distant lands in search of evidence to destroy our claims. A more ungracious and selfish proceeding I cannot well conceive. For thirteen years we have been anxiously hoping for compensation for some of our losses. We always expected some resistance from the British Government, but never from our fellow-

citizens. When they received awards for a great number of slaves upon Dauphin island, at the value of $580 each, we did not say that that island was not in the possession of the United States at the time of the ratification of the treaty; nor did we say that if that island were in the possession of the United States it was within the jurisdiction of Alabama, and, therefore, the claimants were entitled only to the sum of $390 each—the average value fixed upon for Alabama slaves. No; we only wished to succeed in our just claims, and never wished to defeat the claims of our fellow-sufferers.

I am willing that the duration of the commission shall be extended to some future day, even to the 30th of November next, to permit claimants (if there be any such) to obtain evidence in support of their claims now pending before the board; but I do utterly loathe the idea that the claimants whose cases are ready for trial shall be postponed in order to permit the successful claimants to search the habitable globe for evidence to destroy the rights of their co-claimants. If it should be so, (which justice and reason forbid!) four or five hundred thousand dollars, which have long since been deposited in the Treasury, will be enjoined from the use of the rightful owners to indulge the caprice of a pecuniary, selfish speculation which has no parallel. The money has been paid by Great Britain; and those who have succeeded now ask that others who have not shall be delayed until, perchance, some evidence can be got to defeat their claims.

We have been anxiously waiting for a decision of this subject for thirteen years. Last November the question was urged; the Georgia claimants asked to be heard; the board has been waiting; arguments have been written and read, and new evidence sought after; agents scouring the country in the search; and now, the issue being doubtful, an application is made to Congress to interfere, on behalf of those who have succeeded, to defeat fair claimants upon the definitive list who bore more hardships of the war and suffered more losses than those gentlemen who have been successful before the board.

In conclusion, I do most respectfully ask that a law may be enacted authorizing the payment of the twenty-five per cent. remaining unpaid upon awards heretofore entered up by the board; and that in future the whole amount of the awards may be paid as soon as they are concluded.

That further time may be given to such claimants upon the definitive list who are desirous to procure more evidence in support of their claims; but that the board shall forthwith proceed to decide any and every case which is docketed or which shall be docketed before them for examination and decision, and that the bill sent from the Senate may be amended to that effect.

AUG. NEALE,
Agent for many claimants before the Commission to award indemnity for slaves and other private property under the treaty of Ghent.

20TH CONGRESS.] No. 475. [1ST SESSION.

CLAIMS TO THE TERRITORY WESTWARD OF THE ROCKY MOUNTAINS BY THE UNITED STATES AND GREAT BRITAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MARCH 15, 1828.

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives of the 21st ultimo, requesting me to lay before the House correspondence not heretofore communicated, between the Government of the United States and that of Great Britain, on the subject of the claims of the two Governments to the territory westward of the Rocky mountains, I transmit herewith a report of the Secretary of State, with the documents requested by the resolution.

JOHN QUINCY ADAMS.

WASHINGTON, *March* 15, 1828.

DEPARTMENT OF STATE, *Washington, March* 13, 1828.

The Secretary of State, to whom has been referred a resolution of the House of Representatives of the 21st ultimo, requesting the President to lay before that House any correspondence not heretofore communicated, which may have taken place between the Government of the United States and that of Great Britain, on the subject of the claims of the two Governments to the territory westward of the Rocky mountains, if, in his opinion, the same can be communicated without injury to the public interest, has the honor to report to the President the accompanying pamphlet,* which, with the manuscript copy added thereto, contains copies of so much of the correspondence required as, in the judgment of the Secretary, can with propriety be made public at this this time.

Respectfully submitted.

H. CLAY.

* For all the documents herein referred to, see antecedent No. 458. Maps lithographed by order of the House of Representatives, March 25, 1828. Report of Commissioners under 6th article of the treaty of Ghent, printed by order of House of Representatives, April 8, 1828.

20TH CONGRESS.] No. 476. [1ST SESSION.

CLAIM OF INDEMNITY FOR PROPERTY UNDER THE FIRST ARTICLE OF THE TREATY OF GHENT, BY JOSEPH BURNETT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MARCH 18, 1828.

Mr. EVERETT, from the Committee on Foreign Affairs, to whom had been referred the petition of Joseph Burnett, made the following report:

That the petitioner represents himself to have been the owner of a vessel which, being at Alexandria when the British squadron in 1814 entered and blockaded Chesapeake bay, was there, of necessity, laid up and dismantled, and subsequently seized and taken possession of by the enemy at Alexandria, and by them carried away. The petitioner represents that he did not become apprised of the measures taken to carry into effect the first article of the treaty of Ghent till the spring of 1827; that in July last he presented his claim for indemnification to the board which was created by an act of Congress approved March 2, 1827, to provide for the adjustment of the claims of persons entitled to indemnification under the first article of the treaty of Ghent; but that his claim was not received by the board because it was not embraced in what is termed the *definitive list* of claims provided for under the stipulations of the aforesaid article. The petitioner accordingly solicits the passage of an act of Congress authorizing the Board of Commissioners to receive his claim (for a reason set forth in his memorial) in like manner as if it had been comprehended in the definitive list.

By the third article of the convention of St. Petersburg of July 12, 1822, it is provided that, "when the average value of slaves shall have been ascertained and fixed, the two Commissioners shall constitute a board for the examination of the claims which are to be submitted to them; and they shall notify to the Secretary of State of the United States that they are ready to receive a definitive list of the slaves and other private property for which the citizens of the United States claim indemnification; it being understood, and hereby agreed, that the commission shall not take cognizance of, nor receive, and that his Britannic Majesty shall not be required to make compensation for any claims for private property, under the first article of the treaty of Ghent, not contained in the said list."

Under this provision of the convention of St. Petersburg, the definitive list was furnished, by the Department of State, of all claims presented before the period fixed for the closing of said list. The amount of claims thus presented formed the basis of the calculation of the amount due to the citizens of the United States. By a subsequent convention between the United States and Great Britain, bearing date November 13, 1826, it was provided that Great Britain should pay the sum of $1,240,960, in lieu of, and in full and complete satisfaction for, all sums claimed or claimable from Great Britain under the first article of the treaty of Ghent, and the convention of St. Petersburg formed to carry it into effect. By the second article of the said convention with Great Britain, of November 13, 1826, it is provided, "that the object of the said convention [that of St. Petersburg] being thus fulfilled, that convention is hereby declared to be cancelled and annulled, save and except the second article of the same, which has already been carried into execution by the Commissioners appointed under the said convention; and save and except so much of the third article of the same as relates to the definitive list of claims which has already likewise been carried into execution by the said Commissioners."

It is plain, therefore, that the fund paid by Great Britain was paid for the indemnification of the claimants whose claims were included in the definitive list; and that it would be a violation both of the spirit and letter of the convention of St. Petersburg and of the convention of November 13, 1826, to divert any part of that fund to the payment of claims presented after the expiration of the period fixed for the closing of that list. For this reason the Committee of Foreign Affairs recommend to the adoption of the House the following resolution:

Resolved, That the prayer of the petition of Joseph Burnett ought not to be granted.

20TH CONGRESS.] No. 477. [1ST SESSION.

MAPS OF THE NORTHERN AND NORTHWESTERN BOUNDARY OF THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MARCH 18, 1828.

DEPARTMENT OF STATE, *Washington, March* 15, 1828.

The Secretary of State, in pursuance of a resolution of the House of Representatives of the 19th ultimo, directing him to report to that House a copy of the maps and so much of the reports of the Commissioners under the treaty of Ghent, for ascertaining the northern and northwestern boundary between the United States and Great Britain, as will exhibit those parts of said boundary which are already decided upon, has the honor to report the accompanying copies of a part of a series of maps which have been communicated to this office, exhibiting surveys and delineations of so much of said boundary line as is believed to be required by the resolution of the House; and respectfully to refer the House to the decision, dated June 18, 1822, of the Joint Commissioners under the 6th article of the said treaty, pub-

lished at the end of the acts of the 2d session of the 17th Congress, in the 7th volume of the Laws of the United States, for a further and full explanation of the said boundary line, as agreed upon and established.

Respectfully submitted.

H. CLAY.

Decision of the Commissioners under the sixth article of the treaty of Ghent, done at Utica, in the State of New York, June 18, 1822.

The undersigned, Commissioners appointed, sworn, and authorized, in virtue of the sixth article of the treaty of peace and amity between his Britannic Majesty and the United States of America, concluded at Ghent on the 24th of December, 1814, impartially to examine, and, by a report or declaration under their hands and seals, to designate "that portion of the boundary of the United States from the point where the 45th degree of north latitude strikes the river Iroquois, or Cataraqui, along the middle of said river into Lake Ontario, through the middle of said lake until it strikes the communication, by water, between that lake and Lake Erie; thence along the middle of said communication into Lake Erie, through the middle of said lake, until it arrives at the water communication into Lake Huron; thence through the middle of said water communication into Lake Huron; thence through the middle of said lake to the water communication between that lake and Lake Superior;" and to "decide to which of the two contracting parties the several islands lying within the said rivers, lakes, and water communications do respectively belong, in conformity with the true intent of the treaty of 1783," do decide and declare that the following described line (which is more clearly indicated on a series of maps accompanying this report exhibiting correct surveys and delineations of all the rivers, lakes, water communications, and islands embraced by the 6th article of the treaty of Ghent, by a black line shaded on the British side with red, and on the American side with blue, and each sheet of which series of maps is identified by a certificate subscribed by the Commissioners and by the two principal surveyors employed by them) is the true boundary intended by the two beforementioned treaties; that is to say:

Beginning at a stone monument erected by Andrew Ellicot, Esq., in the year 1817, on the south bank or shore of the said river Iroquois, or Cataraqui, (now called the St. Lawrence,) which monument bears south 74° 45′ west, and is eighteen hundred and forty yards distant from the stone church in the Indian village of St. Regis, and indicates the point at which the 45th parallel of north latitude strikes the said river; thence running north 35° 45′ west, into the river, on a line at right angles with the southern shore, to a point one hundred yards south of the opposite island, called Cornwall island; thence turning westerly and passing around the southern and western sides of said island, keeping one hundred yards distant therefrom, and following the curvatures of its shores, to a point opposite to the northwest corner or angle of said island; thence to and along the middle of the main river, until it approaches the eastern extremity of Barnhart's island; thence northerly along the channel which divides the last mentioned island from the Canada shore, keeping one hundred yards distant from the island, until it approaches Shiek's island; thence along the middle of the strait which divides Barnhart's and Shiek's islands to the channel called the Long Sault, which separates the two last mentioned islands from the Lower Long Sault island; thence westerly (crossing the centre of the last mentioned channel) until it approaches within one hundred yards of the north shore of the Lower Sault island; thence up the north branch of the river, keeping to the north of and near the Lower Sault island, and also north of and near the Upper Sault (sometimes called Baxter's) island, and south of the two small islands marked on the map A and B, to the western extremity of the Upper Sault, or Baxter's island; thence passing between the two islands called the Cats to the middle of the river above; thence along the middle of the river, keeping to the north of the small islands marked C and D, and north also of Chrystler's island, and of the small island next above it marked E, until it approaches the northeast angle of Goose Neck island; thence along the passage which divides the last mentioned island from the Canada shore, keeping one hundred yards from the island, to the upper end of the same; thence south of and near the two small islands called the Nut islands; thence north of and near the island marked F, and also the island called Dry or Smuggler's island; thence passing between the islands marked G and H to the north of the island called Isle au Rapid Platt; thence along the north side of the last mentioned island, keeping one hundred yards from the shore, to the upper end thereof; thence along the middle of the river, keeping to the south of and near the islands called Cousson (or Tussin) and Presque isle; thence up the river, keeping north of and near the several Gallop isles, numbered on the map 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, and also of Tick, Tibbit's, and Chimney islands, and south of and near the Gallop isles, numbered 11, 12, and 13, and also of Duck, Drummond, and Sheep islands; thence along the middle of the river, passing north of island No. 14, south of 15 and 16, north of 17, south of 18, 19, 20, 21, 22, 23, 24, 25, and 28, and north of 26 and 27; thence along the middle of the river, north of Gull island and of the islands Nos. 29, 32, 33, 34, 35, Bluff island, and Nos. 39, 44, and 45, and to the south of Nos. 30, 31, 36, Grenadier island, and Nos. 37, 38, 40, 41, 42, 43, 46, 47, and 48, until it approaches the east end of Well's island; thence to the north of Well's island, and along the strait which divides it from Rowe's island, keeping to the north of the small islands Nos. 51, 52, 54, 58, 59, and 61, and to the south of the small islands numbered and marked 49, 50, 53, 55, 57, 60, and X, until it approaches the northeast point of Grindstone island; thence to the north of Grindstone island, and keeping to the north also of the small islands, Nos. 63, 65, 67, 68, 70, 72, 73, 74, 75, 76, 77, and 78, and to the south of Nos. 62, 64, 66, 69, and 71, until it approaches the southern point of Hickory island; thence passing to the south of Hickory island, and of the two small islands lying near its southern extremity, numbered 79 and 80; thence to the south of Grand or Long island, keeping near its southern shore, and passing to the north of Carlton island, until it arrives opposite to the southwestern point of said Grand island, in Lake Ontario; thence passing to the north of Grenadier, Fox, Stony, and the Gallop islands, in Lake Ontario, and to the south of and near the islands called the Ducks, to the middle of the said lake; thence westerly along the middle of said lake to a point opposite the mouth of the Niagara river; thence to and up the middle of the said river to the Great Falls; thence up the falls, through the point of the Horse Shoe, keeping to the west of Iris or Goat island, and of the group of small islands at its head, and following the bends of the river, so as to enter the strait between Navy and Grand islands; thence along the middle of said strait to the head of Navy island; thence to the west and south of, and near to, Grand and Beaver islands, and to the west of Strawberry, Squaw, and Bird islands, to Lake Erie; thence southerly

and westerly, along the middle of Lake Erie, in a direction to enter the passage immediately south of Middle island, being one of the easternmost of the group of islands lying in the western part of said lake; thence along the said passage, proceeding to the north of Cunningham's island, of the three Bass islands, and of the Western Sister, and to the south of the islands called the Hen and Chickens, and of the Eastern and Middle Sisters; thence to the middle of the mouth of the Detroit river, in a direction to enter the channel which divides Bois Blanc and Sugar islands; thence up the said channel to the west of Bois Blanc island, and to the east of Sugar, Fox, and Stony islands, until it approaches Fighting or Great Turkey island; thence along the western side, and near the shore of said last mentioned island, to the middle of the river above the same; thence along the middle of said river, keeping to the southeast of and near Hog island, and to the northwest of and near the island called Isle a la Pêche, to Lake St. Clair; thence through the middle of said lake in a direction to enter that mouth or channel of the river St. Clair which is usually denominated the Old Ship Channel; thence along the middle of said channel, between Squirrel island on the southeast, and Herson's island on the northwest, to the upper end of the last mentioned island, which is nearly opposite to Point au Chênes, on the Americam shore; thence along the middle of the river St. Clair, keeping to the west of and near the islands called Belle Rivière isle, and and the Isle aux Cerfs, to Lake Huron; thence through the middle of Lake Huron in a direction to enter the strait or passage between Drummond's island on the west, and the Little Manitou island on the east; thence through the middle of the passage which divides the two last mentioned islands; thence turning northerly and westerly around the eastern and northern shores of Drummond's island, and proceeding in a direction to enter the passage between the island of St. Joseph's and the American shore, passing to the north of the intermediate islands, Nos. 61, 11, 10, 12, 9, 6, 4, and 2, and to the south of those numbered 15, 13, 5, and 1.

Thence up the said last mentioned passage, keeping near to the island of St. Joseph's, and passing to the north and east of Isle a la Crosse, and of the small islands numbered 16, 17, 18, 19, and 20, and to the south and west of those numbered 21, 22, and 23, until it strikes a line (drawn on the map with black ink, and shaded on one side of the point of intersection with blue, and on the other with red,) passing across the river at the head of St. Joseph's island, and at the foot of the Neebish Rapids, which line denotes the termination of the boundary directed to be run by the 6th article of the treaty of Ghent.

And the said Commissioners do further decide and declare that all the islands lying in the rivers, lakes, and water communications, between the before described boundary line and the adjacent shores of Upper Canada, do, and each of them does, belong to his Britannic Majesty; and that all the islands lying in the rivers, lakes, and water communications, between the said boundary line and the adjacent shores of the United States, or their territories, do, and each of them does, belong to the United States of America, in conformity with the true intent of the 2d article of the said treaty of 1783, and of the 6th article of the treaty of Ghent.

In faith whereof, we, the Commissioners aforesaid, have signed this declaration, and thereunto affixed our seals.

Done, in quadruplicate, at Utica, in the State of New York, in the United States of America, this eighteenth day of June, in the year of our Lord one thousand eight hundred and twenty-two.

PETER B. PORTER. [L. S.]
ANTH. BARCLAY. [L. S.]

(Maps lithographed by order of House of Representatives of the 25th March, 1828.)

20TH CONGRESS.] No. 478. [1ST SESSION.

ADJUSTMENT OF CLAIMS FOR INDEMNIFICATION UNDER THE FIRST ARTICLE OF THE TREATY OF GHENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MARCH 22, 1828.

Mr. WICKLIFFE, from the Committee on the Judiciary, to whom was referred the bill from the Senate entitled "An act supplementary to an act to provide for the adjustment of claims of persons entitled to indemnification under the first article of the treaty of Ghent, and for the distribution among such claimants of the sum paid, and to be paid, by the Government of Great Britain, under a convention between the United States and his Britannic Majesty, concluded at London, on the thirteenth day of November, one thousand eight hundred and twenty-six," passed on the 2d day of March, 1827, made the following report:

By the resolutions of the House the committee was specially instructed to obtain and report, in connexion with the bill, the resolutions or petition in pursuance of which said bill was introduced into the Senate. All the information which the committee has upon that subject will be seen by reference to the paper, (No. 1.) To whom this communication was addressed the committee is not informed. It is found among the papers, and may be regarded as furnishing the reasons upon which the Senate acted.

In discharge of the other duties imposed by the resolution, the committee believe the most satisfactory evidence upon the subject could be obtained from the members of the Board of Commissioners themselves. And a letter was addressed by one of the committee to the board, marked A, to which the letters B, C, and D were received as answers; all of which are referred to as part of this report.

The committee, upon a full examination of the whole subject, believe it to be inexpedient to extend the time of the Board of Commissioners. The committee deem it unnecessary, if not improper, to give, at full length, the reasons which have conducted its members to this determination, lest it might, in some degree, involve the discussion of a question raised before the board, and yet undecided; they, therefore, content themselves with the recommending that the first section of the bill be stricken out.

No. 1.

WASHINGTON, *February* 5, 1828.

SIR: Having been charged with the prosecution of certain claims, for property removed by the British contrary to the terms of the treaty of Ghent, before the Commissioners appointed under the convention of London, we take the liberty of stating the reasons which induce us to ask that the term assigned for the closing of that commission should be enlarged, and to request that you will do us the favor to lay them before the committee to whom the resolution on that subject was referred.

It is known to the committee that the sum paid by Great Britain in discharge of her obligation to pay for the property removed after the treaty is much less than the amount of claims made before the joint commission; and, of course, that it is the interest of those who have just claims to prevent the allowance of such as are not of that description.

The greater part of the claims represented by us have been allowed, and the amount of seventy-five per cent. has been paid to our constituents. Claims are still undecided amounting to a sum sufficient to absorb the whole of the remaining part of the fund. These are chiefly for slaves taken from the States of Virginia and Maryland, and their allowance will depend principally on the proof of the time of their removal.

It has been argued before the Commissioners that these last claimants will have done enough to establish these claims by showing that the slaves in question were taken by the British forces, throwing upon us the burden of proving the negative, that they were not here at the time the treaty was ratified. On this question no decision has yet been had, and as the Commissioners do not meet until the first of March, no decision can take place until that day; after which it will be impossible for us to procure the proof that will be required of us before the probable end of the session, when the commission will, by the present limitation, expire. The evidence which such a decision will require must be sought for principally in the British ports of Halifax and Bermuda, and perhaps in Europe, so that no diligence on our part can procure it in time, unless the term for closing the commission is enlarged. Nor can we be charged with any neglect, inasmuch as the novel nature of the argument, the allowance of which would impose on us this obligation, was such as to prevent our anticipating its being urged or allowed.

D. BOULIGNY,
JOHN E. FROST.

A.

WASHINGTON, *March* 14, 1828.

GENTLEMEN: A bill to extend the time of the board (of which you are members) created by the act of Congress of the last session has passed the Senate, and been referred to the Committee on the Judiciary of the House of Representatives, of which I am a member, under certain specific resolutions and instructions.

The committee has imposed upon me the duty of investigating the subject, and the collection of the facts and evidences necessary to enable it to discharge the duties imposed by the order of the House.

As some of the inquiries relate to the wishes and opinions of the board upon the propriety of the passage of the bill, as also upon other subjects, the best evidence of which must be in the possession of the Commissioners, I have been directed by the committee to communicate with you.

I therefore have the honor of transmitting to you a copy of the resolutions of the House of Representatives, to which I invite your attention, and solicit from you such information as you may possess and feel at liberty to give. How far the latter clause in the resolution may draw to itself the investigation, if not the decision, of any matter *sub-judice*, I leave to the determination of yourselves, with the expression of the opinion of the committee, that they do not suppose it could have been the intention of the House of Representatives to have interfered with those questions which rightfully belong to the decision of the Commissioners.

Your answer, as early as your duties and convenience will permit, is respectfully desired.

I have the honor to be, respectfully, your obedient servant,

C. A. WICKLIFFE.

MESSRS. CHEVES, PLEASANTS, and SEWALL, *Commissioners.*

B.

BOARD OF COMMISSIONERS, &c., *March* 19, 1828.

I have the honor to acknowledge the receipt of your note of the 1st instant, addressed to this board, and, in reply, to say that I have perused the answer of Mr. Pleasants to the same note, on which is stated so fully my view of the facts to which the answer of this board is required, that I deem it unnecessary here to repeat it. I will only add that, in relation to the inquiry contained in the last resolution, those cases are still *sub-judice*, and the very point involved is, whether there is proof of the deportation after the ratification of the treaty of Ghent; and on that account I should feel reluctance in undertaking, at this time, to state what is the evidence before the board: for I should, in such case, according to my view, connect with the proof offered by the claimants many facts not proven by *them*, and all the circumstances under which the compromise by the treaty of London of 1826 was made.

I have the honor to be, respectfully, your obedient servant,

HENRY SEWALL.

HON. CHARLES A. WICKLIFFE.

C.

COMMISSIONERS' OFFICE, *March* 19, 1828.

SIR: Some difference of opinion existing among the Commissioners as to the best mode of answering the communication which the board have had the honor to receive from you on behalf of the committee of the House of Representatives, to whom is referred (with instructions from the House) the bill from the Senate for prolonging the duration of this board, the board determined that the end the committee had in view would probably be best answered by each member making a separate communication on the subject. This determination has occasioned some delay on our part, though it is hoped not so much as to produce any serious inconvenience to the committee. I proceed to present such a view as, in my judgment, will meet the wishes of the committee, in as few words as I can.

With reference to the first resolution of instructions, having no knowledge of the subject, I can say nothing.

On the subject of that part of the second resolution which asks if the board has asked for or suggested the necessity of an extension of the term of their duration, I reply, that nothing has been asked for or suggested by the Commissioners on the subject. Just before the adjournment of the board in January last, it informed the claimants that the evidence and arguments on the general question before it must be closed by the first instant, when it would be necessary for it to decide them, unless Congress should extend the period prescribed for the sitting of the board; and that the board would not agitate the question of further time, but leave it to the parties interested to do so or not, according to their own views of the propriety or necessity of the measure. The board, at its meeting, (according to adjournment on the 1st instant,) found the bill referred to by your note before the Senate, and felt itself bound to await the decision of Congress on the question.

In reply to the further interrogatories in said resolution of instructions, I presume that the design of the bill in extending the term is to enable a certain class of claimants whose cases have been decided, and who have received, agreeably to the provisions of the act of Congress establishing this board, seventy-five per cent. of their principal, to procure testimony (from abroad principally) to prevent certain other claimants, those from Maryland and Virginia, commonly called the Chesapeake claimants, from establishing their claims; the effect of which would be to stay proceedings in many cases which are *sub-judice* and ready for hearing. To whose benefit and whose prejudice the successful exercise of such endeavor would operate I need not state.

No new question has arisen or testimony been filed, it is believed, which has given rise to the desire of extending the term. The question, the possible decision of which may make such extension desirable to the class of claimants asking it, it was distinctly understood, at the first meeting of this board in July last, would be made. Upon this question several voluminous arguments have been filed by the counsel and agents on each side, the last of which has been recently received, and the decision of the question awaits the decision of the bill from the Senate now before your committee.

It is presumed that the fund to be distributed will very nearly or quite pay the principal due for *all* the refugee slaves, if, as is believed will be mostly the fact, the property other than slaves shall be found not to come within the provisions of the treaty.

The grounds on which the seventy-five per cent. has been adjudged to those claimants who have received it are the evidence produced by those claimants, positive or presumptive, to satisfy the Commissioners, or a majority of them, that their claims come within the provisions of the conventions. As before stated, the Commissioners are directed, in so many words, by the act of Congress establishing the board, to pay immediately to each person whose claim is established seventy-five per cent. of the principal sum awarded, and so till the claims should all be decided.—(See section 9th of the act of last session of Congress establishing this board.) In this seventy-five per cent. of the principal so paid, no interest, of course, is included; the question of interest has been reserved in all the cases adjudicated, as it will be unnecessary, it is presumed, to decide it at all if the fund should not be more than sufficient to pay the whole principal; which cannot be ascertained till all the cases have been examined.

In reply to the last interrogatory in the instructions, I remark, that those claimants who have received nothing, and whose claims are now before the board, have of course not yet had those claims examined; the fact of the character of their evidence, and whether it will prove that their property was within the United States at the ratification of the treaty is precisely what the Commissioners have to determine, it being, indeed, the pivot upon which turns the successful or unsuccessful decision of the claim.

In conclusion, I take the liberty of stating that, should the bill from the Senate not pass, it may yet be necessary to extend the term some time to enable the board to complete the business which it is probable they will hardly be able to accomplish by the rising of Congress; but upon this point I can speak with no certainty at this time.

The claims on the definitive list amount to between 1,000 and 1,100; of these, near 700 have been examined; a number of them finally decided, except, as before stated, as to the question of interest; the remainder, (of the 700,) principally, are partially decided, awaiting the decision of the question of presumptive evidence before referred to. Some have been rejected. At their first meeting, in July last, the board decided every question which was ready for decision; at their late meeting, on the first of November last, they did the same, except as to a few cases kept under advisement for particular reasons. The cases now on the docket, and which are in a course of examination, have been very recently put down for hearing.

I have thus given, as explicitly as I could, the information in my power to give, which I believe to be required by the instructions to the committee.

With sentiments of the highest respect for yourself and the committee, I am your obedient servant,

JAMES PLEASANTS.

Hon. C. A. WICKLIFFE.

D.

BOARD OF COMMISSIONERS,
Under the first article of the Treaty of Ghent, March 19, 1828.

SIR: I have the honor, in reply to your note of the 14th instant, to state the following facts:

The extension of the time beyond the period prescribed by law for the sitting of this board has not been asked for or suggested to be necessary by the Commissioners, except that, in January last, when

the board was about temporarily to adjourn, it informed the claimants that the evidence and the arguments on the general questions before it (which will be hereafter particularly stated) must be closed by the first instant, when it would be necessary to decide them, unless Congress should extend the time prescribed for the sitting of the board; and that the board would not agitate the question of further time, but leave it to the parties interested to do so or not, according to their own views of the propriety or necessity of the measure. The board, at its meeting, according to adjournment, on the first instant, found the bill referred to in your note before the Senate, and has felt itself, under these circumstances, bound to wait the decision of Congress on the question.

The first meeting of the board was on the 10th of July last, which was the day prescribed by the act creating it for its first meeting. There are on the definitive list between one thousand and eleven hundred cases, which includes slaves and all other property. Of these, between 600 and 700 cases have been examined by the board. Those which have been examined consist principally of two classes; they are almost exclusively claims for slaves, and the following facts refer exclusively to that species of property:

1. The first class consists of those which have been allowed. These have been supported by *specific* testimony, positive or circumstantial, which has been satisfactory to the board, or a majority of it, proving that the slaves claimed in each case were within the territory or waters of the United States at the date of the ratification of the treaty. The claimants of this class have received, or are entitled to receive, according to the provisions of the act of Congress, seventy-five per cent. of the principal sum awarded. The question of interest has been reserved in all cases.

2. The second class consists of such as have not been allowed, but are kept under consideration. The *specific* testimony sustaining these, (except in relation to such slaves as have been found on "*the Halifax list*," hereafter referred to,) consists only of proof of *the taking* by the enemy at different periods during the war. The taking appears to have been principally between the beginning of June, 1813, and the beginning of December, 1814; a few only were taken before June, 1813, and a good many appear to have been taken as late as the 5th of December, 1814. Included in this class are such slaves as have been identified on "*the Halifax list*." This is not one of the documents furnished by the British Government in execution of the third article of the convention of St. Petersburg, but one which the British Commissioners, at the time of the dissolution of the mixed commission, put into the hands of the American Commissioner, with liberty to retain it if he thought proper, without stating how it was procured, or from whence it came, but treating it as a document of authenticity, and which was, of course, received by the American Commissioner. It purports to be "a return of American refugee negroes who have been received into the province of Nova Scotia from the United States of America between the 27th April, 1815, and the 24th October, 1818."

The award of the Emperor of Russia and the conventions consequent thereon provide only for the indemnity of those whose property was taken away or destroyed *after* the ratification of the treaty of Ghent.

The claimants of the second class contend—

1. That, on principles of law, the proof of the taking at any period during the war throws the burden on the opposing party of proving that the slaves claimed were actually carried out of the territory and waters of the United States *before* the ratification of the treaty; and that, on failure to do so, these claimants are entitled to a full participation in the fund.

2. That the proof of the taking at any time during the war, with the circumstantial evidence that has incidentally come before the board, and additional testimony which they have filed to sustain this proposition, authorizes the presumption that all the slaves contained in the second class remained in the United States until the ratification of the treaty, and ought to be allowed. In the cases of more recent capture it is urged that this presumption is the stronger.

3. It is contended that, in addition to this general presumption, the Halifax document should be taken in itself as sufficient evidence that all those contained therein were taken away after the ratification of the treaty.

The claimants of the first class resist the first of these propositions as unfounded in principle, and the second and third as unsustained by the evidence relied upon. They contend, on the contrary, that the evidence before the board repels these presumptions; and they allege that they can disprove them if allowed time to procure the testimony, some of which, they state, is to be obtained from abroad. The object of the bill from the Senate is understood to be to grant this time. On the merits of this bill I presume I am not expected to give any opinion; but it is proper I should say that, if it be rejected, some further time *may* nevertheless be necessary to close the business of the board, but whether any further time will be necessary, or, if any, what time, I am at present unable to say. If a more particular knowledge of the points in controversy be desired, it will be obtained by reference to the printed arguments of counsel on either side. The first of these was filed by the claimants of the second class in the beginning of November last, when these points were, for the first time, submitted for hearing, although they had, at the first meeting of the board, been mentioned as points that would be raised.

I believe the foregoing statement of facts affords the best information I can give on the questions growing out of the resolutions of the House of Representatives, except that which directs an inquiry "whether the fund now remaining to be distributed by the Commissioners be sufficient to satisfy the principal sum claimed for refugee slaves and other property entered on the definitive list?" To this I reply that it is not sufficient, and that the claims for slaves alone, (considering the decision of the board that claimants for slaves originally taken from other States, but found in Georgia, or the waters thereof, at the ratification of the treaty, shall be entitled to the Georgia average,) if all claims for that species of property be allowed, will alone absorb the whole fund received from Great Britain.

I have the honor to be, sir, very respectfully, your obedient servant,

LANGDON CHEVES.

Hon. CHARLES A. WICKLIFFE, &c., *Washington City.*

P. S.—If the bill of the Senate be passed it will, of course, delay the decision of the general questions before the board, and the cases which may depend thereon, but no other cases.

L. C.

20TH CONGRESS.] No. 479. [1ST SESSION.

CLAIMS UNDER THE ELEVENTH ARTICLE OF THE TREATY WITH SPAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MARCH, 24, 1828.

DEPARTMENT OF STATE, *Washington, March* 21, 1828.

The Secretary of State, in pursuance of a resolution of the House of Representatives of the 19th instant, directing him to communicate to that House "a list of such claims, by name, and the amount thereof, which were rejected by the late board of Commissioners under the 11th article of the treaty between Spain and the United States, wherein the claimants, through the Board, had made a demand for the evidence supposed to be in the possession of Spain, and which evidence was not furnished by the Spanish Government," has the honor to report the annexed tabular statement, which contains the information required in as much detail as the books and records of proceedings of the commission under the 11th article of the treaty of February 22, 1819, between the United States and Spain, will enable this Department to give.

Respectfully submitted.

H. CLAY.

List of claims under the 11th article of the treaty of February 22, 1819, *between the United States and Spain, in which application for evidence, supposed to be in the possession of Spain, was made through the Board of Commissioners under the said treaty, and which evidence was not furnished by the Spanish Government.*

Cases.	Claimants.	Amount claimed.	Am't allowed.
Schooner Liberty	John Grienor	$166,356 35	$2,822 00
Brig Maria	Administratrix of Aaron Vail	13,600 00	.....
Brig L'Eole	R. & J. Oliver	95,486 90	.....
Ship Wells	William Gray	28,978 62	7,802 00
Ship Eliza	Henry Preble	.....	.....
Sundry vessels	John Hollins	.....	.....
R. W. Meade	.....	491,153 33	.....
Brig Reindeer	Benjamin Rich	92,316 50	.....

Remarks.

In none of these cases is it known that the evidence required was received from the Spanish Government till after the dissolution of the commission referred to.

20TH CONGRESS.] No. 480. [1ST SESSION.

COMPLAINT OF CONDY RAGUET AGAINST THE BRAZILIAN GOVERNMENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MARCH 25, 1828.

Mr. EVERETT, from the Committee on Foreign Affairs, to whom was referred the communication of Condy Raguet, late Chargé d'Affaires of the United States at the Court of Brazil, made the following report:

The subject brought before the House of Representatives by the memorialist, Mr. Raguet, late Chargé d'Affaires of the United States at the Court of Brazil, is an attack upon his character contained in a newspaper, entitled the *Gazeta do Brazil*, published at Rio Janeiro, and represented by Mr. Raguet, as he is informed, to be under the sanction, patronage, and censorship of the Brazilian Government. In the number of this paper published on the 1st day of August, 1827, it is asserted, in substance, that Mr. Raguet had been ill received by the President of the United States on his return from Brazil; that he had been bribed by the Government of Buenos Ayres to pursue measures designed to interrupt the harmony between the Governments of the United States and Brazil; and that, after the rupture of Mr. Raguet's diplomatic connexions with Brazil, he was complimented with a dinner and a present of two thousand pounds sterling by the agents of Buenos Ayres.

Mr. Raguet further represents, in his communication, that a copy of the gazette, containing the foregoing libel, was, in the latter part of September, 1827, transmitted by him to the President of the United States; and that, in the month of January last, another copy, together with a translation of the libellous article, was sent to several members of the Pennsylvania delegation in Congress, accompanied with a note, soliciting their advice as to the most effectual mode of refuting it. Since that period, Mr.

Raguet states that he understands that charges against his character to the same effect have been insinuated by a functionary in the foreign service of the Brazilian Government to a gentleman in the service of the United States in Brazil, and by the latter transmitted to the Executive of the United States.

The Committee on Foreign Affairs do full justice to the feelings of indignation excited in the mind of Mr. Raguet by such a libellous attack in the columns of a gazette understood by him to be under the censorship of the Brazilian Government. But they apprehend that no possible injury can be done to his character by anonymous insinuations so gross in their nature and so obviously false. Were the charges avowedly made against him by a foreign Government, it may be doubted how far it would consist with the dignity of this Government to take cognizance of allegations against its public servants, injuriously thrown out in the columns of a newspaper. But wholly unauthentic and unavowed as they are, the committee conceive that they could not, with any propriety, become the subjects of the animadversion of the House.

The committee conceive that the character of Mr. Raguet rests upon a satisfactory basis in having received the approbation of his own Government. In his message to both Houses of Congress, at the opening of the present session, the President thus expresses himself: "In the diplomatic discussions at Rio Janeiro of those wrongs sustained by citizens of the United States and others, which seemed as if emanating immediately from that Government itself, the Chargé d'Affaires of the United States, under the impression that his representations in behalf of the rights and interests of his countrymen were totally disregarded and useless, deemed it his duty, without waiting for instructions, to terminate his official functions, to demand his passports, and to return to the United States. This movement, dictated by an honest zeal for the honor and interests of his country—motives which operated exclusively upon the mind of the officer who resorted to it—has not been disapproved by me."

This public and official expression of the opinion entertained by the Chief Magistrate with regard to the motives which governed Mr. Raguet is considered by the committee as a sufficient vindication of his character against the libellous attack of a foreign journalist.

With respect to the intimation in Mr. Raguet's memorial, that insinuations against his character have been made by a Brazilian functionary in a foreign service, to an officer of the United States in Brazil, and by the latter transmitted to the Department of State, the committee would observe that any insinuation, through such a channel, from whomsoever proceeding, must be considered altogether inofficial. As no communication has been made to Congress by the Executive upon this subject, the committee infer that it has not been deemed by the Executive to present a case requiring the interposition of the Legislature.

The committee, therefore, recommend the following resolution to the House:

Resolved, That the Committee on Foreign Affairs be discharged from the further consideration of the subject.

PHILADELPHIA, *February* 15, 1828.

SIR: I take the liberty, respectfully, to request that you will be pleased to lay the enclosed communication before the body over which you preside.

I have the honor to be, with great respect, sir, your obedient and humble servant,

CONDY RAGUET.

The Hon. ANDREW STEVENSON, *Speaker of the House of Representatives of the United States.*

To the honorable the members of the House of Representatives of the United States:

Availing myself of the privilege which belongs to me as a citizen of this Republic, recently employed in the diplomatic service of the country, I take the liberty of bringing into the view of the representatives of the people a base and calumnious accusation which has been pronounced against me, in my official character of Chargé d'Affaires of the United States near the Government of Brazil. In making this communication, I have respectfully to request that your honorable body will cause such inquiry to be made in the case as will result in the development of the truth, in order that I may not appear before my fellow-citizens and the world as a servant of this nation who has been unfaithful to his trust, or that I may receive the reward due to an act which ought to consign to perpetual infamy and disgrace any individual capable of committing it.

The accusation to which I allude appeared, on the first day of August last, in a gazette, entitled "*Gazeta do Brazil*," published in the city of Rio de Janeiro, under the immediate sanction, patronage, and censorship, as I am informed, of the Government of Brazil, in an article, of which the following is a translation:

"It is now known with certainty that *Mr. Isidoro da Costa Oliveira* had arrived at Baltimore on his return from Washington, and that he would take passage for this capital in the first ship. It is also known that *Condy Raguet*, who was here Chargé d'Affaires of the United States, has been very badly received by the President in consequence of his departure from Brazil. This man, as it appears, had been bought by the agents of Buenos Ayres to put into execution, on the first occasion which might offer, that infamous proceeding, for the purpose of seeing if, by that means, they could disturb the good understanding happily subsisting between the Court of Brazil and the Cabinet of Washington. They say that, after the rupture made by *Raguet*, he was complimented with *a dinner and two thousand pounds sterling*, which he received in bills of exchange from the hands of ——— & Co., merchants of this place.

"It is also announced from Baltimore that *Mr. Joze Silvestre Rebello*, charged with the affairs of the Empire near the Government of the United States, had concluded a satisfactory arrangement upon the question of the American prizes."

A copy of this gazette, soon after it came to hand, which was in the latter end of September, was transmitted by me to the President of the United States; and another was submitted early in January, with a translation of the libellous article, to several members of the Pennsylvania delegation in Congress, accompanied by a note soliciting their advice as to the most efficient mode of refuting the vile fabrication then resting solely on the authority of a newspaper. Since that period, however, information has reached me from Brazil, through a source entitled to credit, that a gentleman in the service of the United States

in that country had received a letter from a person high in the confidence and employment of the Brazilian Government abroad, insinuating that some of the public officers of the United States in that quarter had been bribed by Buenos Ayres. This letter, as I have also been informed, was deemed of sufficient importance to be transmitted to the Secretary of State, at Washington; and, as I am led to believe, from its coincidence with the article quoted above, that the imputation is designed against me, I earnestly solicit that your honorable body will take the subject into early consideration, and adopt such measures as in your wisdom may be deemed expedient.

A copy of the gazette from which the above translation was made is transmitted herewith; and should your honorable body think proper to refer this communication to a committee, I shall be prepared to produce such documents and testimonials as the nature of the case will admit.

CONDY RAGUET.

PHILADELPHIA, *February* 15, 1828.

20TH CONGRESS.] No. 481. [1ST SESSION.

INSTRUCTIONS FOR THE SETTLEMENT OF THE BOUNDARIES OF THE UNITED STATES WITH GREAT BRITAIN BY THE GOVERNMENT OF THE CONFEDERATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MARCH 25, 1828.

To the House of Representatives of the United States:

I transmit herewith a report from the Secretary of State, prepared in compliance with a resolution of the House of Representatives of the 25th of February last, requesting copies of instructions and correspondence relating to the settlement of the boundary line of the United States, or of any one of them, under the Government of the Confederated States, and by the definitive treaty of peace of September 3, 1783, with Great Britain.

JOHN QUINCY ADAMS.

WASHINGTON, *March* 25, 1828.

DEPARTMENT OF STATE, *Washington, March* 22, 1828.

The Secretary of State, to whom has been referred a resolution of the House of Representatives of the 25th of last month, requesting the President "to send to that House copies of the instructions given by the Government of the Confederated States to its ministers, by whom the definitive treaty of peace was concluded with the Government of Great Britain, so far as such instructions relate to the settlement of the boundary line of the United States, or any one of them, and also the correspondence between said ministers with the ministers of Great Britain upon the same subject, or so much therefrom as will not be injurious to public service," has the honor to report to the President that it does not appear, from the research which has been made in this office, which has been full and particular, that any instructions, other than those which are published in the second and third volumes of the Secret Journals of Congress,* were given to the ministers of the Confederated or United States, by whom the preliminary articles, or the definitive treaty of peace were concluded with the Government of Great Britain, in relation to the settlement of the boundary line of the United States, or any one of them; or that there was any correspondence, in writing, between said ministers and the ministers of Great Britain upon the same subject. The Secretary begs leave, therefore, respectfully, to refer to the said two volumes of the Secret Journal, which were printed and published by authority of Congress, for the information required by the resolution of the House, so far as they contain such information.

Respectfully submitted.

H. CLAY.

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* The following embrace the proceedings of the Congress of the Confederation, and instructions to its ministers, relating to the settlement of the boundary line of the United States, &c., referred to in the above report:

March 19, 1779.—Congress took into consideration the report of the Committee of the Whole, and agreed to the following ultimata:

1. That the thirteen United States are bounded north by a line to be drawn from the northwest angle of Nova Scotia, along the highlands which divide those rivers which empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean to the northwesternmost head of Connecticut river; thence down along the middle of that river to the forty-fifth degree of north latitude; thence due west in the latitude forty-five degrees north from the equator, to the northwesternmost side of the river St. Lawrence, or Cadaraqui; thence straight to the south end of Lake Nepissing; and thence straight to the source of the river Mississippi; west by a line to be drawn along the middle of the river Mississippi from its source to where the said line shall intersect the latitude of thirty-one degrees north; south by a line to be drawn due east from the termination of the line last mentioned in the latitude thirty-one degrees north from the equator to the middle of the river Apalachicola, or Catahouchie; thence along the middle

thereof to its junction with the Flint river; thence straight to the head of St. Mary's river; thence down along the middle of St. Mary's river to the Atlantic Ocean; and east by a line to be drawn along the middle of St. John's from its source to its mouth in the Bay of Fundy, or by a line to be settled and adjusted between that part of the State of Massachusetts Bay, formerly called the province of Maine, and the colony of Nova Scotia, agreeably to their respective rights, comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other part, shall respectively touch the Bay of Fundy and the Atlantic Ocean: Provided, That if the line to be drawn from the mouth of Lake Nepissing to the head of the Mississippi cannot be obtained without continuing the war for that purpose, then that a line or lines may be drawn more southerly, so as not to be southward of a line in latitude forty-five degrees north.

2. That every post and place within the United States, and every island, harbor, and road to them, or any of them belonging, be absolutely evacuated by the land and sea forces of his Britannic Majesty, and yielded to the powers of the States to which they respectively belong.

August 13, 1779.—The committee appointed to prepare instructions for the minister plenipotentiary of the United States, to be appointed for negotiating a peace, brought in a draught, which was taken into consideration, and debated by paragraphs.

August 14, 1779.—Congress proceeded in the consideration of the instructions to the minister to be appointed for negotiating a peace, and unanimously agreed to the following draught of instructions to the Commissioner to be appointed to negotiate a treaty of peace with Great Britain:

SIR: You will herewith receive a commission giving you full power to negotiate a treaty of peace with Great Britain, in doing which you will conform to the following information and instructions:

1. The United States are sincerely desirous of peace, and wish, by every means consistent with their dignity and safety, to spare the further effusion of blood. They have, therefore, by your commission and these instructions, labored to remove the obstacles to that event before the enemy have evidenced their disposition for it. But as the great object of the present defensive war on the part of the allies is to establish the independence of the United States, and as any treaty whereby this end cannot be obtained must be only ostensible and illusory, you are, therefore, to make it a preliminary article to any negotiation that Great Britain shall agree to treat with the United States as sovereign, free, and independent.

2. You shall take especial care, also, that the independence of the said States be effectually assured and confirmed by the treaty or treaties of peace, according to the form and effect of the treaty of alliance with his most Christian Majesty; and you shall not agree to such treaty or treaties unless the same be thereby so assured and confirmed.

3. The boundaries of these States are as follows, viz: These States are bounded north by a line to be drawn from the northwest angle of Nova Scotia, along the highlands which divide those rivers which empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean to the northwesternmost head of Connecticut river; thence down along the middle of that river to the forty-fifth degree of north latitude; thence due west in the latitude forty-five degrees north from the equator to the northwesternmost side of the river St. Lawrence, or Cadaraqui; thence straight to the south end of Nepissing; and thence straight to the source of the river Mississippi; west by a line to be drawn along the middle of the river Mississippi from its source to where the said line shall intersect the thirty-first degree of north latitude; south by a line to be drawn due east from the termination of the line last mentioned in the latitude of thirty-one degrees north from the equator to the middle of the river Apalachicola, or Catahouchie; thence along the middle thereof to its junction with the Flint river; thence straight to the head of St. Mary's river; and thence down along the middle of St. Mary's river to the Atlantic Ocean; and east by a line to be drawn along the middle of St. John's river from its source to its mouth in the Bay of Fundy, comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other part, shall respectively touch the Bay of Fundy and Atlantic Ocean. You are, therefore, strongly to contend that the whole of the said countries and islands lying within the boundaries aforesaid, and every citadel, fort, post, place, harbor and road to them belonging, be absolutely evacuated by the land and sea forces of his Britannic Majesty, and yielded to the powers of the States to which they respectively belong, in such situation as they may be at the termination of the war. But notwithstanding the clear right of these States, and the importance of the object, yet they are so much influenced by the dictates of religion and humanity, and so desirous of complying with the earnest request of their allies, that if the line to be drawn from the mouth of the Lake Nepissing to the head of the Mississippi cannot be obtained without continuing the war for that purpose, you are hereby empowered to agree to some other line between that point and the river Mississippi; provided the same shall in no part thereof be to the southward of latitude forty-five degrees north. And in like manner, if the eastern boundary above described cannot be obtained, you are hereby empowered to agree that the same shall be afterwards adjusted by Commissioners to be duly appointed for that purpose, according to such line as shall be by them settled and agreed on, as the boundary between that part of the State of Massachusetts Bay, formerly called the province of Maine, and the colony of Nova Scotia, agreeably to their respective rights. And you may also consent that the enemy shall destroy such fortifications as they may have erected.

October 17, 1780.—The committee appointed to prepare a letter to the ministers plenipotentiary of the United States at the Courts of Versailles and Madrid, explaining the reasons and principles on which the instructions to Mr. Jay of the 4th instant are founded, reported a draught, which was agreed to as follows:

SIR: Congress having, in their instructions of the 4th instant, directed you to adhere strictly to their former instructions relating to the boundaries of the United States, to insist on the navigation of the Mississippi for the citizens of the United States in common with the subjects of his Catholic Majesty, as also on a free port or ports below the northern limit of West Florida, and accessible to merchant ships for the use of the former; and being sensible of the influence which these claims on the part of the United States may have on your negotiations with the Court of Madrid, have thought it expedient to explain the reasons and principles on which the same are founded, that you may be enabled to satisfy that Court of the equity and justice of their intentions.

With respect to the first of these articles, by which the river Mississippi is fixed as the boundary

between the Spanish settlements and the United States, it is unnecessary to take notice of any pretensions founded on a priority of discovery, of occupancy, or on conquest. It is sufficient that, by the definitive treaty of Paris of 1763, article seventh, all the territory now claimed by the United States was expressly and irrevocably ceded to the King of Great Britain; and that the United States are, in consequence of the revolution in their Government, entitled to the benefits of that cession.

The first of these positions is proved by the treaty itself. To prove the last, it must be observed, that it is a fundamental principle in all lawful Governments, and particularly in the constitution of the British Empire, that all the rights of sovereignty are intended for the benefit of those from whom they are derived, and over whom they are exercised. It is known also to have been held for an inviolable principle by the United States, while they remained a part of the British Empire, that the sovereignty of the King of England, with all the rights and powers included in it, did not extend to them in virtue of his being acknowledged and obeyed as King by the people of England, or of any other part of the Empire, but in virtue of his being acknowledged and obeyed as King of the people of America themselves; and that this principle was the basis, first of their opposition to, and finally of their abolition of, his authority over them. From these principles it results, that all the territory lying within the limits of the States, as fixed by the Sovereign himself, was held by him for their particular benefits, and must, equally with his other rights and claims in quality of their Sovereign, be considered as having devolved on them, in consequence of their resumption of the sovereignty to themselves.

In support of this position it may be further observed, that all the territorial rights of the King of Great Britain within the limits of the United States accrued to him from the enterprises, the risks, the sacrifices, the expense in blood and treasure, of the present inhabitants and their progenitors. If in latter times expenses and exertions have been borne by any other part of the Empire in their immediate defence, it need only be recollected that the ultimate object of them was the general security and advantage of the Empire; that a proportional share was borne by the States themselves; and that if this had not been the case the benefits resulting from an exclusive enjoyment of their trade have been an abundant compensation. Equity and justice, therefore, perfectly coincide, in the present instance, with political and constitutional principles.

No objection can be pretended against what is here said, except that the King of Great Britain was, at the time of the rupture with his Catholic Majesty, possessed of certain parts of the territory in question, and consequently that his Catholic Majesty had and still has a right to regard them as lawful objects of conquest. In answer to this objection, it is to be considered: 1. That these possessions are few in number, and confined to small spots. 2. That a right founded on conquest, being only coextensive with the objects of conquest, cannot comprehend the circumjacent territory. 3. That if a right to the said territory depended on the conquests of the British posts within it, the United States have already a more extensive claim to it than Spain can acquire, having, by the success of their arms, obtained possession of all the important posts and settlements on the Illinois and Wabash, rescued the inhabitants from British domination, and established civil government in its proper form over them. They have, moreover, established a post on a strong and commanding situation near the mouth of the Ohio; whereas Spain has a claim by conquest to no post above the northern bounds of West Florida, except that of the Natchez, nor are there any other British posts below the mouth of the Ohio for their arms to be employed against. 4. That whatever extent ought to be ascribed to the right of conquest, it must be admitted to have limitations which, in the present case, exclude the pretensions of his Catholic Majesty. If the occupation by the King of Great Britain of posts within the limits of the United States, as defined by charters derived from the said King when constitutionally authorized to grant them, makes them lawful objects of conquest to any other Power than the United States, it follows that every other part of the United States that now is or may hereafter fall into the hands of the enemy is equally an object of conquest. Not only New York, Long Island, and the other islands in its vicinity, but almost the entire States of South Carolina and Georgia, might, by the interposition of a foreign Power at war with their enemy, be forever severed from the American Confederacy, and subjected to a foreign yoke. But is such a doctrine consonant to the rights of nations or the sentiments of humanity? Does it breathe that spirit of concord and amity which is the aim of the proposed alliance with Spain? Would it be admitted by Spain herself, if it affected her own dominions? Were, for example, a British armament, by a sudden enterprise, to get possession of a seaport, a trading town, or maritime province in Spain, and another Power at war with Britain should, before it could be reconquered by Spain, wrest it from the hands of Britain, would Spain herself consider it as an extinguishment of her just pretensions? Or would any impartial nation consider it in that light? As to the proclamation of the King of Great Britain of 1763, forbidding his Governors in North America to grant lands westward of the sources of the rivers falling into the Atlantic Ocean, it can by no rule of construction militate against the present claims of the United States. That proclamation, as is clear both from the title and tenor of it, was intended merely to prevent disputes with the Indians, and an irregular appropriation of vacant land to individuals; and by no means either to renounce any parts of the cessions made in the treaty of Paris, or to affect the boundaries established by ancient charters. On the contrary, it is expressly declared that the lands and territory prohibited to be granted were within the sovereignty and dominion of that Crown, notwithstanding the reservation of them to the use of the Indians.

The right of the United States to western territory as far as the Mississippi having been shown, there are sufficient reasons for them to insist on that right, as well as for Spain not to wish a relinquishment of it.

In the first place, the river Mississippi will be a more natural, more distinguishable, and more precise boundary than any other that can be drawn eastward of it; and, consequently, will be less liable to become a source of those disputes which too often proceed from uncertain boundaries between nations.

Secondly. It ought not to be concealed, that although the vacant territory adjacent to the Mississippi should be relinquished by the United States to Spain, yet the fertility of its soil, and its convenient situation for trade, might be productive of intrusions by the citizens of the former, which their great distance would render it difficult to restrain, and which might lead to an interruption of that harmony which it is so much the interest and wish of both should be perpetual.

Thirdly. As this territory lies within the charter limits of particular States, and is considered by them as no less their property than any other territory within their limits, Congress could not relinquish it without exciting discussions between themselves and those States concerning their respective rights and powers, which might greatly embarrass the public councils of the United States and give advantage to the common enemy.

Fourthly. The territory in question contains a number of inhabitants who are at present under the protection of the United States, and have sworn allegiance to them. These could not, by voluntary transfer,

be subjected to a foreign jurisdiction without manifest violation of the common rights of mankind, and of the genius and principles of the American Governments.

Fifthly. In case the obstinacy and pride of Great Britain should for any length of time continue an obstacle to peace, a cession of this territory, rendered of so much value to the United States by its particular situation, would deprive them of one of the material funds on which they rely for pursuing the war against her. On the part of Spain this territorial fund is not needed for, and perhaps could not be applied to, the purposes of the war; and from its situation is otherwise of much less value to her than to the United States.

Congress have the greater hopes that the pretensions of his Catholic Majesty on this subject will not be so far urged as to prove an insuperable obstacle to an alliance with the United States, because they conceive such pretensions to be incompatible with the treaties subsisting between France and them, which are to be the basis and substance of it. By article eleventh of the treaty of alliance, eventual and defensive, the possessions of the United States are guarantied to them by his most Christian Majesty. By article twelfth of the same treaty, intended to fix more precisely the sense and application of the preceding article, it is declared that this guaranty shall have its full force and effect the moment a rupture shall take place between France and England. All the possessions, therefore, belonging to the United States at the time of that rupture, which, being prior to the rupture between Spain and England, must be prior to all claims of conquest by the former, are guarantied to them by his most Christian Majesty.

Now, that in the possessions thus guarantied was meant, by the contracting parties, to be included all the territory within the limits assigned to the United States by the treaty of Paris may be inferred from the fifth article of the treaty above mentioned, which declares that if the United States should think fit to attempt the reduction of the British power remaining in the northern parts of America, or the islands of Bermudas, &c., those countries shall, in case of success, be confederated with, or dependent upon, the United States. For, if it had been understood by the parties that the western territory in question, known to be of so great importance to the United States, and a reduction of it so likely to be attempted by them, was not included in the general guaranty, can it be supposed that no notice would have been taken of it when the parties extended their views, not only to Canada, but to the remote and unimportant island of Bermudas? It is true that these acts between France and the United States are in no respects obligatory on his Catholic Majesty, unless he shall think fit to accede to them. Yet, as they show the sense of his most Christian Majesty on this subject, with whom his Catholic Majesty is intimately allied; as it is in pursuance of an express reservation to his Catholic Majesty in a secret act subjoined to the treaties aforesaid of a power to accede to those treaties, that the present overtures are made on the part of the United States; and as it is particularly stated in that act that any conditions which his Catholic Majesty shall think fit to add are to be analogous to the principal aim of the alliance, and conformable to the rules of equality, reciprocity, and friendship, Congress entertain too high an opinion of the equity, moderation, and wisdom of his Catholic Majesty not to suppose that, when joined to these considerations, they will prevail against any mistaken views of interest that may be suggested to him.

The next object of the instructions is the free navigation of the Mississippi for the citizens of the United States, in common with the subjects of his Catholic Majesty.

On this subject the same inference may be made from article seventh of the treaty of Paris, which stipulates this right in the amplest manner to the King of Great Britain, and the devolution of it to the United States, as was applied to the territorial claims of the latter. Nor can Congress hesitate to believe that, even if no such right could be inferred from that treaty, the generosity of his Catholic Majesty would not suffer the inhabitants of these States to be put into a worse condition, in this respect, by the alliance with him in the character of a sovereign people, than they were in when subjects of a Power who was always ready to turn their force against his Majesty; especially as one of the great objects of the proposed alliance is to give greater effect to the common exertions for disarming that Power of the faculty of disturbing others. Besides, as the United States have an indisputable right to the possession of the east bank of the Mississippi for a very great distance, and the navigation of that river will essentially tend to the prosperity and advantage of the citizens of the United States that may reside on the Mississippi, or the waters running into it, it is conceived that the circumstances of Spain's being in possession of the banks on both sides near its mouth, cannot be deemed a natural or equitable bar to the free use of the river. Such a principle would authorize a nation disposed to take advantage of circumstances to contravene the clear indications of nature and Providence and the general good of mankind.

The usage of nations, accordingly, seems in such cases to have given to those holding the mouth or lower parts of a river no right against those above them, except the right of imposing a moderate toll, and that on the equitable supposition that such toll is due for the expense and trouble the former may have been put to. "An innocent passage (says Vattel) is due to all nations with whom a State is at peace; and this duty comprehends troops equally with individuals." If a right to a passage by land through other countries may be claimed for troops, which are employed in the destruction of mankind, how much more may a passage by water be claimed for commerce, which is beneficial to all nations.

Here, again, it ought not to be concealed that the inconveniences which must be felt by the inhabitants on the waters running westwardly, under an exclusion from the free use of the Mississippi, would be a constant and increasing source of disquietude on their part, of more vigorous precautions on the part of Spain, and of an irritation on both parts, which it is equally the interest and duty of both to guard against.

But notwithstanding the equitable claim of the United States to the free navigation of the Mississippi, and its great importance to them, Congress have so strong a disposition to conform to the desires of his Catholic Majesty that they have agreed that such equitable regulations may be entered into as may be a requisite security against contraband; provided the point of right be not relinquished, and a free port or ports below the thirty-first degree of north latitude, and accessible to merchant ships, be stipulated to them.

The reason why a port or ports, as thus described, was required must be obvious. Without such a stipulation the free use of the Mississippi would, in fact, amount to no more than a free intercourse with New Orleans and other ports of Louisiana. From the rapid current of this river it is well known that it must be navigated by vessels of a peculiar construction, and which will be unfit to go to sea. Unless, therefore, some place be assigned to the United States where the produce carried down the river, and the merchandise arriving from abroad, may be deposited till they can be respectively taken away by the proper vessels, there can be no such thing as a foreign trade.

There is a remaining consideration respecting the navigation of the Mississippi which deeply concerns the maritime Powers in general, but more particularly their most Christian and Catholic Majesties. The country watered by the Ohio, with its large branches, having their sources near the lakes on one sid :, and

those running northwestward and falling into it on the other side, will appear, from a single glance on a map, to be of vast extent. The circumstance of its being so finely watered, added to the singular fertility of its soil, and other advantages presented by a new country, will occasion a rapidity of population not easy to be conceived. The spirit of emigration has already shown itself in a very strong degree, notwithstanding the many impediments which discourage it. The principal of these impediments is the war with Britain, which cannot spare a force sufficient to protect the emigrants against the incursions of the savages. In a very few years after peace shall take place, this country will certainly be overspread with inhabitants. In like manner, as in all new settlements, agriculture, not manufactures, will be their employment. They will raise wheat, corn, beef, pork, tobacco, hemp, flax, and in the southern parts, perhaps, rice and indigo, in great quantities. On the other hand, their consumption of foreign manufactures will be in proportion, if they can be exchanged for the produce of their soil. There are but two channels through which such commerce can be carried on: the first is down the river Mississippi; the other is up the rivers having their sources near the lakes; thence by short portages to the lakes, or the rivers falling into them; and thence through the lakes and down the St. Lawrence. The first of these channels is manifestly the most natural, and by far the most advantageous. Should it, however, be obstructed, the second will be found far from impracticable. If no obstructions should be thrown in its course down the Mississippi, the exports from this immense tract of country will not only supply an abundance of all necessaries for the West India islands, but serve for a valuable basis of general trade, of which the rising spirit of commerce in France and Spain will no doubt particularly avail itself. The imports will be proportionally extensive; and from the climate, as well as from other causes, will consist of the manufactures of the same countries. On the other hand, should obstructions in the Mississippi force this trade into a contrary direction through Canada, France and Spain, and the other maritime Powers, will not only lose the immediate benefit of it themselves, but they will also suffer by the advantage it will give to Great Britain. So fair a prospect could not escape the commercial sagacity of this nation. She would embrace it with avidity. She would cherish it with the most studious care. And should she succeed in fixing it in that channel, the loss of her exclusive possession of the trade of the United States might prove a much less decisive blow to her maritime pre-eminence and tyranny than has been calculated.

The last clause of the instructions, respecting the navigation of the waters running out of Georgia through West Florida, not being included in the ultimatum, nor claimed on a footing of right, requires nothing to be added to what it speaks itself.

The utility of the privileges asked to the State of Georgia, and consequently to the Union, is apparent from the geographical representation of the country. The motives for Spain to grant it must be found in her equity, generosity, and disposition to cultivate our friendship and intercourse.

These observations, you will readily discern, are not communicated in order to be urged at all events, and as they here stand, in support of the claims to which they relate. They are intended for your private information and use, and are to be urged so far, and in such forms only, as will best suit the temper and sentiments of the Court at which you reside, and best fulfil the objects of them.

August, 1782.—On the 17th of November, 1781, the delegates for Massachusetts laid before Congress the following act of the Legislature of that State:

"COMMONWEALTH OF MASSACHUSETTS, *October* 27, 1781.

"It appearing to this court of the highest importance to the United States in general, and to this State in particular, that the right to the fisheries heretofore enjoyed by the subjects of the United States should, in a future settlement of peace, be acknowledged and secured to them: Therefore—

"*Resolved*, That the delegates in Congress for this Commonwealth be, and they are hereby, instructed to represent to Congress the importance of the fisheries to this State, and to use their utmost influence that instructions be given to the ministers appointed by Congress for negotiating a peace, in the most pressing manner to insist that the free and unmolested exercise of this right be continued and secured to the subjects of the United States of America in a future settlement of peace.

"*And it is further resolved*, That the secretary be, and he is hereby, directed to forward the aforegoing resolve, without delay, to the delegates in Congress from this Commonwealth."

The aforegoing, together with sundry papers relative to the fisheries, was referred to a committee, consisting of Mr. Lovell, Mr. Carroll, and Mr. Madison, who, on the 8th January, 1782, reported as follows:

The committee to whom were referred the several papers relating to the fisheries have duly considered the same, and are of opinion that the best security for this object, short of admitting it into the ultimatum for peace, will be a representation to his most Christian Majesty, through our ministers for negotiating peace, of its great importance to the United States, and of the grounds upon which it is claimed and expected; and being also of opinion that a like representation touching the other claims of the United States excluded from the ultimatum would have a tendency no less salutary, they have prepared instructions to the said ministers in this comprehensive plan, and report the same, as follows, for the consideration of Congress:

That the ministers plenipotentiary for negotiating peace, or, in case they should not be convened, the minister plenipotentiary at the Court of Versailles, be instructed to acquaint his most Christian Majesty, that notwithstanding the occasion presented to the United States, by the signal and various advantages gained over the enemy, of enlarging their ultimatum for peace, the firm reliance which Congress have on the friendship and influence of his Majesty has determined them not to depart from their resolution of the ——— day of ——— last, by which all the objects of their desires and expectations, excepting only the independence of the United States and their alliance with his Majesty, are eventually submitted to his councils. But that, in order to make him more fully sensible of the extent and foundation of these desires and expectations, have thought it expedient that some observations should be made to him relative to the several objects which are most likely to fall within the compass of negotiation.

One of these objects, and which is intimately connected with the independence of the United States, is the exterior boundary by which their extent is to be defined. On this occasion it is to be observed that our contest will be with his Britannic Majesty alone. Under his authority the limits of these States, while in the character of colonies, were established; to these limits the United States, considered as independent sovereignties, have succeeded. Whatsoever territorial rights, therefore, belonged to them before the Revolution were necessarily devolved upon them at the era of independence.

Those grounds support the assertion that the United States are bounded as they are declared to be in the instructions given to Mr. Adams on the —— day of August, 1779.

As the efforts of his Britannic Majesty will be principally directed against the western and northwestern boundary, the observations on this subject may be confined thereto.

The treaty of Paris of 1763, to which his most Christian Majesty and the British King were parties, restricted those colonies, which were before extended by their charters to the sea, to the river Mississippi. To this river, then, these States will still extend in the same manner, unless by some subsequent constitutional and rightful act their limits have been abridged.

The negotiations on this head will probably assume a variety of forms. None, perhaps, will be more strenuously urged than those which arise from his Britannic Majesty's proclamation on the 7th day of October, 1763, the treaty of Fort Stanwix, in 1768, between him and the Six Nations, and the British statute, in 1774, establishing, among other things, the boundaries of Quebec.

1. If it can be supposed that the purpose of the proclamation was to affect the boundaries of the United States, it must be remembered to be the act of the very Prince against whom we contend; that it preceded, a short time only, the manifestations of those wicked and oppressive measures which gave birth to the Revolution; and that it directly interfered with the rights accruing to the colonies by the ancient and more solemn acts of his predecessors.

But by the prohibition to the Governors of the other colonies than of Quebec, East Florida, or West Florida, to grant warrants of survey or pass patents "for the present, and until his (the British King's) further pleasure should be known," for any lands beyond the heads or sources of any of the rivers which fall into the Atlantic Ocean from the west and northwest, is strongly shown an opinion that there were lands beyond the heads of those rivers within the grants of the Governors.

By the prohibition, too, to grant warrants of survey or pass patents for any lands whatever which, "not having been ceded to or purchased by the British King, were reserved to the Indians or any of them," a restriction of territory could not have been designed by a King who granted the charters to the colonies, knowing that they would interfere with the rights of the Indians, who has always considered a cession or purchase from the Indians not so much the source of a title as a milder means of preventing their hostility, who, since the date of the proclamation, has granted through the prohibited Governors themselves large quantities of land beyond the heads of those rivers, and whose own geographer, in a map describing and distinguishing the British, Spanish, and French dominions in America, according to the aforesaid treaty of Paris, carries the States of Georgia, North Carolina, South Carolina, and Virginia, as far as the Mississippi.

In a word, this part of the proclamation seems to have been intended merely to shut up the land offices, not to curtail limits; to keep the Indians in peace, not to relinquish the rights accruing under the charters, and particularly that of pre-emption.

2. The treaty of Fort Stanwix is susceptible of a similar answer, by viewing it as an instrument of peace, not the conveyance of a title. For there is reason to believe that the British King has never ratified it; and yet it is notorious that his Governors have granted lands within the cession then made.

If it be said that the authority to grant those lands was derived from the treaty of Lancaster in 1744, here, then, is a forcible illustration of our doctrine. For on what principle, but on account of peace, could the British King have attempted to procure a new cession of the same country? On the other hand, if the authority to grant those lands was not derived from the treaty of Lancaster, it can rest on no other foundation than that of his charters.

3. The Quebec act is one of the multiplied causes of our opposition, and finally of the Revolution. No stress, therefore, ought to be laid on it, even if in its operation it abridged the boundary of the States. But the provision, that nothing therein contained relative to the boundary of the province of Qubec should in anywise affect the boundaries of any other colony, excludes such an operation, and confirms chartered rights.

Should Great Britain retain that portion of the United States bordering on the Mississippi, the neighborhood of her possessions will be imminently dangerous to our peace. Should she also retain Canada and West Florida, or even Canada alone, by applying herself to the settlement of that country, and pushing on her trade there with vigor, a new nursery for her marine will speedily be established.

From a full confidence that the western territory now contended for lay within the United States, the British posts therein have been reduced by our citizens, and American government is now exercised within the same; large bounties of land have been promised to the Army; and we have relied on it as an important source for discharging the debts incurred during the war.

For a considerable distance beyond the Appalachian mountains, and particularly on the Ohio, American citizens are actually settled at this day. By the surrender, therefore, of the western territory to Great Britain, a large number of fencible men—men, too, who have not been behind any of their fellow-citizens in the struggle for liberty—would be thrown back within her power.

But a decisive objection exists against this mutilation of our country; that the principle by which it would be limited to the distance of a mile only from the Mississippi would justify mutilations to an immense extent.

Another claim is the common right of the United States to take fish in the North American seas, and particularly on the Banks of Newfoundland. With respect to this object, the said ministers are instructed to consider and contend for it, as described in the instructions relative to a treaty of commerce, given to John Adams on the 29th of September, 1779, as equally desired and expected by Congress, with any of the other claims not made ultimata in the instructions given to the ministers plenipotentiary for negotiating a peace on the ——— day of ——— last, and are therein referred to as objects of the desires and expectations of Congress. They are also instructed to observe to his most Christian Majesty, with respect to this claim, that it does not extend to any parts of the sea lying within three leagues of the shores held by Great Britain or any other nation. That, under this limitation, it is conceived by Congress a common right of taking fish cannot be denied to them without a manifest violation of the freedom of the seas, as established by the law of nations and the dictates of reason; according to both which the use of the sea, except such parts thereof as lie in the vicinity of the shore and are deemed appurtenant thereto, is common to all nations, those only excepted who have either by positive convention, or by long and silent acquiescence under exclusion, renounced that common right; that neither of these exceptions militate against the claim of the United States, since it does not extend to the vicinity of the shore, and since they are so far from having either expressly or tacitly renounced their right, that they were prior to the war, though indeed not in the character of an independent nation, in the constant, and even during the war, in the

occasional exercise of it; that although a greater space than three leagues has in some instances been, both by public treaties and by custom, annexed to the shore as part of the same dominion, yet, as it is the present aim of the maritime Powers to circumscribe, as far as reason will justify, all exclusive pretensions to the sea, and as that is the distance specified in a treaty to which both Great Britain and his Majesty are parties, and which relates to the very object in question, it was supposed that no other distance could, in the present case, be more properly assumed; that if a greater or an indefinite distance should be alleged to be appurtenant by the law of nations to the shore, it may be answered that the fisheries in question, even those on the Banks of Newfoundland, being of so vast an extent, might with much greater reason be deemed appurtenant to the whole continent of North America than to the inconsiderable portion of it held by Great Britain; that Congress expect, with greater assurance, the concurrence of his Majesty in these ideas, since his own claim to the fisheries would, by a contrary doctrine, be suspended on the mere concession of Great Britain, instead of resting on the solid and honorable basis of the law of nations and of right; that if Great Britain cannot, by virtue of her occupancy of the shore, claim an exclusive use of the fisheries beyond the vicinity thereof, and a right to the common use is incident to the United States as a free and independent community, they cannot admit that they have no such right, without renouncing an attribute of that sovereignty which they are bound, as well by respect for his Majesty's honor as for their own interests and dignity, to maintain entire; that this right is no less indispensable in its exercise than it is indisputable in its principles, the inhabitants of a considerable part of the United States being dependent thereon both for a material proportion of their subsistence and for the means of their commerce; and as they were in the full enjoyment of this resource prior to the Revolution, the loss of it by an event from which very different expectations have been cherished, and which ought to bestow, as far as possible, equal advantages on all who have labored equally for its accomplishment, could not fail to be attended with disappointment and mortifying comparisons; that, from these considerations, Congress have the most earnest desire, as well as the most sanguine hope, that his Majesty's efforts will obtain for his allies a stipulation on the part of Great Britain not to molest them in the common use of the fisheries, as above stated; or, if insuperable difficulties should oppose a positive stipulation in their favor, that his Majesty will in every event find means to avoid a surrender of that common right; that whilst, however, this latter expedient is suggested to his Majesty, it cannot escape his discernment that it is so pregnant with dangerous consequences that the former cannot be contended for with too much urgency and zeal.

That with respect to the confiscated property of those who have adhered to the interests of the enemy, and which may possibly be claimed for the former owners, the aforesaid ministers are to observe to his Majesty that these confiscations having taken place, more or less, in almost all the States, and having undergone various transfers from individual to individual, a specific restitution is absolutely impracticable; and when the vast amount of them is compared with the ravages and burdens which the war will leave behind it, an equivalent restitution would be little less than impracticable; that as the general usage of nations, as well as the particular law of Great Britain, excludes aliens from holding real and immovable estates, the moment our national independence was assumed, the titles of all those who, on or prior to that event, espoused the side of the enemy, became, under strict construction, extinct; and that such as afterwards deserted to them, falling under the denomination of traitors, have forfeited not only their estates but their lives to their country; that although it were to be admitted that the peculiarity of circumstances which distinguish the present war between the United States and Great Britain from a war between two nations separate and independent at its origin affords some plea for reversing the confiscations, this consideration is far outweighed by the great value of which the citizens of these States have, contrary to the laws of war, been despoiled by the enemy, and the still greater losses which they have suffered from wanton destruction; in both which, those who have fled or been expelled from their country have been often the chief instigators and instruments; and the first of which, many of them have enriched themselves greatly beyond their losses.

That the ministers further observe to his Majesty, that any stipulations authorizing such fugitives and exiles from their country to return into it would not only be dishonorable to the Governments of these States, but so obnoxious to the people at large, and especially to such as have been the objects of their outrages, that it is the particular wish of Congress that it may be most strenuously opposed; that such a permission is the more to be dreaded as it could only be intended for such as are totally devoid both of honor and sensibility, who alone would avail themselves of a privilege that would subject them to the indignation and resentments which they had provoked.

That as it is not improbable the subject of commerce will, among others, be introduced into the negotiation, the ministers be instructed to observe thereon to his most Christian Majesty that the United States, as a free and sovereign nation, being the absolute masters as well of their commerce as of their government, no claim of right can nor probably will be pretended, with respect to the former, by those who relinquish such pretension with respect to the latter; that it is the wish and the policy of the United States to preserve their commerce as unfettered as possible with stipulations in favor of nations with which they are now unconnected, and particularly of that with which they are now at war; that this policy cannot but coincide with the sentiments of his Majesty, since it alone will leave to his allies the future opportunity of manifesting their preference of his interests to those of his enemies and rivals; that Congress do, for these reasons, most earnestly desire, expect, and entreat, that his Majesty will spare no efforts that may be necessary to exclude from a treaty every article which would restrain the United States from imposing on the trade of Great Britain any duties, restrictions, or prohibitions, which may hereafter be judged expedient, unless, and so far only, as a relaxation in this point may be essentially necessary for obtaining peace, or the several objects above mentioned.

On the 22d of January, 1782, the foregoing report was referred to another committee, consisting of Mr. Carroll, Mr. Randolph, and Mr. Montgomery, who, on the 16th day of August, 1782, reported that they have collected facts and observations as follows, which they recommend to be referred to the Secretary for Foreign Affairs, to be by him digested, completed, and transmitted to the ministers plenipotentiary for negotiating a peace, for their information and use.

Facts and observations in support of the several claims of the United States not included in their ultimatum of the 15th of June, 1781.

1. Our common right to take fish in the North American seas, and particularly in that part of them which goes under the name of the Banks of Newfoundland, has its origin in the natural incapacity of the sea to be appropriated.

The practice of nations hath, for the sake of safety and tranquillity, abridged this freedom of the ocean, by annexing to the coast a reasonable tract of the water; and Great Britain, by availing herself of this usage, may possibly arrogate the exclusive enjoyment of the banks, as appurtenant to the island of Newfoundland.

These banks, the nearest point of which is thirty-five leagues distant from Cape Race, are too far advanced in the Atlantic to be a dependance of the shores. There has been great division among writers in determining to what extent the sea is to be considered as incidental to the territory which it washes. Some have apportioned one hundred miles, others sixty, and others as much as could be seen from land in a fair day.—(See Anderson's History of Commerce, 2 vol., Appendix 17.)

If we pass from theory to the stipulations of treaties, we shall find better aid, but by no means uniformity. By better aid we mean British precedents; for against these a British King surely will not struggle.

In the second year of James the First Commissioners were appointed on the part of England and Scotland to treat of and conclude a union between the two Kingdoms. By the articles for the regulation of trade, the sea for the space of fourteen miles from the coast of Scotland was reserved to Scotchmen only; and it was reciprocally provided in favor of Englishmen.—(See Spotswood's History of Scotland, 483, and 2 Anderson, Appendix 17.)

Should this example be thought to lose the force of its application, from having been the agreement of the subjects of one and the same Prince, a letter may be quoted from Secretary Stanton to Lord Carlton, the English ambassador at the Hague, bearing date 21st of January, 1618. In it the ambassador is commanded to urge the States' General, in the name of King James, to publish a placard prohibiting their subjects to fish within fourteen miles of his coasts until the main business should be finally accommodated by Commissioners.

The treaty of Paris, in 1763, to which his most Christian Majesty as well as his Britannic Majesty was a party, excludes the French from the exercise of the fishery in the Gulf of St. Lawrence only within three leagues from the shore, extending the distance round Cape Breton to fifteen leagues.

By inspecting the ancient treaties between England and the Dukes of Britanny and Burgundy, we shall find that the portion of the sea which is supposed to belong to the coast is so far from being increased beyond fifteen miles or even three leagues, that the liberty of fishing in every part thereof is asserted.—(See treaties between Henry Sixth and the Duchess of Burgundy; Edward Fourth and Francis, Duke of Britanny; Henry Seventh and Philip Fourth, Archduke of Austria; and Duke of Burgundy and Henry Eighth and Charles Fifth, Emperor and Duke of Burgundy.)

Had the Kings of England esteemed the fisheries the property of the Crown, they would not have admitted aliens to a promiscuous fishing with their own subjects without some valuable consideration, or an acknowledgment by way of *salvo jure*. But, instead of a proceeding like this, they have, in a succession of ages, deliberately omitted to challenge to themselves the sole right of the fisheries.

Queen Elizabeth, too, being involved in a dispute with the King of Denmark concerning the fishery at Wardhuys, near the North Cape, instructs her plenipotentiaries to deny that "the property of the sea at any distance whatsoever is consequent to the banks." The King of Denmark does not attempt, in his reply, to establish what she had thus denied, but rests his exclusive claims upon the authority of old treaties between the two Crowns.—(See Rymer's Foedera, tom. 16th, p. 425.)

Thus it appears, upon strict principles of natural law, the sea is unsusceptible of appropriation; that a species of conventional law has annexed a reasonable district of it to the coast which borders on it; and that in many of the treaties to which Great Britain has acceded, no distance has been assumed for this purpose beyond fourteen miles.

Were these rules, then, allowed to influence the pretensions of Great Britain with respect to the Banks of Newfoundland, they would be readily condemned. Nor could they be supported were the sea appendant to the shore as far as thirty leagues, the greatest distance, perhaps, which has at any time been ceded to the King of England by treaty.

Nations may, indeed, either by positive contract or by long and silent acquiescence under exclusion, renounce their privileges in the sea. But the United States have not only never disclaimed their right of fishing therein, but have been in the constant enjoyment of it during the existence of British government, and occasionally so ever since the Revolution.

It deserves attention, that the fisheries furnish the inhabitants of a considerable part of the United States with an important proportion of their subsistence and the means of their commerce. Should they lose this resource by the accomplishment of independence—an event from which very different expectations have been cherished, and which ought to bestow equal advantages on all who have labored equally in giving birth to it—such a loss cannot fail to be attended with disappointment and mortifying comparisons.

As it is the aim of the maritime Powers to circumscribe, as far as equity will suffer, all exclusive claims to the sea, we trust his most Christian Majesty will coincide with our present doctrines. Perhaps, however, the ninth and tenth articles of the treaty of amity and commerce may be supposed, from a little ambiguity in their language, to forbid us to insist on a participation of the fisheries on the Banks of Newfoundland and in the Gulf of St. Lawrence, as being frequented and enjoyed by the subjects of France. But what is the genuine construction of these articles?

The ninth begins with a general stipulation that the subjects of one party shall abstain from fishing in all places possessed or to be possessed by the other; interdicts those of France from fishing in the havens, bays, creeks, roads, coasts or places which the United States hold or shall hereafter hold, as well as the inhabitants of the United States from fishing in the havens, bays, creeks, roads, coasts, or places which the most Christian King possesses or shall hereafter possess. But this exclusion is to take place only so long and so far as an exemption shall not in this respect have been granted to some other nation.

The tenth article binds the United States and their citizens not to disturb the subjects of the most Christian King in the exercise of the right of fishing on the Banks of Newfoundland, nor in their indefinite and exclusive privileges on the coast of the island of that name, conformably to the true sense and meaning of the treaties of Utrecht and Paris.

If it can be truly said that the fisheries in the Gulf of St. Lawrence and on the Banks of Newfoundland are possessed or holden by France, the citizens of the United States are entitled, according to the provisions of the ninth article, to like access with the subjects of Great Britain.

But the sea cannot be holden or possessed, these terms implying appropriation. They accord well

with havens, bays, creeks, roads, or coasts; and also with "places," should this word be confined, as it ought to be, in its interpretation to waters susceptible of occupancy.

Had it been conceived that the ninth article debarred the United States from fishing on the Banks of Newfoundland, it would have been unnecessary to guard, in the tenth, against the molestation of the French in fishing there. Besides, an engagement not to disturb, does of itself import that the citizens of the United States may fish if they do not disturb.

There seems, too, a remarkable antithesis between the right of fishing and the right derived from the treaty of Utrecht, as to the coast of the island of Newfoundland. The former is called simply the enjoyment and exercise of the right of fishing; but the latter is more pointedly denominated indefinite and exclusive. In a word, we are persuaded, from our experience of the candor and friendship of his most Christian Majesty, that it was not his design to depress the United States by thrusting them from a share of the fisheries which Providence appears to have destined for their use; but rather to secure the fisheries of his own country from encroachment, and his subjects from interruption in those of America.

2. With respect to the boundaries of the States. The patent to the Council of Plymouth, bearing date the 18th of November, 1620, is the parent from which the Eastern States proceed.

New Hampshire claims under the royal commission appointing Benning Wentworth, Esq., Governor of that province, on the 13th July, in the fifteenth year of the reign of George the Second.

Massachusetts claims under the charter granted by William and Mary, on the 17th October, 1691. The treaty of Paris fixes the Mississippi as the western limit of the old colony of Massachusetts Bay, which is one of the colonies incorporated by that charter.—(See old charter of 4th March, 1628–'29.)

The charter of April 23, 1662, granted by Charles the Second to Winthrop and others, is the ground of the territorial claims of Connecticut. The treaty of Paris is allowed to restrict that State also to the Mississippi.

On the 8th July, 1662, the same Prince granted the charter under which Rhode Island claims.

New York assigns, as sources of her title, the grant from Charles Second to the Duke of York in 1663, the capitulation of the Dutch in the same year, the treaty of Westminster, 1674, and the renewal or confirmation of the Duke's grant immediately after the treaty. This State adds that the lands on the west side of Connecticut river belong to it under the further [right] accruing by the subjection of the Five Nations, the native proprietors; and that the country, as far northward as the river St. Lawrence and westward without known limits, is the property of New York, as having been formerly possessed by those Indians and their tributaries. The treaties with those nations in 1684, 1701, 1726, 1744, and 1754, are particularly referred to.

On the 23d June, 1664, the Duke of York conveyed, out of his aforesaid grant to Lord Berkeley and Sir George Carteret, the limits which New Jersey claims. Upon this ground, and the resignation of the Government into the hands of the Crown on the 14th August, 1703, is the title of this State built.

Pennsylvania claims under the charter granted by Charles the Second, on the 4th of March, 1681–'82, to William Penn.

Delaware claims under two grants from the Duke of York to William Penn, on the 24th August, 1683.

On the 20th June, 1632, Charles the First granted to Lord Baltimore the limits which Maryland claims.

Virginia claims under the charter granted by James First, on the 23d of May, 1609, to the treasurer and company, the resumption of the country into the hands of the King, and the charter of Charles Second to the colony of Virginia, on the 10th October, 1676. The treaty of Paris marks its western boundary.

North Carolina and South Carolina claim jointly, in the first instance, under the charter of 1662, to Clarendon and others, and its confirmation in 1664, with an extension of limits. The British statute of 1729, enabling the King to pay the consideration of the surrender of the proprietors, makes a material point in their case. The separate claims of these two States depend upon the act which divided them. The treaty of Paris defines the western boundary of each.

The first grant on which Georgia relies is that made to the trustees on the 8th June, 1732, and limited to the west by the treaty of Paris. The second grant is the proclamation of 1763.

Were the lands included within these limits merely such as were granted to individuals and settled, or granted and not settled, at the time of the Revolution, they could not be brought into controversy. For no question can arise concerning boundaries until the recognition of independence; and this event, by deposing the King of Great Britain from the rank of Lord Paramount and Chief Magistrate of America, destroys the only principles by which lands falling within the two preceding descriptions could return into his power. But the views, interests, and conduct of his Britannic Majesty forbid us to expect that he will acknowledge the territory remaining ungranted at the era of independence to be, in like manner, the property of the United States, or of the particular States within the limits of which it is comprised.

It is, therefore, incumbent on us to show—

First. That the territorial rights of the thirteen United States, while in the character of British colonies, were the same with those defined in the instructions given to Mr. J. Adams on the —— day of August, 1779; and,

Secondly. That the United States, considered as independent sovereignties, have succeeded to those rights; or,

Thirdly. That if the vacant lands cannot be demanded upon the preceding grounds, that is, upon the titles of individual States, they are to be deemed to have been the property of his Britannic Majesty immediately before the Revolution, and to be now devolved upon the United States collectively taken.

First. So fair are our pretensions rendered by the united operation of the grants, charters, royal commissions, and Indian cessions, enumerated above, that we shall content ourselves with reviewing the objections which will most probably be urged against them, without entering into direct proofs of our titles.

First objection. Even upon the supposition that the charter of Massachusetts is valid, so as to cover the vacant lands, still it does not follow that St. John's river is part of its eastern boundary, for that river is contended to be in Nova Scotia under the expression in the new charter of Massachusetts in 1691, which conveys the country between the province of Maine and Nova Scotia. The southwest boundary of Nova Scotia, therefore, will regulate this claim. But it is well known that in the altercation between France and Great Britain upon this very subject in 1751, Acadia, or Nova Scotia, was asserted by the latter to be bounded by Pentagoet, or Penobscot river.

Answer. It is to be observed, that when the boundaries of the United States were declared to be an ultimatum, it was not thought advisable to continue the war merely to obtain territory as far as St. John's river; but that the dividing line of Massachusetts and Nova Scotia was to be consigned to future settle-

ment. It must be confessed, also, that this country, which is said in the new charter to border on Nova Scotia and the province of Maine, on opposite sides, and which goes under the name of Sagadahock, cannot be proved to extend to the river St. John as clearly as to that of St. Croix. But there is some reason, notwithstanding, to believe that Nova Scotia was never supposed by the British King, in any grant to his subjects, to come to the south of St. John's river, although he might have exacted from France a relinquishment of the lands to the river Penobscot, or even Kennebec, as a part of Nova Scotia.

The first notice taken of Nova Scotia by the King of Great Britain was in a grant which he made of that country to Sir William Alexander, on the 10th September, 1621. According to this grant, it was to begin at Cape Sable, to extend towards St. Mary's bay, to cross the great bay between the Etchemins and Sourigois to the mouth of the river St. Croix, to run up to the source of that river, and from thence, by a straight line drawn northwardly, to the great river of Canada. On the 12th July, 1625, a patent issued to the same Sir William Alexander, confirming to him the same.

These grants could not reach to the west of St. Croix, "because," (say the English Commissaries in their memorial of the 11th January, 1751, s. 42,) "all the country to the westward of the river St. Croix had, in the year 1620, before the date of the first of them, been granted by King James to certain of his subjects, by the name of the Council of Plymouth, of which grantees Sir William Alexander was one, and who, by virtue of an agreement among the said grantees, possessed the country lying between the river St. Croix and Pemaquid, a little to the westward of Pentagoet."

Popple's map, which was undertaken, as the author relates, with the approbation of the Lords Commissioners of Trade and Plantations, makes the St. Croix the western boundary of Nova Scotia. Champlain expressly bounds Acadia by St. Croix to the westward. We may add, as being further corroborative of this western limit of Nova Scotia, that the English Commissaries themselves, in their reply of 4th October, 1751, commend the map in the fourth volume of Purchas' Pilgrim as the first ancient map of Nova Scotia and New England deserving notice; the latter of which they assert to be bounded northwardly, as is delineated in the map, by the river St. Croix. The same Commissaries afterwards remark, that it is clear from history that the country between the rivers Sagadahock and St. Croix had been settled many years earlier than the date of the new charter of Massachusetts; and that Great Britain considered it as a part of her American colonies. It could not have been included within Nova Scotia, since it is expressly contradistinguished from it. Sagadahock, too, is granted to the Duke of York, under the description of "all that part of the main land of New England, beginning at a certain place called or known by the name of St. Croix, adjoining to New Scotland, in America."

Should it be argued that it was manifestly the opinion in England, at the time of granting the new charter, that the lands between the rivers Sagadahock and St. Croix were not included within the limits of Massachusetts, since grants of them were not valid until confirmed by the Crown, an answer arises from two considerations: First, this charter incorporates these lands into the province of Massachusetts in unequivocal terms; and secondly, one at least of the counsellors directed to be chosen yearly for the province at large was to be from the inhabitants or proprietors of lands within this territory. The Board of Trade and Plantations, on the 29th April, 1700, declared in a solemn act that New England ought of right to extend to St. Croix.—(See the act.)

It does not appear, then, that Nova Scotia hath ever been carried to the west of the river St. Croix in any British grant, or any British document relative to New England. We own that in the memorials of the Court of Great Britain to the French Court, after the peace of Aix-la-Chapelle, relative to the boundaries of Nova Scotia, Penobscot river is sometimes asserted to be one of its boundaries, and Kennebec at others. But nothing is proved from thence but a desire in the British King to procure an absolute release from France of all her pretensions, however distant. For a general discussion on this subject, see the British and French memorials on the occasion, and the treaties of St. Germain, on the 29th of March, 1632; of Westminster, November 3, 1655, and of Breda, July 31, 1667.

As to the territory of Sagadahock, which is synonymous with the lands between the province of Maine and Nova Scotia, conveyed by the new charter, we can only observe upon the expression already cited from the grant thereof to the Duke of York, that the "place called St. Croix, adjoining to New Scotland," must mean the territory which went by that name. Had the river only been designed it alone would have been mentioned. It seems to have been the practice of those times to denominate a country from a river which bounded it. The river Sagadahock accordingly, at first, gave its own appellation to the whole country as far as the river St. Croix, and afterwards to the country from thence to St. John's, which had before been called St. Croix. The *place*, therefore, called St. Croix, adjoining to New Scotland, was most likely intended to describe the lands between the rivers St. Croix and St. John's. History does not inform us that any particular spot of them was known as St. Croix. But as the first course of the grant to the Duke of York plainly runs from Nova Scotia to Massachusetts along the seacoast, it is probable that it was to begin at the first point in the country of St. Croix on the coast. This must have been on St. John's river. And as the last line of the grant is not closed, it is more agreeable to the usage of those days to adopt a natural boundary. For this purpose St. John's river was obvious as far as its head, and afterwards a line to the great river of Canada.—(See grant to the Duke of York for Sagadahock, March 12, 1663–'64.)

We are obliged to urge probabilities, because, in the early possessions of a rough unreclaimed country, accuracy of lines cannot be much attended to. But we wish that the northeastern boundary of Massachusetts may be left to future discussion, when other evidences may be obtained which the war has removed from us.

Second objection. But let the new charter of Massachusetts comprehend, by its expressions, the country from the river St. Croix to that of St. John's, and the title papers of the other States cover, by their terms, ever so much land, they cannot be supposed, at this day, to justify such wide limits as are demanded in Mr. Adams' instructions of August, 1779; for—

1. The charters of Massachusetts, Connecticut, Virginia, North Carolina, South Carolina, and Georgia, never had any serious western limit since the South Sea was thought to be nearer the Atlantic than it really is; and if its true position had been known, such a grant would have been too extravagant.

2. The charters of Virginia, North Carolina, and South Carolina, were granted to proprietors, and that of Georgia to trustees, and were afterwards resumed into the King's hands. It is, therefore, incumbent on those States to show either their right of succession to the proprietors and trustees, in opposition to the resumption of the Crown, or an obligation on the Crown to appropriate to them, when changed into royal governments, the same boundaries which they held when proprietary or fiduciary.

3. The treaties with the Five [Nations,] under which New England claims, transferred to that colony no title to their lands.

4. The proclamation of 1763 abridged all the colonies which claimed beyond the sources of the rivers falling into the Atlantic to those sources.

5. By the treaty of Fort Stanwix, in 1768, the King of Great Britain bought from the Six Nations, in his own name, a great part of the country claimed by Virginia to the west of the Alleghany mountains; and, by several other treaties with the Indian tribes, purchases have been made within its chartered limits, from which it may be inferred that this colony was before destitute of right to the lands so purchased; and,

6. The statute of the British Parliament, commonly called the Quebec act, in 1774, cuts off the extensive claims of the United States.

Answer to objection second, part first. It cannot be admitted that even a miscomputation of the distance between the Atlantic and Pacific Oceans vitiates the charters which extend from the one to the other. In every contest among the European Powers concerning the soil of America, the validity of charters hath been conceded.—(See treaties of Germain, Westminster, and Breda, and the memorials of the Commissaries above referred to.)

The King of Great Britain will not fail to acknowledge their sacredness while he calls to mind the doctrine of the British laws, by which the charters of corporations are protected. Of how much more importance is a charter granted to the suffering explorers of the American wilderness!

It is also remarkable that during the rage for the sacrifice of American charters in the reign of Charles II, some of them were vacated by the judgments of a court by which their former legal existence was recognized; and that the arbitrary administration of a Stuart himself would not attempt to destroy a charter without the formality of legal process. An American charter, then, being thus respectable in its nature, equity will not suffer it to be annulled on account of a misconception of its contents, when the grantees could not possibly have contributed to the mistake by fraudulently withholding information upon the subject, and when the King hath never pretended that he was deceived or erred. But had the interval between those seas been precisely ascertained, it is not probable that the King of England would have divided the chartered boundaries now in question into more Governments. For perhaps his principal object at that time was to acquire by that of occupancy which originated in this western world, to wit, by charters, a title of the lands comprehended therein against foreign Powers. The seacoast, too, was not, in his opinion, more than sufficient for the territory of a single colony, as is manifested in the charter to Virginia in 1609; and the interior parts, overspread as they were by savages and distant as they must be from that relief from Europe without which the new settlements would certainly have perished, would have been a pitiful instance of royal bounty and no temptation to emigrants; nor is this merely conjectural. Let the charters which run to the South Sea be reviewed in chronological order. By this it will be found that these extensive limits did not creep in through inadvertence, as they were repeated long after the error had been removed as to the distance of that sea.

On the 23d of May, 1609, James I granted the charter under which Virginia claims.

On the 3d of November, 1620, the charter to the Council at Plymouth was granted.

On the 4th of March, 1628–'29, the charter of the old colony of Massachusetts was dated.

On the 20th of March, 1662, the first charter of Carolina was granted.

On the 20th of April, 1662, Connecticut received its charter.

On the 30th of June, 1664, the second charter of Carolina was granted.

On the 7th of October, 1691, the new charter of Massachusetts, which, among other things, re-established the old colony, was granted.

In 1732, Georgia was erected into a separate Government.

If it be necessary to seek other illustrations, an appeal may be made to the act of the British Parliament, in 1729, (2 G. 2, ch. 34,) which has already been noted, and recites the charter of Carolina as extending to the South Sea. Nay, as late as the year 1740, five Commissioners were appointed on the part of the King and five on that of Lord Carteret, to assign to his lordship his one-eighth of Carolina, which he had refused to surrender, and the South Sea was fixed the western limit of the territory allotted to him. We cannot forbear to add a general concession from the Crown in the several charters, that when doubts should arise the construction should be strict against himself and liberal in behalf of the grantees.

Answer to second part of second objection. The facts related in this branch of the second objection are true; but we shall not attempt to prove that the colonies of Virginia, North Carolina, and South Carolina, were lawful successors to the rights of the proprietors. We assume that the lands described by the charters of those colonies were, from their necessary operation, subjected to the jurisdiction of the Governments of those colonies respectively; and, therefore, that they would have constantly remained so subject during the existence of the proprietary administration, even if the proprietors had had a right to throw them off from that jurisdiction, unless some act of dismemberment had been done. But we protest against such a right of dismemberment being lodged in the proprietors, except with the assent of the people.

The charters of the abovementioned colonies were contracts, to which the King, the proprietors, and the emigrants and their posterity were parties. The consideration paid by the King for the product of mines and of future commerce was the protection of the proprietors and emigrants. The proprietors disbursed money for the expenses of the first settlement, and were the owners of the soil, and the managers of the Government. The emigrants were the actual improvers of the country, promising themselves and their descendants the superintending care of their Sovereign, a mild government of the proprietors, and a continuance of the boundaries defined in their charters. We say a continuance of the boundaries; for there were good grounds why the first planters should be opposed to an alteration of boundaries at the will of the proprietors. 1. A power to restrain the proprietors from separating them into different bodies, and obliging them to defray the charges of Government in many feeble hamlets, was essential to their welfare, if not to their safety, and was, therefore, very probably in their contemplation. 2. The southern district of British America was believed to be fertile in the precious metals. The greater, therefore, the extent of territory was which lays within a Government there, the happier was the prospect of obtaining wealth. 3. Had the proprietors been at liberty to disperse the inhabitants into distinct societies by cantoning the chartered limits into any number of new colonies, the opportunity for oppression would have been ruinous. They might have exacted some hard service, and threatened their tenants with a division of their country on failure of compliance; by which means they would have been exposed to the severe alternative of acquiescing in the tyranny or undergoing the ravages of Indian warfare from the difficulties

inevitably attendant upon concentrating the force of various communities. 4. The emigrants hoped that themselves and their posterity would find a facility of living unknown in Europe, and freedom in religion. How obviously might the former, connected as it is with agriculture and manufactures, and the latter, dependant as it also sometimes is upon the association of persons of a similar persuasion, have been prevented by an arbitrary and malicious contraction of limits. 5. These ideas are supported by the charters themselves. The proprietors and settlers of South Virginia had received a charter on the 10th April, 1606, of which, and the liberties and privileges contained therein, that of 23d of May, 1609, is declared to be an enlargement and explanation, and is an express confirmation.—(Sec. 27.) These two charters then forming one system in the same manner with two laws, one of which enlarges and explains the other, it is correct to argue from both.

The first charter recites that Sir Thomas Gates and his fellow adventurers were desirous of dividing themselves into two several colonies and companies.—(Sec. 2.) In section 2 the King commends the undertaking; in section 4, gives one hundred miles square to the first colony; and the like quantity in section 5 to the second. This cannot be said to favor any subdivision of chartered territory.—(Secs. 4 and 5.) Every other subject was prohibited from planting or inhabiting behind either of the two colonies. This prohibition was plainly dictated by the danger apprehended from the establishment of distinct Governments. In no part of this charter is provision made for the government of more than two colonies. It was impossible then for the proprietors to institute different Governments. A new and separate colony erected by their authority could not have a seal, establish a coin, and convey the franchises of British natives to persons born therein of British subjects, nor designate grantees of land. In short, the charter of 1606 does constantly discountenance divisions of the territory for the purpose of additional provinces. The transition is now easy to the charter of 1609. It was granted not to the adventurers, that is, the proprietors only, but to the planters also; not from undue partiality, but from respect to their great charges, and the hazard of their lives in the discovery and plantation of the country. Here is a valuable consideration paid by the planters, equal in dignity to the merit of the proprietors, and entitling them to demand that the territory be not impaired. Like observations to those on the charter of 1606 may be used on this occasion. Had the proprietors carved out a new Government, it could have acquired its rights as such only from a fresh grant from the Crown, or the charter of 1609. If the Crown must have been resorted to, the charter could not have authorized the measure. But the truth is, that the charter enabled the treasurer and company of adventurers and planters of the city of London for the first colony of Virginia only, to plead and be impleaded; to hold lands within the limits of the charter; to distribute lands under a common seal; to have a council resident in England; to search for mines; to encourage emigration from British dominions; to be free from certain subsidies for twenty years; to seize vessels trafficking without license within the precincts of the charter; and to dispense criminal and martial law. Nor are the liberties of natural subjects granted to any person born within the limits of the charter, but as those limits constitute the first colony of Virginia. In a third charter passed to the treasurer and company of Virginia, on the 12th March, 1711–'12, the same unity is preserved to the first colony throughout, and a separation is not alluded to in the most distant way. But it is an argument of real force with respect to Virginia, that the charters of 1609 and 1611–'12 were granted to the treasurer and company as a corporation, and that it is a firm principle of British law that a corporation cannot exclude from their jurisdiction lands placed within it by the terms of its Constitution. Analogous to the charters of Virginia are those of the two Carolinas, or more properly of Carolina, respecting the indivisibility of their limits. The territory described therein, and the province of Carolina, are synonymous in many instances.

In the last clause but two in the second charter, the royal word is pledged to the proprietors, "their heirs and assigns, and to the tenants and inhabitants of the said province or territory, both present and to come, and to every of them, that the said province or territory, and the tenants and inhabitants thereof, shall not from henceforth be held or reputed any member or part of any colony whatsoever in America or elsewhere, now transported or made, or hereafter to be transported or made; nor shall be depending on or subject to their Government in anything, but be absolutely separated and divided from the same." Nay, so little was the power of altering the limits conceived to be inherent in the proprietors, that the authority to divide the territory into counties was delegated to them in positive terms.

It must, however, be confessed, that before the surrender of the charter in 1729, North and South Carolina had each a Governor, Council, and Assembly. But this separation of jurisdictions was not the creature of the proprietors alone, but was effected with the approbation of the inhabitants, some of whom labored under great inconvenience from having the metropolis and the settled country around it distant from them three hundred miles and upwards.—(See Lawson's History of Carolina, page 256.)

The example of New Jersey cannot be cited against the right of the people to demand from the proprietors an entirety of territory. For the very grant upon which they rest expressly warrants an equal division between Lord Berkeley and Sir George Carteret.—(See the Duke of York's grant.) The argument from hence would rather be, that when the power of division was intended it was specially mentioned.

It would be tedious to detail, in this place, the many passages in the charters to Lord Baltimore and Mr. Penn, which maintain the principle that the first limits ought to be permanent. So opposite to private emolument was the office of the trustees of Georgia, that they enjoyed no right which was not for the benefit of the people. The limits granted to the trustees were in fact granted to them.

What change, then, was wrought by the conversion of the proprietary Governments of Virginia, North Carolina, and South Carolina, and the fiduciary one of Georgia, into royal?

Virginia.—It is needless to inquire whether the charter of 1609 was abolished lawfully or not. Because, as its abolition was the act of the King, he cannot contend that it was produced by violence or injustice; and the company and their successors have yielded to the resumption from 1624 to this day, without bringing it to a forensic discussion, or endeavoring to reverse it by a petition to the Crown. Either of these remedies was easy and constitutional. But a superior reason is, that a dispute between the King and company, two of the three parties to the charter, ought not to prejudice the people of Virginia, who were the third who stipulated with the proprietors for the territorial privileges in the charter with the privity, assent, and guaranty of the King, who could not profit from a rupture between him and the proprietors, and ought not therefore to be injured.

But what if the King had not been an immediate party? Surely his succession to the rights of the company brought with it a succession to their engagements respecting territory; unless James I, as King of England, was authorized to violate, in spoliation of his own subjects, that rule of natural law under

the influence of which his Prussian Majesty bound himself, upon obtaining Silesia, to be answerable to the British King for encumbrances imposed on that country by the Empress of Hungary in his favor.

It is a warrantable corollary from the inability of the proprietors to mutilate the limits in the charter of 1609, that the King standing in their place was alike incapable. This reasoning is not impeached by the divisions which the chartered limits of Virginia have undergone. They were made at periods when the people could not feel an interest in opposing them; when extreme loyalty was the highest virtue; when they were weak. The quotation of their submission in this instance, as an evidence of their consciousness of the King's right, would be somewhat unnatural, since it would suppose that other men in the same circumstances would probably have acted otherwise.

The objections springing from the proclamation and Quebec statute will be discussed hereafter.

That the King of England thought himself bound to consider the colony of Virginia as possessing the limits of the charter of 1609, except in those cases in which it had been abridged before 1669, appears from the charter of 10th October, 1676. There the colony of Virginia is mentioned in general terms without definite limits. To confine it to the country then settled would be inconsistent with its professed design of encouraging the plantation, and would exclude nine-tenths of the present inhabitants. Not to confine it thereto, would demonstrate that Virginia was believed by Charles II to comprehend some vacant land, and consequently that she must hold all the vacant land within the charter of 1609; since a single foot could not be demanded through any other channel. Long ago would the people themselves have required some determinate limits, had they not imagined that the charter of 1609 described them. So far, too, has the King of England been from marking out the boundaries of Virginia in the charter of 1609, or in any instructions to his Governors, that he has by various acts corroborated our principle, that after the extinction of the charter they remained the same as before. For near thirty years has the Governor of Virginia, acting under his authority and with his knowledge, granted lands on the west side of the Alleghany mountains. In 1748-'49 Sir William Gooch, Governor of Virginia, was instructed to grant to the Ohio company lands far westward of the Alleghany mountains, but still, as the instruction and the letter enclosing it says, "On the Ohio within his Majesty's colony of Virginia." In 1753, an act was passed by the Assembly of Virginia for the encouragement of settlers on the waters of the Mississippi. To this act the royal assent was given. In 1754 an act was passed by the same Legislature for a similar purpose, in which Virginia is declared to possess lands on and near the waters of the Mississippi. A very large sum of money has been levied upon the people of Virginia for the defence of that country. All this has been done with the knowledge and consent of the British King. In the year —— the Governor and Council of Virginia granted a tract of land at the confluence of the Ohio and Mississippi, bounding upon both rivers. In 1754 Mr. Dinwiddie, Governor of Virginia, promised, by his proclamation, a bounty of 200,000 acres of land on the western waters to the officers of the first Virginia regiment. The many land warrants issued by Lord Dunmore, Governor of Virginia, were directed to be located on the lands lying on the western waters. In 1773 courts were holden beyond the Alleghany mountains under the authority and particular direction of the Governor of Virginia. The general observations applied to Virginia are applicable to the two Carolinas.

Of Georgia it may be said that the proclamation of 1763 revived its chartered limits by annexing the lands between the Alatamaha and St. Mary's river to that province; for at the date of that edict a considerable part of the lands northward of Alatamaha was vacant; and to suppose that by Georgia was meant that territory alone which had been granted to individuals, would annex the country south of Alatamaha, and shut out the vacant part lying on the north side of that river.

But as no reasonable solution could be given of so whimsical an arrangement of territory, we may conclude that the vacant land on the north of Alatamaha was comprised in the term of Georgia. If so, since Georgia could claim vacant land only by virtue of the deed to the trustees, and that deed must have conveyed full limits or nothing, it follows that its territorial rights were restored, if they were affected by the surrender. But it has been already seen in what predicament the trustees stood. They were what their title imports—mere trustees for the benefit of the province. Strangely then would it sound, that upon the refusal of those benevolent men who had no personal interest in the trust to persevere in fostering this infant nation, it must lose everything, or, in other words, hang on the pleasure of the King for a restitution of former rights.

Answer to third part of second objection. New York derives its claim from the Five Nations, insisting, 1. That the King of England was lord of their soil. 2. That being so, he transferred his seignory to that then province. The Five Nations (Iroquois, or Six Nations) had from ancient days put themselves and their lands under the protection of Great Britain. The Duke de Mirepoix, in his memorial of the 14th of May, 1755, to the ministry of London, denies that the lands of the Five Nations became vested in his Britannic Majesty by the deeds; but the answer returned by that ministry on the 7th June, in the same year, contends that the 15th article in the treaty of Utrecht subjects the Five Nations to the dominion of Great Britain. That such subjection, according to the genuine interpretation of treaties, relates to the country as well as to the person; and that France is precluded from altercating these points with Great Britain, because she has once acknowledged their propriety. It will not, therefore, be insisted that the territory of the Five Nations belongs to the ancient and just limits of Canada, as the foregoing assertions were urged to confront a pretension of France to this effect; nor will it be denied that the King of Great Britain was, with respect to his subjects, at least lord of the soil of the Iroquois, by being their protector.

New York maintains, in the second place, that its legislative and executive proceedings from ——— to ——— proves that this very Iroquois territory has been supported by its blood and treasure; that this circumstance does of itself create an equitable title, which has ripened into an indefeasible one, by Great Britain having always treated the country of the Iroquois and their tributaries up to the forty-fifth degree of northern latitude as transferred from itself to the Government of New York.—(See documents to be furnished by the delegates of New York.)

Answer to fourth part of second objection. The prohibition announced to the Governors of all the colonies, except those of Quebec, East Florida, and West Florida, to grant warrants of survey, or pass patents "for the present, and until his (the British King's) further pleasure should be known," for any lands beyond the heads or sources of the rivers which fall into the Atlantic Ocean from the west and northwest, strongly intimates an opinion that there were lands beyond the heads of those rivers within the jurisdiction of those Governors; otherwise the prohibition would have been unnecessary. Again, by the injunction "not to grant warrants of survey, or to pass patents for any lands whatever which, not having been ceded to or purchased by the British King, were reserved to the Indians, or any of them," a

restriction of territory could not have been designed by a King who granted charters to his colonies, knowing that they would interfere with the rights of the Indians, who has always considered a cession or purchase from them as a milder means of anticipating their hostility rather than a source of title, who, since the date of the proclamation, has granted, through the prohibited Governors themselves, large quantities of lands beyond the heads of those rivers, and whose own geographer, Emanl. Bowen, in a map delineating the British, Spanish, and French dominions in America, according to the treaty of Paris and this very proclamation, has carried Georgia, South Carolina, North Carolina, and Virginia, as far as the Mississippi. The single object of these parts of the proclamation was to suspend the business of the land offices, not to curtail limits; to keep the Indians in peace, not to annihilate the territorial rights of the colonies.

But it may be charged as an inconsistency to set up the proclamation as increasing the limits of Georgia, when it thereby plainly mutilates South Carolina. The fact is, that before and after the cession of Florida, South Carolina asserted a right to the lands between the rivers Alatamaha and St. Mary's. Georgia contradicted. The dispute was ended by this proclamation of the Crown, and the title of Georgia is certainly confirmed. Could South Carolina do more than represent their grievance? Having done this, did she confess the authority of Great Britain to dismember her at will because she did not fly to arms? Another reason might have induced South Carolina to relinquish its opposition with less reluctance. Peace and its incidents being the province of the Chief Magistrate of the British Empire, and the lands between Alatamaha and St. Mary's having been rendered neutral by an agreement with Spain, they were separated from South Carolina. Now, it might have been the opinion of some that this circumstance weakened the original title.—(See treaty of Aix-la-Chapelle.) Upon the prerogative of the Crown to manage the affairs of peace, and the rights of France, depends the justice of limiting the American colonies to the Mississippi by the treaty of Paris.

Answer to the fifth part of the second objection. Nor can the treaty of Fort Stanwix, in 1768, militate against Virginia; for the purchase then ratified did not imply a want of right in the King, but was solely, as was observed of the proclamation, an instrument of peace. Nor yet did he render the ceded lands exclusively his own; because the relation between him and the American royal colonies required his name in all conventions with the Indians concerning territory, even when the benefit redounded to them alone, because the franchise of pre-emption had been often asserted by some of them, and particularly by New Jersey in 172—, by an act of the Legislature, approved by the royal Governor; and because, in the exercise of that franchise, the wealth of the colony, within which the purchased lands lay, was commonly expended. It is true that Virginia, in 1769, asked permission to purchase a more extensive boundary; but the causes were that the Superintendent of Indian Affairs, who had the absolute guidance of the Indian councils, could be conciliated only through the medium of the Crown, and the British Governor would have withholden his assent to any vote levying money for the purpose of such a purchase without the approbation of his master.

Answer to the sixth part of the second objection. The Quebec act was one of the multiplied causes of our opposition, and finally of the Revolution. Even if it had been designed to abridge the boundaries of the colonies, the right of the British Parliament to do so must be denied upon the grounds already shown. But the provision, that nothing therein contained relative to the province of Quebec should in anywise affect the boundaries of any other colony, destroys its operation with regard to those which are now required by us. Thus have we laid open the grounds of our claims to the boundaries specified in the instructions to Mr. J. Adams.

The second point, to wit: that the United States have succeeded as independent sovereignties to the territorial rights of the colonies.

The States claiming vacant lands before the revolution were, 1. Connecticut, a Government belonging to the Governor and company; 2. Pennsylvania, a Government belonging to a few individuals; 3. Massachusetts, possessing an express charter as a royal Government; and 4. Virginia, North Carolina, South Carolina, and Georgia, which were originally proprietary Governments, and afterwards became royal, but received no special charters as such.

1. Charles II relinquishes, in his charter to Connecticut, all titles to the lands therein described. Grants did not issue in his name, nor did escheats fall to him as lord paramount. The extinction, therefore, of the British jurisdiction in Connecticut cannot vest in the King of England a territorial right which he never enjoyed before, but must strip him of every possible authority in that State.

2. We affirm, without repeating the proofs, that the State of Pennsylvania retains its provincial limits. At the Revolution one-fourth of the ungranted soil was the property of Mr. J. Penn, and three-fourths of W. Penn. Since that era the whole has been seized into the hands of the State. Mr. J. Penn being a citizen of Pennsylvania, the King of Great Britain would grossly intrude on the sovereignty of the State were he to interest himself in the restitution of his share. Prudential and equitable considerations ought always to curb licentious invasions of private right; but in the breast of the Legislature resides the application of the property within its jurisdiction. An injured citizen must acquiesce in the dispensations of the sovereign authority, or seek redress from remonstrances, or the last expedient of oppressed freemen. Mr. W. Penn was a British subject at the Revolution, has continued to be so to this day, and is therefore an alien. His Prince may advocate his interest without an infringement of decorum, and will probably be strenuous in his behalf. He will plead that alienage, produced by the severance of an empire, differs from both [birth] under a foreign allegiance. It will not be denied that at the time of acquiring his landed rights he was not an alien. But the Revolution has placed him in an opposite predicament. As he was then a friend, so he is now an enemy; and upon the restoration of peace, no other relation will subsist between the State of Pennsylvania and him than what might have subsisted between that State and a subject of Russia. Since, therefore, he must share at the end of the war the disability to which aliens are liable upon principles of general as well as English law, as to the holding of immovable property; since, during the war, it would be dangerous to tolerate remittances of its profit, specific restitution is untenable upon any ground. Nor can compensation be solicited, although it should be absurdly thought that Pennsylvania is indebted to Great Britain for favors. Has not England set us an example in this business? While she possessed territory on the coast of France, within which it was lawful for French subjects to acquire and hold lands upon the same terms with the English, was it not her habit to wrest them from the former immediately upon a declaration of war against their Prince? Did she make compensations? It is remarkable, too, that the concessions of Mr. Penn, the original grantee to the province, allot to settlers nine-tenths of the lands within the limits of the charter. Soon should we behold a new British colony, composed of the choicest tools of tyranny, emerge in the very bosom of Penn-

sylvania, were Mr. W. Penn permitted to grant the vacant country. And shall we reward him because we unnerve his faculty of doing harm?

3. At this stage of our inquiry, we take for granted that the King of Great Britain could not rightfully alter the limits assigned to Massachusetts in its new charter. Perhaps, however, it may be questioned whether Massachusetts can with propriety bottom its claims as an independent sovereignty upon a charter granted to it as a dependent colony. The charter appropriated to Massachusetts, as a society, certain limits. Let the supreme power be modified as it may, as the society remains the same, so do its rights. The argument of the objection extended one step further implies that the royal patents for land granted to individuals can convey no title at this day. What is the effect of this doctrine, but that a people must groan under every tyranny, or lose every privilege. All the lands in this colony were holden of the King in free and common soccage, the well known tenure in Great Britain; and grants to individuals ran in his name. In other words, he was lord paramount. In tracing the consequences of this paramountship, analogy will justify us in pursuing as the prototype the paramountship of Great Britain. The King is lord paramount there merely because he is King. For even the ancient barons, with their numerous vassals and formidable force, never affected this character. Accordingly, if at any time during or since the vigor of the feudal system, the immediate tenant of a baron had aliened lands to an alien, they were forfeitable to the King. The same was and is the doctrine where he committed treason. These forfeitures could not be founded on a defect of heritable blood, because it would commence in the life of the alien or traitor, and because such a defect would restore the lands to the immediate lord of whom they were holden. But the forfeiture hath always devolved on the King, whose office it was, as Chief Magistrate, to guard against the residence of persons disaffected, as aliens generally are, and as traitors ever are, to the public good. That the qualities of King and lord paramount are inseparable, appears from these facts: 1. A King of Great Britain, upon his accession to the throne, receives no special investiture of power as lord paramount, but exercises it as a derivative from that of Chief Magistrate. 2. The coronation oath relates to the functions of the lord paramount; but the sanction from religion for the due discharge of them is comprehended in that for the faithful administration of the Government. 3. Upon the abdication of James II, the throne was declared vacant; and neither his successor nor the people imagined it to be necessary to tear the paramountship from him by express words. Hence it follows, that he who ceases to be a King, ceases to be lord paramount. Again, in dealing out the lands of the Kingdom, the British nation have conducted themselves with respect to the King as a bare trustee for public benefit. When William III was squandering upon his minion, the Duke of Portland, profuse grants of land, the Parliament interposed and put a stop to them. Hence it also follows, that if George III should become incapable of being their trustee, he would be also disqualified as lord paramount. If analogy be a faithful guide on this occasion, the inference is clear, that as George III was obeyed in Massachusetts as King of Massachusetts, not as King of Great Britain, and has ceased to be its Chief Magistrate, and in the nature of the thing cannot be its trustee, he is also extinct as lord paramount. For the justness of the analogy we appeal to that clause in the new charter of Massachusetts which grants to its colonists the immunities of British subjects. We defy those who shall undertake to show that the charter placed the rights of British American subjects, with regard to the paramountship, upon a different footing from those of their fellow subjects of Great Britain; and we venture to pronounce the parallelism of the cases from the identity of the tenure. We may here add another inference, that as the paramountship was an indissoluble concomitant of the Chief Magistracy, and the State of Massachusetts succeeds to those powers which the British King formerly exercised as King of that then colony, that State does also succeed to the paramountship.

4th. The last division of the second point requires for its proof nothing more than a recapitulation of what has already been shown, to wit, that the proprietors could not separate the colonies of Virginia, North Carolina, South Carolina, and Georgia; that the King, upon the resumption of their charters, succeeded to the obligations of the proprietors, not only from the nature of the contract with the people, but from his own acts and those of his Governors; that these colonies became thereby royal Governments, standing in the same rank with Massachusetts; that, consequently, the King of Great Britain was lord paramount of these colonies by being the Chief Magistrate of each of them, and that this Chief Magistracy having fallen to them, carries with it the paramountship. Upon the whole, a decisive objection exists against the mutilation of the charters running to the Mississippi, according to the treaty of Paris, namely, that the principle by which they would be limited to the distance of a mile only from the river, would justify mutilations to any extent.

The third point: But if the vacant lands cannot be demanded upon the titles of individual States, they are to be deemed to have been the property of his Britannic Majesty, as Sovereign of the thirteen colonies immediately before the Revolution, and to be devolved upon the United States collectively taken. In agitating the case of these lands under this head, his Britannic Majesty will be very forward in asserting that he was seized of them; so that proof will be superfluous. The character in which he was so seized was that of King of the thirteen colonies collectively taken. Being stripped of this character, its rights descended to the United States for the following reasons: 1. The United States are to be considered, in many respects, as one undivided independent nation, inheriting those rights which the King of Great Britain enjoyed as not appertaining to any one particular State, while he was, what they are now, the superintending Governor of the whole. 2. The King of Great Britain has been dethroned as King of the United States by the joint efforts of the whole. 3. The very country in question hath been conquered through the means of the common labors of the United States.

What has heretofore been observed regards only the title of the United States. There are other considerations deserving attention. Should Great Britain retain that portion of the United States which borders on the Mississippi, the neighborhood of her possessions will be imminently dangerous to our peace. Should she, at the same time, retain Canada and West Florida, or even Canada alone, by applying herself to the settlement of that country and pushing on her trade there with vigor, a new nursery for her marine will speedily be established.

From a full confidence that the western territory now contended for lay within the United States, the British posts therein have been reduced by our citizens, and American government is now exercised within the same; large bounties of land have been promised to the Army, and we have relied on it as an important fund for discharging the debts incurred during the war. For a considerable distance beyond the Alleghany mountains, and particularly on the Ohio, American citizens are actually settled at this day. By the surrender, therefore, of the western territory to Great Britain, a large number of fencible men—men, too, who have not been behind any of their fellow-citizens in the struggle for liberty—would be thrown back within her power.

(Here follow some observations relative to the guaranty of France by the treaty of alliance, and the claims that may be set up by Spain. It then goes on:)*

There are other objects that will undoubtedly occur in the course of negotiation.

The confiscation of the property of those who preferred an adherence to the old empire, rather than to follow the fortunes of the new, was founded on those principles which have been discussed. The confiscation of the property of those who have committed treason against the United States, and are since become British subjects, has a foundation in the institutes of forfeiture in the British criminal code. Should restitution be urged in either of these cases, in defiance of the support which the measures of America derive from similar practices in England, it will be proper to represent the impossibility of making specific restitution of the personal property; the various transfers which the real has undergone from individual to individual, the great value of which the citizens of these States have, contrary to the laws of war, been despoiled by the enemy; the still greater losses which they have sustained from their wanton havoc; the burdens which the war will leave behind it; and the share which the claimants have borne in this spoliation and havoc, and by the former of which they have enriched themselves far beyond their losses.

Of absentees from their country there are three classes: 1. Those who left it before the declaration of independence. 2. Those who left it after having become citizens; and, 3. Those who were expelled. It must be readily seen how dishonorable and troublesome a stipulation for their return would be to the Governments which they have deserted; how obnoxious the persons answering to this description would be to the people at large, and especially such as have suffered from their outrages; and how much the more this stipulation is to be dreaded, as none but those who are totally devoid of both honor and sensibility would avail themselves of a privilege which would expose them to the indignation and resentments which they have provoked. Nor is it unworthy the circumspection of his most Christian Majesty to reflect, whether the restoration of those persons may not produce an unequal competition with his subjects in trade; many among them, besides the advantages which they possess from the knowledge of our language, having accurately informed themselves of the nature of our commerce from actual experience.

April 15, 1783.—Congress took into consideration the articles agreed upon at Paris on the 30th November last, entitled "Articles agreed upon by and between Richard Oswald, Esquire, the Commissioner of his Britannic Majesty for treating of peace with the Commissioners of the United States of America, in behalf of his said Majesty, on the one part, and John Adams, Benjamin Franklin, John Jay, and Henry Laurens, four of the Commissioners of the said States for treating of peace with the Commissioner of his said Majesty, on their behalf, on the other part, to be inserted in and constitute the treaty of peace proposed to be concluded between the Crown of Great Britain and the said United States; but which treaty is not to be concluded until terms of a peace shall be agreed upon between Great Britain and France, and his Britannic Majesty shall be ready to conclude such treaty accordingly;" And thereupon,

Resolved, unanimously, That the said articles be ratified; and that a ratification in due form be sent to our ministers plenipotentiary at the Court of Versailles, to be exchanged, if an exchange shall be necessary.

ARTICLE 1. His Britannic Majesty acknowledges the said United States, viz: New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be free, sovereign, and independent States; that he treats with them as such, and for himself, his heirs and successors, relinquishes all claim to the government, propriety, and territorial rights of the same, and every part thereof; and that all disputes which might arise in future on the subject of the boundaries of the said United States may be prevented, it is hereby agreed and declared that the following are and shall be their boundaries, viz:

ARTICLE 2. From the northwest angle of Nova Scotia, viz, that angle which is formed by a line drawn due north from the source of St. Croix river to the highlands, along the said highlands which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean, to the northwesternmost head of Connecticut river; thence down along the middle of that river to the forty-fifth degree of north latitude; from thence by a line due west on said latitude until it strikes the river Iroquois, or Cataraquy; thence along the middle of said river into Lake Ontario, through the middle of said lake until it strikes the communication by water between that lake and Lake Erie; thence along the middle of said communication into Lake Erie, through the middle of said lake until it arrives at the water communication between that lake and Lake Huron; thence along the middle of said water communication into the Lake Huron; thence through the middle of said lake to the water communication between that lake and Lake Superior; thence through Lake Superior northward of the isles Royal and Philipeaux to the Long lake; thence through the middle of the said Long lake, and the water communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through the said lake to the most northwestern point thereof; and from thence in a due west course to the river Mississippi; thence by a line to be drawn along the middle of said river Mississippi until it shall intersect the northernmost part of the thirty-first degree of north latitude. South, by a line to be drawn due east from the determination of the line last mentioned, in the latitude of thirty-one degrees north of the equator to the middle of the river Apalachicola or Catahouche; thence along the middle thereof to its junction with the Flint river; thence straight to the head of St. Mary's river; and thence down along the middle of St. Mary's river to the Atlantic Ocean. East, by a line to be drawn along the middle of the river St. Croix, from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid highlands which divide the rivers that fall into the Atlantic Ocean from those which fall into the river St. Lawrence; comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the Bay of Fundy and the Atlantic Ocean, excepting such islands as now are, or heretofore have been, within the limits of the said province of Nova Scotia.

ARTICLE 3. It is agreed that the people of the United States shall continue to enjoy, unmolested, the right to take fish of every kind on the Grand Bank, and on all the other Banks of Newfoundland; also in the Gulf of St. Lawrence, and at all other places in the sea, where the inhabitants of both countries used at any time heretofore to fish; and also that the inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use, (but not

* So in the original record.

to dry or cure the same upon that island;) and also on the coasts, bays, and creeks of all other of his Britannic Majesty's dominions in America; and that the American fishermen shall have liberty to dry and cure fish in any of the unsettled bays, harbors, and creeks of Nova Scotia, Magdalen islands, and Labrador, so long as the same shall remain unsettled; but so soon as the same or either of them shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement, without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground.

ARTICLE 9. In case it should so happen that any place or territory belonging to Great Britain or to the United States should be conquered by the arms of either from the other before the arrival of these articles in America, it is agreed that the same shall be restored without difficulty, and without requiring any compensation.

Done at Paris, the thirtieth day of November, one thousand seven hundred and eighty-two.

RICHARD OSWALD. [L. S.]
JOHN ADAMS. [L. S.]
B. FRALKLIN. [L. S.]
JOHN JAY. [L. S.]
HENRY LAURENS. [L. S.]

Witnesses:

CALEB WHITEFORD, *Secretary to the British Commission.*
W. T. FRANKLIN, *Secretary to the American Commission.*

20TH CONGRESS.] No. 482. [1ST SESSION.

CLAIMS FOR PAYMENT FOR SLAVES UNDER THE FIRST ARTICLE OF THE TREATY OF GHENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES APRIL 12, 1828.

To the honorable the House of Representatives of the United States of America:

The memorial of D. Bouligny and John E. Frost respectfully represents: That your memorialists are the agents of a large number of claims of citizens of the States of Georgia and Louisiana, under the first article of the treaty of Ghent, which have been established before the commission instituted for the purpose of carrying the said first article into effect by the most full and satisfactory proof; that your memorialists are impelled, by a sense of duty to those whom they represent, to employ all proper means within their power for the protection of the fund paid by the British Government to the United States, in satisfaction of all claims arising under the said first article of the treaty of Ghent against unfounded claims, in order that the persons whom they represent, and such others as shall establish their claims by full and reasonable proof, may not be deprived of that complete indemnification which it was the intention of the British Government to make for the wrong which she had done *them* by carrying away their property in the face of the said treaty, by which it was stipulated that she should restore all property remaining in our waters upon her evacuation of our territory; that, in the performance of their duty, in February last an application was made by them to the Senate of the United States for a continuation of the commission, for the purpose of enabling them to repel, by proof, the pretensions of a large class of claimants who seek to share in the fund before mentioned, and who insist that, having proved the *taking* of their negroes by the British, in the course of the war, (an act, be it remembered, perfectly consistent with the strict rights of war,) the burden of showing that they were not taken away contrary to the treaty of Ghent ought to be imposed upon the fund, which, they contend, is to be treated and considered as the representative of the British Government; upon this application the Senate thought it right to authorize a continuation of the commission for the purpose mentioned, and their bill is now before your honorable body.

Your memorialists further represent that, since the passage of the bill by the Senate, circumstances have occurred which strengthen the claims of the claimants whom your memorialists represent to a further continuance of the commission, and which they deem it their imperative duty to bring to the notice and consideration of your honorable body. These circumstances are as follows: When the application was made in February last for a continuation of the board, it was deemed advisable, lest for any cause time should not be granted, to use all possible diligence to obtain such testimony as to the disposal of the negroes taken by the British forces as could be found within the limits of the United States, and means were accordingly taken for that purpose, by which a body of important testimony, showing that the negroes who were taken by the British forces in the Chesapeake and its waters, during the war, with the exception of those which were enlisted in the black corps, and some few others, were sent out of the United States during the war by every opportunity, and were not consequently taken away by the British contrary to the treaty of Ghent, that is, after peace was restored. This testimony, though taken in strict conformity with certain *new* rules which the commission deemed it proper to prescribe, as will appear from the opinions of the Commissioners accompanying this memorial, was suppressed by a majority of the commission on the ground that it was not returned under seal, according to the alleged practice of all judicial tribunals; whereby the exertions of your memorialists to maintain the rights of their constituents have been rendered abortive, and, they fear, will utterly fail, unless your honorable body shall deem it just and right to continue the commission, so as to enable your memorialists to retake the testimony which has been suppressed, and to obtain from foreign archives such other testimony as will enable the Commissioners to distribute the fund which has been committed to them, according to the just rights of the claimants.

Your memorialists beg leave further to represent, as an additional reason why the said bill should be

passed, that a majority of the Commissioners have recently pronounced a decision that leaves the fund, which it is the object of your memorialists to secure to those who are justly entitled to it, entirely exposed; those decisions (copies of which are hereto annexed) admit hearsay testimony to be received, and not only hearsay testimony, but the depositions of slaves to be read in evidence, in support of the claims of their masters.

Your memorialists, &c.

D. BOULIGNY.
JOHN E. FROST.

Mr. Cheves' opinion in relation to the admissibility of hearsay evidence and the evidence of slaves.

In the case of Raleigh W. Downman, (No. 325 on the docket,) a claim for ten slaves.
In the case of estate of William Waring, jr., deceased, a claim of fourteen slaves, No. 615.
In the case of William Waring, sr., a claim for two slaves, No. 616.
In the case of Benjamin T. Fendall, a claim for six slaves, No. 551.

In these several cases, as in all the cases submitted for hearing, (perhaps four or five excepted,) *the taking* has been satisfactorily proved; and the only question which has really occupied the attention of the board has been whether the property claimed was within the territory or waters of the United States at the date of the ratification of the treaty of peace? It is important to keep this fact always in view.

In the case of Raleigh W. Downman, the only testimony to this point was the deposition of John Hall, a slave, resident in Virginia, and there examined. In the case of the estate of William Waring, jun., and that of William Waring, sen., the only testimony to the same point consisted of the depositions of three slaves, two the property of one of the claimants, and one the property of the other, and all examined and all resident in Virginia; both cases were supported by the joint testimony of three slaves.

In the case of Benjamin T. Fendall, the only testimony to the point was the deposition of John Massey, which narrated the declarations of the runaway slaves themselves, made in Halifax in 1820, and the declarations of certain white men, who called themselves sailors, made at the same time.

To show the character and operation of this testimony, I will submit a brief analysis of that which was received in the three last mentioned cases.

In the case of the Messrs. Warings, one of the slaves, *Lewis, alias Lewis Jackson*, was twice examined: First, on the 21st August, 1821, when he deposed that he, with all the slaves in these two claims, (except *Tom Lewis*, whom he does not mention,) went off to the British, and were carried to Tangier island, and that while there four of them, Jerry, Billy, Lucy, and Rachel, died. "That *Jem*," he mentions him expressly, and no other, "enlisted, and went away with the expedition to New Orleans. Isaac and Anthony (he says) have since returned. All the others, to the best of the deponent's recollection, were still on Tangier when the deponent left there in *the month of March*, in the spring of the year 1815, and none of them have ever returned that the deponent has ever heard."

He was examined again on the 13th October, 1827, when he confirms his statement of the departure of himself and the other slaves, and in this deposition includes *Tom Lewis*, whom he had not mentioned before. He says nothing of the death of Jerry, Billy, Lucy, and Rachel; and states that Tom Lewis, Lewis Lewis, and James Broaddus, (in his first affidavit he mentions only *Jem*,) were sent, as he understood, to New Orleans, "some time before there was peace;" and he adds, that "after this news all the other slaves," not excepting Jerry, Billy, Lewis, and Rachel, whose death he proves in his first deposition, "sailed from Tangier for Bermuda, except himself, who was carried to St. George's island, where he made his escape, and returned to his master."

Anthony Champ, another of these slaves, examined on the 13th October, 1827, states that he, with all the slaves claimed, "were taken to Tangier island, where he remained *until he heard there was peace*, except Tom Lewis, Lewis Lewis, and James Broaddus, who were sent to New Orleans. That the said Anthony Champ sailed *with all the* other slaves, (not excepting those proved by Lewis Jackson to have died, nor Lewis Jackson, though *he* certainly never left the United States,) from Tangier island, *on the 13th of February*, 1814, (the treaty was ratified *on the 17th February*, 1815,) for Bermuda, where he and Isaac Smith, being desirous to come home, were discharged."

Isaac Smith, the last of the three slaves examined, deposes, on the 13th October, 1827, to the same general facts as the two preceding witnesses; making no mention of those who died, and says that "they sailed for Bermuda *in February*," without saying anything of the news of peace or the ratification of the treaty.

In the case of Benjamin T. Fendall, the witness, after a great deal of introductory matter, says, that in 1820 he was in Halifax, and went over to the town of Dartmouth, opposite Halifax, where he met all the negroes mentioned in this claim, (except, perhaps, one child;) and that "while in the aforesaid town of Dartmouth, in conversation with the aforesaid negroes, *many persons* calling themselves British sailors, and stating that they had been in and belonged to the British squadron that was in the Chesapeake bay, *would come up*, while the deponent was conversing with the aforesaid black people, and confirm what they, the said black people, *would say* to him, viz: that the said blacks left the Tangier islands after they got the news of peace. The deponent did not know the sailors who came up while the negroes and himself were conversing, but they were white persons, and said they were sailors and were with the aforesaid British squadron when they left the United States."

I mean not to question the truth of the witness who narrates these declarations, nor to consider whether, giving full credit to the testimony, it proves the point in controversy. The question I deal with is whether, in any case, and under any circumstances, such testimony should be received in evidence? and, to my mind, to exhibit the testimony is enough to disprove its admissibility according to the most relaxed rules that ever have been adopted in any case, and under any circumstances. In considering the question, the peculiar character of the testimony is important, independent of that testimony being hearsay, applied to a question on which hearsay *never* has been received. The concurrence of extraordinary circumstances in the declarations of these persons (white and black) is perfectly miraculous. Those alleged to be sailors of the British fleet leave the Chesapeake in the spring of 1815; they are men whose "home is on the deep;" who, from their duties and habits, were necessarily and inevitably separated from each other, and scattered to all the winds of Heaven on the occurrence of peace; yet *many*, (mark

the expression,) many of them appear, five years after, to be congregated together in the obscure town of Dartmouth, opposite to Halifax, at the very moment this witness happens to meet with the negroes mentioned in the claim. These sailors know these identical negroes, after five years have elapsed, amidst hundreds with whom they were mixed, and recollect that *they* were some of those who left the Chesapeake after the peace. The negroes happened to be speaking emphatically about the precise time they left the Chesapeake; a circumstance which was no more talked of than any other event connected with the war, till after the Convention of St. Petersburg was published in the United States, which did not occur till the latter end of 1822, two years after this conversation; and, at this important moment, *many* of the sailors come up and take a particular interest in confirming this particular fact. This is the testimony which has been relied upon as full proof of the point in controversy in this case. It is true there is in the case another witness, (John Wheelwright,) who says he saw in Halifax, in 1820, *two* negroes, who said they had belonged to this claimant, and who also told him that they, and the other slaves mentioned in this claim, were carried off from the United States during the late war, but they were silent as to the time they left the United States, except that they state that they were carried off "during the late war."

In stating the testimony, my effort has been to do it in such a manner as to exhibit its deformity, (at least what I suppose to be so,) in a just relief, but to do it, at the same time, with accuracy, and without exaggeration; and I believe I have done so: but, if my colleagues shall, in their statements, differ from me, a reference to the original documents, which are not voluminous, will enable the reader to decide between us.

In the case of Raleigh W. Downman, it may be said the slaves were originally taken in violation of a flag of truce. This has, indeed, been denied by the British functionaries, yet I entertain no doubt of the fact; but this fact can have no bearing, more than any other circumstance of outrage occurring at the same time, on the question of fact in issue, namely, at what time were these slaves taken from the United States; and certainly no more effect than any other abuse of the usual practices of war, (of which the seduction of the slaves of the citizens of the United States is, in all the cases in which it occurred, an example sufficiently striking,) in bringing the claim within the first article of the treaty of peace. To regard it in deciding a general question of evidence, would be to mingle a circumstance of mere excitement with a question of general law, which is altogether inadmissible in sound reasoning and dispassionate investigation. But the question under consideration involves not that case alone, but all in which the testimony of slaves is adduced; and the cases of the Messrs. Warings place the question in its true light, and show the extent and operation of the principle which the board has decided. In these cases there are no extraneous facts, and they depend, distinctly and solely, on the testimony of the runaway slaves. They are, too, not only slaves, but the slaves of the claimants themselves. I think I state the fact correctly; but, lest this should be denied, let me add, that the case of the estate of William Waring, junior, is proved by two slaves belonging to that estate, and one belonging to William Waring, senior. The case of the latter is proved by one of his own slaves, and two belonging to the claimants in the other case. These cases, therefore, clearly and distinctly present the question whether the testimony of slaves alone can be received as full proof of the main question of fact on which the claim depends. If it be denied that this testimony alone has sustained these cases, I must refer to the proof itself, and ask the application of the following rule: Remove this testimony, and there will not remain a shadow of proof of the fact that the slaves claimed were taken from the United States after the ratification of the treaty of peace.

It may be said by my brethren (I have understood them so to say) that the testimony of these slaves is confirmed by some names mentioned by them, and found in the British documents; which circumstance induces them to believe the narrations of these witnesses to be true. But (without laboring to prove what is too clear to need proof, that the most erroneous and most false statements usually contain some well founded facts,) I reply, that the question here is, not whether these particular witnesses are to be believed, but whether the depositions of those slaves are *admissible* testimony before this board? I would much sooner believe the claimants themselves. I should do so with much more security. Some of them I know, and would implicitly confide in their statements, deliberately made, without oath. If they were bad men, I should still confide in their testimony in preference to the testimony of their slaves; because they would still be subject to the fear of punishment and of shame, which they would much more easily escape, supposing them to be acting correctly, if allowed to establish their claims through the testimony of their slaves: for, can it be contended that there is any security in the affidavit of a slave, taken under the influence of a fraudulent master? I would rather, therefore, take the allegation of these claimants, not on oath, than the testimony of their slaves, or any slaves, because I believe them to be men of character and talent, who would not state a falsehood from intention, nor be likely to make a misstatement from want of intelligence; and I should rather take the oath of any claimant, whatever his character, because he would be subject to the punishment of the law and the frowns of society, which would restrain him from rashly taking a false oath, under the control of neither of which would a slave be. But would we seriously think of admitting the testimony of a claimant, because we believed, however confidently, that he would state the truth with fidelity and accuracy? It is not enough that we *believe* the particular testimony adduced; it must be testimony that, at some time, under some circumstances, in some tribunals, has been received as credible testimony, to affect the rights of citizens. But is there one solitary example, even of this slender character, which can countenance the admissibility of the testimony of slaves?

I presume, however, that I am, in distinguishing between the questions of the credibility and admissibility of evidence generally, anticipating the question of admissibility of this particular testimony, which will properly be reserved until the statement and analysis of it are completed.

In several cases the board have admitted the testimony of free persons of color who are resident, and have been examined, in States where the testimony is inadmissible, in cases affecting the rights of citizens. I shall enter into no detail on this testimony, either in the statement or argument, because I consider it merged in the question of the admissibility of the testimony of slaves.

I am authorized then, I think, to say that the majority of the board have received as full proof of the fact they were respectively adduced to prove—

1st. The testimony of slaves resident in States (and examined in these States) where their testimony is expressly rejected by law.

2d. The hearsay testimony of white persons who might have been examined on oath; and,

3d. The hearsay testimony of the absconding slaves for whom compensation is claimed.

I now proceed to discuss the admissibility of this testimony; clearly there is none of it admissible in any of the permanent tribunals in the United States; nor has any such testimony been received in any

temporary tribunal, like this board, on any question; nor has any law given any express or special authority to this board to receive such testimony. These are all undeniable propositions; and, if they be, it seems difficult to know on what grounds the admissibility of the testimony will be rested.

It has been agreed by the board, to prevent the possibility of unseemly controversy, that, in assigning their reasons for their opinions, where they differ, the members of it shall not reply to each other, and consequently the difficulty I have just stated is increased. Under these circumstances I will suppose the following:

1st. It will, perhaps, be said that it is *discretionary* with this tribunal, considering its peculiar and temporary character, to receive any testimony, on oath or not on oath, for as much as it may be worth, and the more especially as the decisions of such a tribunal cannot be considered as precedents.

2d. That though the board shall receive and weigh the testimony, it will examine it with peculiar scrupulousness, and only receive it as sustaining testimony. I state these as what I understand to be the grounds on which my colleagues rely; but, that I may not do them injustice, and that all collision between us may be avoided, I desire it may be understood, that, except so far as they shall, in their written opinions adopt them, they are to be considered as the grounds, and the only grounds, on which I suppose a plausible argument can be built to show the admissibility of this testimony.

1st. The discretion of this board. What is meant by this discretion? Is it that this board is not bound by the examples of other judicial tribunals? for this is a judicial tribunal. Is it that it is not bound by the general laws of evidence that prevail in our country as a common basis to all our systems of evidence, as a fence around our property, our lives, and our characters? Is it that this board is released from the disqualifying laws of the States where the witnesses reside? Is it that we are bound by no rules, no analogies? Is it, in short, that the discretion of each member of the board, (however honestly indulged, and however elightened,) shall be his only law? I sincerely hope not. Yet, if not, tell me on what principle, precedent, or analogy, this testimony is received?

We are undoubtedly bound by the examples of other like tribunals, and, being instituted in their very form and features, if I may so speak, their example is an implied law to us, understood so to be, alike by the Legislature which created the tribunal, and by the citizen whose rights are to be bound by it.

But in what tribunal, special or permanent, in this country, has an African slave been received to affect the rights of free citizens, and to sustain too the claims of his own master? If, with slavery existing for centuries in the United States, no time, no occasion, no circumstances can be mentioned when such testimony has been deemed admissible, either in States where slavery prevails, or in those where it is abolished, what does it prove? Surely nothing less than that it is absolutely and coextensively with the United States repudiated; for else how many occasions and interests must have called it forth? Are we at liberty to exalt into the character of competent witnesses those thus universally rejected? Will Virginia, the State in which these slaves reside and have been examined, deliberately consent, under any circumstances, to have her rights, or the rights of her free citizens, bound by the testimony of slaves? Would that State deliberately insist that the rights of the citizens of other States should be bound by such testimony? Is it believed that Congress could be induced, under any circumstances, to establish, by law, the admissibility of such testimony? If not, what have we done? We have set an example (the first and I hope it will be the last) to sustain the pretensions of those agitators, who are sometimes called by a name of fearful omen, *Les amis des noirs*, in one of the tenderest points affecting this property. If not the first, the loudest complaint of these people is, that slaves are not permitted to bear evidence against white persons. Ought we not to beware lest we be stirring a volcanic fire? It is supposed, however, that the acts of this board, as a temporary tribunal, cannot be regarded as precedents. If they be not it will only be because they are unworthy of us. If they shall happen to be based on law, and justice, and wisdom, and experience, they will be quoted and venerated as precedents, temporary and humble as this tribunal may be. But is that really the character of this tribunal? Is it not a national tribunal executing the high behests of sovereign States? Such a tribunal surely ought to do nothing which it believes cannot be referred to as an example worthy of imitation and beneficient in its remotest tendencies. Already have less important acts, than I deem the judgments of this board to be, been quoted as precedents affecting this very species of property. But is it not a solecism in language, and something more dangerous in principle, to talk, in this sense, of the discretion of judicial functionaries in a free State, where the citizen looks for his rights, and the judge for his duties, in a law prescribing each? Can there be, in such a State, any tribunal that is not governed by the general rules of evidence? I hope I shall never be a member of such a one. It has been as truly as eloquently said of the discretion of a judge, "that it is always uncertain; it is different in different men. In the best, it is often caprice. In the worst, it is every vice, folly, and passion to which human nature is liable."

Under a Government of laws whose foundations reach back for ages like ours, if a question arise where there are no guides to be found in the archives of its experience, either analogical or positive, it may safely be inferred that it is indefensible. But if all experience and precedent concur in forbidding, not simply not sustaining its adoption, we may with equal safety conclude that it is more than indefensible—that it is dangerous; such I consider the reception of the testimony of slaves. If not so dangerous, yet equally inadmissible do I consider the hearsay testimony,* as well of the white as the colored persons, which has been admitted in this case. As to the white sailors, if they have indeed thrown off their nautical character and become so entirely part and parcel of this Nova Scotia African glebe, as the testimony seems to indicate, why have not their depositions been adduced? As to the runaway slaves, those who know best the character of such people, (unless by travel, and prison ships, and camps, they have been much improved,) would not deem their declarations creditable in the concerns of the kitchen or the nursery; and shall I consent to execute national treaties and the compacts of sovereign States by the lights of such evidence? I cannot.

2. The scrupulousness with which the board may weigh this testimony, and the use of it only as sustaining proof. In the first place, I am yet to learn that testimony, in itself inadmissible, can be rendered competent by the mental reserve of the judge who is to weigh it. I mean nothing offensive by the expression, but use it as the most expressive term I can select to convey an idea of the proposed restraint on this testimony. But what is this proposed restraint but another form for that very judicial discretion which we have just been deprecating and refuting? It is a discretion ten times more

* The essential rules of evidence will be the same among all nations governed by "reason, as that no man shall be a witness in his own case; that in every issue the affirmative is to be proved; that hearsay is no evidence, while the technical rules, *e. g.* such as respect the number of witnesses, or the mode of their examination may infinitely vary."—(2 *Brown's Civil Law, p.* 371.)

dangerous, because ten times less responsible. I am sure it is an unheard of rule of evidence; and the fallacy of it as security, if it be relied upon on this occasion, has been demonstrated in the instant of its adoption. I have recited the testimony at considerable length for the express purpose of exhibiting this fallacy. Let the reader refer to the testimony, and he will find that, excluding this evidence, there will not remain one particle of independent testimony to establish the fact in controversy; and if there be not, will it not show how utterly vain these secondary efforts at doing right must be, even in the wisest and the purest hands. In fine, to my mind, it appears very clear, that none of this testimony is admissible; that it violates all rules and all precedents, and establishes some new ones of the worst and most dangerous kind.

LANGDON CHEVES.

Mr. Seawell's opinion.

The cases of Fendall, Forde, Dade, Ledwick, Downman, Waring and others, for slaves carried off by the British forces, contrary to the provisions of the treaty of Ghent, are submitted as proven by the testimony of Wheelwright and Massey, and in some of the cases the evidence of slaves and persons of color; as regards the carrying away of the property, no difficulty whatever is felt. The point of difference is, whether there be sufficient evidence to satisfy the board that they were carried off after the treaty was ratified; the evidence as to this part of the case, as regards several of the cases, is, that in 1820, both the witnesses were in Halifax, Nova Scotia, where they saw the slaves in question, or, at least, the principal part of them. Wheelwright says he saw James and Nancy, and that Nancy told him her four children were with her; that he saw James, the husband of Nancy, who also told him that Peter and Fidelio were there. The other witness, Massey, says that he also saw Nancy and *three or four children;* and that he saw her husband, James, who was known to him before he left his master, as a sailor in the Chesapeake; both these witnesses say that they saw a number of Chesapeake slaves; all of whom, with many white persons, said they had been sailors in the Chesapeake during the war, declared that the slaves in question did not leave the Tangier in the United States, till after the news of peace. And the question is, whether the foregoing evidence, taken in connexion with the fact that the slaves were taken from their masters in the month of August, 1814, is a sufficient proof of the carrying away after the ratification of the treaty? and I am of opinion that it is. The rule of law prescribed for the government of courts of justice in all its strictness, never requires of any party the production of higher evidence than the *nature of the fact* he is required to establish necessarily presupposes in his power or possession: this may be called a rule without an exception. The application of it in this case is, that as the carrying away was in British ships, from a British camp, and by crews evidently British, which camps and ships were remote and inaccessible to any but those who belonged to the British army; and that the slaves deported remained in that situation until their arrival at Halifax; and that as it cannot, in the nature of things, be in the power of the claimants to know who the crew was, or in what vessels the slaves were carried off—the account which the slaves themselves give in Halifax must be admissible. If, however, it be said that this account should be on oath, the answer is, that the slaves are carried by Great Britain into her own country, where the claimants must be unacquainted, and unable to obtain any judicial assistance but such as she may think fit to extend to them: and if the fact be that the slaves have stated untruly, it was completely in her power to call upon persons acquainted with the transaction to confront, upon oath, the declaration of the slaves. In other words, unless this evidence be admissible, it is not in the power of the claimants, from the nature of the fact to be proven, to adduce any. But, according to the opinion I have formed of the functions of this board, I have believed that it was not so bound down, or intended so to be bound, either by the convention of St. Petersburg, or of London, or act of Congress, as to be confined in the admission of testimony to the technical niceties which prevail in courts of common law. The convention of St. Petersburg requires the Commissioners to determine the claims according to their "merits;" to examine all such persons on oath, as may come before them; and to "receive in evidence, according as they may think consistent with equity and justice, written depositions or *papers*, such depositions or papers being authenticated, either according to existing legal forms, or in such other way as they shall *see cause* to require or allow." The convention of London is silent upon the subject; and the act of Congress constituting this board requires of the Commissioners to "docket the claims and consider the evidence offered by the respective claimants, &c., and to award distribution according to their several rights." The just conclusion from which, I take to be, that as this board is not constituted as courts of common law are—the *permanent tribunals* to which is to be referred the numerous transactions of human intercourse, and which on that account are to be guarded with every possible barrier to prevent fraud—but is merely temporary; to decide only the claims under the imperial award; that it must be understood to have been the design of those who gave it existence, that the board was to decide according to the evidence which the transactions were susceptible of, and leave the Commissioners at liberty to decide upon such facts and circumstances as satisfied their *consciences*, without being restricted by common law technicalities. If, then, I am correct in regard to the nature and character of the board, my conscience and understanding are both fully satisfied that the slaves in question were carried away by the British forces after the ratification of the treaty. Who could know it better than they themselves? They had no interest in stating an untruth; they say it was not till they had the news of peace that they left the Tangier, and this is said in 1820, before the creation of the board—nay, before the convention of St. Petersburg. It is shown by a mass of testimony that until after the ratification of the treaty, and as late as March, the British had an encampment of slaves, of all sexes and ages, at that place. From the view I have taken of these cases, I have not felt it necessary to point out the instances in courts of common law, where, *ex necessitate*, the acts of the party, as his letter book and invoice are permitted to be given in evidence *for him*. I have no doubt whatever, from the evidence given, that the slaves were carried off after the ratification of the treaty; but a further difficulty has been raised in some of these cases, upon which the board is also divided. It is said that this is *hearsay* evidence; that it is the evidence of slaves. Who has the right to raise these objections? If by Great Britain, the answer is, that *hearsay* evidence is that alone which the nature of the fact is susceptible of. *Who* can the claimants adduce that can testify to the fact of his own knowledge? Can they adduce an American citizen? No; the Americans were at war with Great Britain, by which all

intercourse was prevented. Then, can they adduce a British subject who has personal knowledge of the fact? They know not who to call upon. And how are they to obtain his testimony? If the evidence must be confined to the oath of British subjects, who is to administer it but a British functionary? To say, therefore, that the claimants shall be required to produce evidence which, from its very nature, depends upon the voluntary concession of their adversaries, and that without such evidence their claims are to be disallowed, goes to prove that the convention of St. Petersburg was created for a very idle purpose; a tribunal constituted to decide upon claims, when, by the very nature of the transaction upon which they were founded, it was impossible to obtain any proof that was admissible. But if we are to suppose that the framers of the convention were aware of the nature of the transaction upon which the claims were founded, and really intended the board constituted to award compensation to the sufferers provided for, we must necessarily suppose that they contemplated these claims to be supported by that kind of testimony which the transaction admitted of, in the same way that it is contemplated by the lawgivers of the municipal code, that where the next in blood is to succeed to the ancestor, the lineage is to be proven by that sort of evidence which it is in the *power* of the heir to bring; from the *nature* of the fact to be proven in such a case, we well know it is an established rule that *hearsay common report* is all that is required, though *marraiges* and *births are registered, for the party may not know* what parish to look to for the registration. This is a rule in the courts of common law where the rules of evidence seem to be more guarded to prevent fraud than studious to advance right. But a fair interpretation of the terms of the convention, requiring the Commissioners to decide the cases according to their *merits;* leaving to them, as they should *think fit*, the nature and character of the evidence; requiring the board to examine *all* persons who should come before them, taken in connexion with the nature of the facts to be proven, place, without doubt, in my mind, the admissibility of the *hearsay* evidence as to Great Britain. Then, as to the objection that it is the hearsay of *slaves:* that is not true. Great Britain has made them free British subjects. They are good witnesses in a British court against a Prince of the royal blood. *She* has made them witnesses competent to testify in all her courts, and cannot, therefore, object to their complexion any more than to their religion or forms of worship. It, therefore, to my mind, is clear that, as regards Great Britain, the evidence is as admissible under every form of the objection. Then, how is the case altered by the convention of London of 1826? The sum paid by Great Britain is in the hands of the United States as the trustee for the claimants. The United States cannot rightfully pocket one cent. She received it in the *character* of trustee, and must pay it to those entitled by the *agreement* under which it came to her hands, or must restore it. *She must not disappoint the purpose of Great Britain.* Have the United States received the fund under an agreement that the nature of the proof was to be changed, so as to render inadmissible that which before was competent? If the convention is to decide, there is no such provision in the nature of the whole case; and all the proofs, as applicable to the respective claims, seem to me to remain unaffected, and are now precisely as before the late convention. Then, how is it competent for such claimants as have been allowed their claims to urge these objections? How were their cases proven? By direct testification of witnesses who spoke of their own knowledge? or, was it not in a great degree from *hearsay*—the declarations of British officers and soldiers, that the slaves claimed were at Dauphin island, were at Cumberland, were at Tangier island, and the like? And what, indeed, is Bailey's list, but the names of slaves, or rather black persons, found by him at Tangier, whose names are taken from the account given by the very slaves themselves, *not upon oath?* All this evidence has been received without difficulty, and claims allowed upon it, and to the very persons now anxious to exclude it from all others. The cases are not susceptible of distinction upon application of the common law rule in relation to declarations which *constitute* a part of the *res gesta* It is only necessary to advert to what is meant by the *res gesta*, to show its want of application. The *res gesta* is "the thing done." When the thing done consists of that which requires something to be said, as, for instance, to make a tender of money, a dumb show would amount to nothing; the *quo animo* must be stated, for it is *part of the act.* It is a tender on a *particular account* which, of necessity, requires that the purpose should be stated when the money is offered; did the declarations of the British officers and soldiers at Dauphin island, and St. Mary's, or of the slaves at Tangier, constitute, or in any way form, part of the subsequent *carrying away?* It was evident that the slaves were *at* those places; and the ships going off, and the slaves not having returned to their owners, was satisfactory evidence that they were carried off *after* these declarations. But there is still a further objection, that the testimony of slaves, owned by citizens of the United States, and taken before magistrates, has been allowed as admissible evidence. Upon that point I concur, *in omnibus*, with the opinion of my brother Commissioner Pleasants, who has stated at large his opinion upon that point; in a word, all the evidence which has been adduced by every claimant would have been inadmissible, according to common law technicality, either as regards the *manner* of taking it, or the *matter* stated by the deponents; and the whole of it has only been allowed to operate in support of the claimants, so far as it carried the conviction of its truth; and so in respect to this latter sort of evidence, where it was supported by circumstances or other facts, and convinced us that it stated the truth, like any other mean of arriving at truth, it has had its effects, and in no otherwise; and it should not be overlooked that the same kind of testimony has, in fact, been laid before the board; I allude to the deposition of Cato Johnson, in support of a case from Georgia, and an argument offered by counsel to prove its admissibility, who, it is understood, is now objecting to it in the Chesapeake cases. It is true that, in the Georgia case, though the deposition was read, I believe there was other proof without it sufficient to sustain the claim; but the bare *introduction* of it is at least evidence, independently of the argument proposed, of what was the opinion of counsel in relation to its admissibility. To conclude: when the declaration of the British officers on our coasts; when the declaration of the slaves at Tangier, by which Bailey's list was made out; when the deposition of Cato Johnson, from Georgia, has actually been laid before the board, and aided by the apparent opinion of counsel, have all been received as proper for the consideration of the board in supporting claims, I feel that I am sustained in hearing other declarations and other depositions of the same character.

The particular facts and circumstances by which the testimony admitted is supported is not noticed; the point upon which the opinion is given is only as to the *admissibility* of the evidence, not its *weight.*

H. SEAWELL.

Mr. Pleasants' opinion.

In the claim of Raleigh W. Downman, depending before this board, asking compensation, under the decision of the Emperor of Russia, for certain slaves carried away by the British forces, in violation of

the first article of the treaty of Ghent, the deposition of John Hall, a slave, is introduced to establish certain facts; and the question is made, how far, or, if at all, the deposition of a slave, or free person of color, can be received as testimony before this tribunal?

In considering this question, we are led to inquire what persons are considered as competent witnesses in the courts and other tribunals of this country and Great Britain? Upon examination we find that all persons of sound mind, who believe in a God and a future state of rewards and punishments, are considered as competent. The words of Starkie, the most recent authority on the law of evidence, had better be given. In his 1st volume, pp. 79, 80, he says, "all persons may be sworn as witnesses who believe in an existence of a God, in a future state of rewards and punishments, and in the obligations of an oath; that is, who believe that divine punishments will be the consequence of perjury; and, *therefore*, Jews, Mahometans, Gentoos, or, in short, persons of any sect, possessed of such belief, are so far competent witnesses."

To this general rule all the well known exceptions of *interest*, debility of mind, &c., exist; and, in certain States of this Union, where the servile condition of these people exists, there are also statutory provisions prohibiting the use of their testimony against white people. I need not state to my associates the reasons of these provisions; they, as well as myself, were born and raised in States in which this state of things exits, and the motives which have induced it are well known. It is also further known that, whilst their testimony is totally excluded from bearing upon white persons, it is entirely competent before the tribunals in which these people (I mean slaves and free persons of color) are tried for offences of all descriptions, and that corporal punishments of all descriptions are continually inflicted on such testimony, and numbers of those persons executed. The propriety of this discrimination is not intended to be called in question; in the existing state of things it may be considered as proper, even necessary. But it presents this obvious reflection, whether, in questions before this board, where a conduct of the most liberal kind, in the reception of testimony, ought to characterize, and has hitherto characterized the proceedings, evidence of an intelligent person, though a slave or free person of color, entirely free from any of the exceptions to the general competency of his testimony, except the one now under consideration, may not, with safety, be heard in connexion with other testimony, not as conclusive, nor even as *prima facie evidence*, in all cases, but as a circumstance among others, carrying conviction to the mind that the thing, such as stated by the slave or free person of color, really existed as he or she represented it to exist. As one member of this board, I have no hesitation in saying that I think such testimony may, with entire safety, be heard by the board, examined, weighed, and cautiously considered, received, or rejected, according to circumstances. My reasons for this opinion, in addition to such as are before stated, are my knowledge of these people as they exist in the State in which I reside, and of which I am a native; for they are intelligent, far more so than they are generally supposed by those whose opportunities have not led them to examine their characters closely; they are, in general, as moral as most other persons; they are strongly religious, as much so, generally, I incline to think, as the white people, as far as my observation has extended; they have their preachers, many of them quite respectable as teachers of religion and morals, and numbers of them (the slaves) belong to the regular constituted Christian societies of different denominations. To be brief, my opinion is, that we shall hear this testimony as circumstantial evidence, and, when it is strongly corroborated by other circumstances, allow that weight to it which a credible witness of a different description would be entitled to.

Since the above remarks were written, the board has ascertained, upon inquiry, that the laws of Maryland, operating in this part of the District of Columbia, authorize, in a qualified way, the use of the testimony of colored persons in a manner as strong, perhaps stronger, than the use comtemplated to be made of it, as stated in these remarks.

JAMES PLEASANTS.

Mr. Cheves' opinion in relation to suppressed depositions.

The question in this case arises under the following circumstances: Certain claimants had fully substantiated their claims—that is to say, had proved that their property was taken away after the ratification of the treaty of peace. Certain other claimants had failed to do so, but had proved *the taking* of their property (slaves exclusively) at different periods before the peace. This proof, with certain circumstantial testimony on which they relied, they contended, authorized the presumption that their slaves were in the United States at the time of the ratification of the treaty, and that they were, consequently, entitled to participate equally in the fund under distribution, unless the contrary should be proved; that the burden of this proof, under the mixed commission, lay on the British Government; and that, before this board, it either lay on the opposing claimants or on the fund—that is to say, I presume, on the Government of the United States.

To strengthen this presumption, these claimants filed sundry ex parte affidavits, stating general facts, the tendency of which was to confirm the proposed presumption.

The claimants of the first class (those who had substantiated their claims) controverted these propositions, but declared their intention also to adduce proof in opposition to them. Under these circumstances, they submitted to the board the following representation:

"DECEMBER 18, 1827.

"Mr. Frost, in behalf of many claimants, stated to the board that those who sustained their cases by satisfactory evidence, under the award of the Emperor of Russia, being interested in protecting the fund paid under the convention of London, for the use of the persons entitled to indemnity under the said award against unfounded claims, are about taking testimony for the purpose of showing (what is a matter of general notoriety and history) that the negroes taken by the British forces in the years 1813 and 1814, were, from time to time, during the course of the war, with the exception of those enlisted in the service, and some few others, sent to Bermuda, Halifax, and other British possessions; *and desire to know whether the board will require such testimony to be taken in any other form than that prescribed by the general regulations of the 11th of July last—and Mr. Frost moved for information accordingly.*

"Whereupon it was ordered, that all depositions taken with the object stated in this motion shall be taken on interrogatories exhibited by the applicant, and cross-interrogatories exhibited by the other party in controversey, if the latter shall see fit to exhibit cross-interrogatories. The board will determine, on

each occasion, on the fit notice and time for putting in cross-interrogatories. *If taken in the United States, the depositions shall be taken and authenticated according to the rules heretofore prescribed by the board.*"

The following is the rule previously prescribed:

"Future authentications of testimony shall be good when taken before and certified under the seal of office of a notary public; or when taken before a magistrate, justice of the peace, or judge of a Superior or Inferior Court of any of the States or Territories, or the District of Columbia, and certified by the clerk of the county, corporation, or Superior or Inferior Court to which such magistrate, judge, or justice belongs, under the seal of such court, that such person is a magistrate, justice of the peace, or judge for such county, corporation, or Superior or Inferior Court, as the case may be."

The board, at a subsequent day, prescribed the mode and time of serving interrogatories.

The claimants of the first class have complied with all these rules in the most strict and faithful manner, and, under them, have taken a number of depositions, which they filed in the office of the board. To these depositions being received as evidence, the claimants of the 2d class filed exceptions, which, according to a rule of the board, were submitted to the clerk, who overruled them, and this is an appeal from that decision. A majority of the board (Messrs. Pleasants and Seawell) have sustained that appeal, and suppressed the depositions. Before proceeding to give my reasons for a contrary opinion, which lead me to dissent from my brethren, I will state some other facts.

Under the mixed commission (as the journals will show) no other authentications than those adopted by this board were prescribed, except that it was required that the signature of the magistrate should be certified to be genuine. This being unusual, was deemed a hardship, was objected to by me, and loudly condemned by the claimants. Ex parte affidavits were to be allowed before that commission in all cases and on all questions, and in none were examinations required to be under interrogatories. When the motion of Mr. Frost was under consideration, I concurred, because I thought it would lead to a better and fuller investigation on both sides, in the rule requiring the examination to be under interrogatories on the general questions; but it appeared to me that the rule should apply to both of the parties in controversy; the question, therefore, arose, whether the ex parte depositions, filed by the claimants of the 2d class, to be used on the general questions, should be received as evidence or not? and Messrs. Pleasants and Seawell were of opinion they should; and it was so decided. I was of a contrary opinion, because I thought one rule should govern both parties. These depositions appear to be, some of them, in the handwriting of the deponents; some in that of the agents; and some in that of the magistrates. They are authenticated only according to the general rule of the board, and were handed into the board by the claimants or their agents. Let it be distinctly remembered, these depositions, it is determined, shall be used as evidence on the general questions; while the depositions under consideration, authenticated in the same way, but taken with additonal strictness, and form, and solemnity, are to be suppressed.

The exceptions on the part of the claimants of the 2d class to the depositions taken by those of the 1st class, under the rules of the 18th of December last, are the following:

"1st. That many of the interrogatories are leading.

"2d. That many others call for hearsay evidence.

"3d. That the depositions *do not appear* to have been reduced to writing by the witnesses themselves, or the magistrates before whom they were sworn; and, *for aught that appears to the contrary*, were reduced to writing by the agent or counsel of the Georgia claimants, and may have been even previously prepared.

"4th. That the depositions were not returned under a sealed cover, but were delivered open to the agents of the Georgia claimants, and thus returned contrary to all the forms of practice in every tribunal.

"5th. That the depositions, for the most part, depend on hearsay and the presumption and conjectures of the witnesses, instead of being confined to facts within their knowledge.

"On these grounds it is submitted, on the part of the Chesapeake claimants, that the depositions ought to be suppressed *as having been irregularly taken.*"

I will first notice the facts stated in these exceptions, and see how far they are before the board. Of these there is no proof whatever, except those stated in the 4th exception, and except so far as the interrogatories and depositions on their face furnish evidence of them. I have looked into the depositions, and they appear to me to be, in every instance, in the handwriting of the magistrates taking them. The interrogatories appear to me to be as little characterized by leading questions as interrogatories usually are in cases of complicated facts; and I do not think, if they had been less so, they would have been sufficiently understood by the witnesses, so as to prevent them from omitting material circumstances in their replies; some of them, too, were to be administered to witnesses whose depositions had been filed by the claimants of the second class, and were, therefore, in the nature of cross-interrogatories.

Leading questions are only such as are formed "in such a way as to instruct the witness in the answers he is to give."—Peak, 188. But they should be so framed as to prevent the witness from omitting any material circumstance—*ibid.;* and in cross-examinations, leading questions are unexceptional—*ibid.* The depositions are as free from hearsay testimony as depositions usually are; and I have great doubt whether there is a single answer which is not testimony, according to the strictest rules of evidence. Any of them having at all the character of hearsay consist principally of such as speak of the declaration of the British officers during the war, and when the transactions were in progress to their consummation, and of the declared destination of ships at the time of their sailing. Now, these are a part of the *res gesta* which is clearly admissible, and not, therefore, hearsay evidence; and besides, the claimants on the other side had adduced evidence, in almost every affidavit filed or relied upon, of the declarations of the British officers, and even sailors, and of the declared destination of ships; and if the testimony can be adduced in chief, it surely may be contradicted by the opposite party by like testimony. But the whole of the depositions has been suppressed—not only the whole of a deposition in which it may be alleged there are some leading interrogatories, or some hearsay testimony, but depositions against which neither objection can lie. Under these exceptions the following questions arise:

1st. Whether the whole of the depositions (admitting that the interrogatories contain leading questions, and the depositions contain hearsay testimony, both of which are denied,) should have been suppressed, or only such parts of either as were exceptionable.

2d. That whether it was necessary that the examining magistrate should have *certified* that the depositions were committed to writing by himself or by the witness.

3d. Whether it was necessary that the examining magistrate should have transmitted the depositions under a sealed cover.

1. The authority quoted in support of the affirmative of the first question is 2 Maddox's Chancery

Practice, p. 412. The question will hereafter be considered whether the chancery practice of a foreign nation is a binding authority in this case. But we will examine this authority to see how far it sustains the exceptions embraced by the question. The language of that authority is, "If the interrogatories are *leading*, the depositions, on a reference to the master, *and his report that they are so*, will, on motion, be suppressed. If one interrogatory be reported leading the deposition, *the deposition only to that interrogatory is suppressed;* so, if part of an interrogatory be reported leading *so much of the deposition* as relates to an answer, the leading part will be suppressed. It seems, then, that, according to the utmost strictness of the courts of chancery of England, (a practice whose forms, and complication, and delays, and expenses, bring an involuntary shuddering over the unfortunate litigant at the mere mention of them,) will not sustain the decision of the board. Only the peccant parts will be suppressed. According to that practice, too, before any part will be suppressed the master in chancery must have sustained the exceptions. Here, if we are to be assimilated to a court of chancery, our clerk must be considered the master, and he has, on the contrary, overruled the exceptions. Whether the testimony be hearsay evidence or not, is a question for the court on the hearing, when considering and weighing the testimony, and not a subject for exceptions; accordingly, the authority quoted, which embraces the whole body of the practice of chancery, does not even name it under the head of exceptions; and if the practice were otherwise, the suppression would be only partial, as in the case of leading interrogatories. Clearly, then, the whole of these depositions would not have been suppressed in the English chancery, admitting the allegations of the exceptions to have been conceded or established *in extenso*. But I am not aware that this board, as a board, has even looked into these depositions.

2. The next question is, whether it was necessary that the examining magistrate should have *certified* that the depositions were committed to writing by himself? I say that he should not have *certified* the fact; for, that *he did* commit them to writing is proved by the inspection of the depositions. And if his *certificate* of the fact be *not* necessary, though the fact were not apparent, it would be incumbent on the party excepting to sustain his allegations by testimony—which he has not done. No such certificate is required by the English chancery practice. If it be, let an authority be quoted; none such has been referred to, and none such is to be found in the authority before quoted, which is intended to contain the whole practice; and I feel satisfied none can be found. The act of Congress providing the mode of taking depositions *de bene esse*, in judicial cases, has been referred to.—(2d vol. Laws of United States, Bioren & Duane's edition, pp. 67 to 69.) That act provides that depositions shall be so taken, when the witness lives at a greater distance from the place of trial than one hundred miles, is bound on a voyage to sea, &c. These are the reasons which authorize the taking of such depositions. The notice and mode of taking are then prescribed; and, under the latter, it is enacted that the testimony "shall be reduced to writing, which shall be done only by the magistrate taking the deposition, or by the deponent in his presence; and the depositions so taken shall be retained by the magistrate until he deliver the same, with his own hand, into the court for which they were taken; or shall, together with a *certificate* of *the reasons as aforesaid* of their being taken, and of the notice, if any, given to the adverse party, be by him, the said magistrate, sealed up and directed to such court, and remain under his seal until opened in court." It appears, then, that no *certificate* is expressly required of the fact that the depositions were committed to writing by the magistrate or the witness; and it is according to well known rule of law, *expresio unius est exclusio alterius*, dispensed with by the naming expressly of certain points which must be certified. We will have hereafter to show that this board is, by its own act in this case, precluded from enforcing the provisions of the act of Congress, or the chancery practice, or any other code, except its own rules. At present, let it be observed that the depositions have been committed to writing by the examining magistrate, as appears by an inspection of them. That if it did not so appear, the exceptions ought to be, and are not, sustained by proof to the contrary; and that it is not required by the chancery practice, or the act of Congress, that the fact should be certified.

3. Lastly. Is it necessary that the magistrate should have transmitted the depositions under a sealed cover?

Whether it is necessary, according to the English chancery practice, cannot be discovered from the authority referred to in support of the exceptions, which is probably the latest and the best; nor perhaps from any other. It is necessary, under the act of Congress, in cases at common law, and in the admiralty; but what is necessary in the courts of the United States, in cases in equity or chancery, may depend, according to circumstances, on the laws and rules of practice of each of the twenty-four States of the Union.—(3d vol. Laws of the United States, Bioren & Duane's edition, p. 487.) Which of all those are to be our guide, and how are we to ascertain what is prescribed by them? If the chancery practice is to have the dignity of affiliation, we can hardly be allowed to prefer that of the English courts to that of the courts of the United States; and if we adopt the latter, it presents us the Augean stable of all the courts of chancery in all the States of the Union to select from; or perhaps we may be bound to embrace all, if witnesses should be found in all. They are all alike recommended to our adoption, unless some should be entitled to a preference by their superior wisdom or fitness. But who is to determine this point? None can be regarded at all as *authority*. The essential rules of evidence belong to all tribunals, as they do to "all nations governed by reason;" but "technical rules may infinitely vary."—(2 Brown's Civil Law, p. 371.) They do infinitely vary; and I believe an instance cannot be found in the history of jurisprudence where the technical penalties of one tribunal (much more a foreign tribunal) have been enforced by another, without previous adoption, by which all concerned were amply notified, upon the rights and interests submitted to its authority. Tribunals, however limited in duration, usually establish a code of their own, original, if easily practicable, and if not, the code of some other is embraced by *express* adoption. The mixed commission established its code, dure and rigid enough it was thought at the time, but it was all lenity and indulgence compared with that which results from our decision in this case. This board, also, at its first meeting, established its own code, which I thought was to govern all examinations and depositions; and I do think a stranger who had heard the agents of the claimants of the first class ask, on the 18th of December last, for the instructions of the board as to the testimony in question, would have supposed they had not read our previous rules. He would have been undeceived, however, by the order of the board which resulted, and, changing his view of these agents, would have thought them men wise at least in their own generation; but if he could have lifted the veil of futurity, and seen all their apparent wisdom and foresight turned to nothing, would he not have laughed in scorn at the vanity of human learning and sagacity?

The agents on that occasion say to this board, "We are desirous of being instructed as to every requisite the board may deem fit to impose in the modes of taking, and authenticating, and securing the

validity of the depositions that we are about to take, and will conform to every direction that you shall prescribe." The board, in response, prescribe a number of additional forms and means, supposed to be calculated to secure a fair and faithful examination of the witnesses, (all which have been literally and exactly complied with.) It then adds: "If taken in the United States, the *depositions* shall be taken and *authenticated as heretofore prescribed by the board*." This also has undoubtedly been done, without the smallest defalcation. If so, have not these depositions been duly taken and authenticated, according to the rules of this board? If duly authenticated, ought they not necessarily, and as matter of clear right, to be read in evidence? What is the meaning of *authenticated?* Must I turn to lexicographers to show the well known meaning of this common word? The only one within my reach gives the following: "*That which has everything requisite to give it authority.*" What means *authority?* "Legal power, influence, credit, *testimony*, credibility."

These depositions have everything requisite to give them *authority* according to the express and most solemnly promulged and reiterated rules of this board; and authority means "legal power, influence, credit, *testimony*, credibility." And yet we suppress them as utterly void and unworthy of consideration; a result that excites my wonder and astonishment. Can anything be plainer than that the board, by rules so express, and full, and clear, precluded itself from referring to any extraneous codes? I beg pardon—the board has determined otherwise. But what are the probable consequences of this decision? The board is bound to-morrow, if Congress shall so soon act on the bill before it to give further time to this board to close its business, to determine the question to which this vastly important testimony relates, unless the House of Representatives shall pass that bill; and we learn that the committee to whom it was referred have reported unfavorably of it. If this bill do not pass, the consequence is inevitable that this testimony is forever shut out, because it wants some of the circumstances of authentication which some foreign tribunal or some act of Congress happens to require; though these codes were before the board and not prescribed; though they are no more authority than any other code in which these circumstances of authentication may not be required, and though to common minds, and some legal minds, too, it would seem the board had precluded itself from taking notice of them, and defended claimants to whom they are applied, from being bound by them.

It does appear to me, (I express myself with great deference,) there never was an occasion calculated more naturally and forcibly to bring to the mind one of the maxims of the common law, one too, of philosophical wisdom and truth: *Misera est servitus ubi jus est aut vagum aut incognitum.*

I did understand, the claimants have understood, it has been proclaimed aloud, that the board were to be governed only by the essential rules of evidence, and that technicalities were to be disregarded. We have even let in hearsay evidence, and the evidence of African slaves, and thus relaxed, as I suppose, the essential rules of evidence which are the guides of "all nations governed by reason;" and yet one class of these claimants find themselves involved in all the technicalities of foreign tribunals and domestic tribunals, mixed up with the incompatible requisitions of our own proper regulations. Thus it has been asked truly, is the examining magistrate to trudge for long distances, from his residence to the clerk of the county, to get him to certify, from time to time, as each deposition is taken, in obedience to our own rules, that he, the magistrate, is really the character he avows himself to be, and afterwards to conform to all the technical requisitions of the English chancery practice, and the act of Congress both?

Is a peculiar practice and a peculiar strictness to be applied to *this* testimony? I have heard a language in reference to it which I do not understand in any sense in which I am able to apply it; it is said to be *adversary* testimony. Does this mean that it is testimony which is to be governed by peculiar rules, to be prejudged, and, before it is received, condemned? That is impossible; either it ought not to be received at all, or it ought to be received like all other testimony. Is there any example of two rules for the admissibility of testimony on the same issue? one for one party, of indulgence, and another for the other, of rigor. If not, what is meant by adversary testimony?

Is it meant to say that the pretensions of one of the parties are not to be favored? This certainly cannot be the views of this board. But that the question may be disabused of a character that seems to have been cast upon it, not certainly by my brethren, let us for a moment inquire what the question is. Certain citizens of the United States had their slaves taken from them *during* the war, according to the rights of war, (a harsh and disreputable exercise of those rights, it is true, but still they were the rights of war,) and they were carried out of our territories and waters before the ratification of the treaty of peace. In the treaty of peace all claims for these are abandoned by our own Government, but it is stipulated that all slaves within our territory or waters, at the ratification of that instrument, shall not be carried away. The treaty is violated. Indemnity is claimed and granted to all those whose slaves were taken away after the ratification of the treaty. The sum agreed to be paid is, probably, not more than sufficient to indemnify those really entitled. In this state of things some who are not entitled claim an equal participation with those who are entitled. I say those who are not entitled, for *all* claim this equal participation, and no one will venture to say that all the slaves taken during the war were within the territory or waters of the United States at the peace; therefore, some (how many it is neither fit, neither material nor fit, at this time to inquire) who are certainly not entitled demand an equal participation in this fund. It is unjust, unconscionable, or unusual, to put claimants like these, whose rights are doubtful, to use no stronger language, to proof, and to rebut their proof if it be unsatisfactory or unfounded. I am aware that it may be invidious to speak the truth thus explicitly on this subject, and I wish I could have avoided it, but I am accustomed to do my duty, however invidious, and I have determined to do so on this occasion. I say that no person whose slaves were carried away before the ratification of the treaty is justly or equitably entitled to one cent of the fund paid under the convention of London, and that, if any such be allowed to participate, it will be, *pro tanto*, a perversion of all the compacts under which we sit and act. The question is who and how many are entitled to participate of this fund? To determine that it is necessary to ascertain when the slaves severally claimed left the United States. Can it be proper to have two rules of testimony on this plain question of fact—one for the affirmative and one for the negative of it—one of indulgence and one of restriction? The search is after truth, and whether a welcome or unwelcome fact be sought, the course of investigation ought to be the same. I am sure my brethren have the same object in view, but, believing and knowing this, I ask what is meant by the idea that this is adversary testimony, and therefore to be regarded in a light different from other testimony affecting the same issue? If it be said that two rules have not been adopted in this case, I ask whether the ex parte depositions filed in support of the presumption contended for by the claimants of the second class have not been allowed without any other authentication than that required by the original rule? It will be admitted. I ask, then, whether the more solemn and formal examina-

tions, now under consideration, taken on interrogatories, with the opportunity of cross-examination, authenticated according to the same rule, have not been suppressed? It will be admitted. Have not, then, different rules governed these respective decisions? When the depositions of the claimants of the second class were allowed, there was time to retake them according to the new rule prescribed by the board, yet they were allowed. When the depositions, now under consideration, were suppressed, there was no time to take them anew, and the testimony will be utterly shut out unless Congress grant further time. Is this dealing equally by the parties? There have then been different rules applied to evidence affecting the same issue, and these rules in reference to the two parties litigant; one of them, I contend, more indulgent than the most relaxed examples of other tribunals, and the other more rigorous than English chancery practice, with all its forms and technicalities.

Madox says, 2 vol., p. 412, "Depositions before publication will, on motion, be suppressed for having been taken by the Commissioners *ready prepared*, and the Commissioners will be directed to re-examine that witness; but this order does not, in cases of necessity, prevent the court having recourse to the depositions, as where, for instance, the witness could not again be examined." There the irregularity was gross and dangerous; here there is no irregularity except, as it has been determined, that the omission of certain formalities not prescribed by the board, but found only in foreign or extraneous codes, shall be such. There the testimony was used when the witness could not be again examined; here it is rejected, though the witness cannot be again examined unless an act of Congress pass which shall control the effect of the decision of the board.

LANGDON CHEVES.

Mr. Seawell's opinion.

Upon the appeal from the decision of the clerk on the regularity of the return of the adversary depositions, taken at the instance of Mr. Frost, as agent for claimants whose claims have already been allowed, a majority of the board is of opinion that the decision should be reversed and the depositions suppressed.

These depositions were taken under rules prescribed by the board, which required that they should be *taken* and *authenticated* in a particular manner, upon interrogatories filed and notice to the adverse party whom it was intended to prejudice. The depositions were taken, in every particular, conformable to the rules, but were not returned to the board *closed;* they were handed in *open* by *the* agent, without any envelope, as a loose sheet or common affidavit, and, upon that ground, I am of opinion they should be suppressed. This board, at its first session, without any previous rule, refused, as admissible, the affidavits of agents in support of claims. It thought the policy of preserving from the imputation of suspicion those concerned in the management of claims required such a rule. If that decision is justified by its policy, how much more is the adoption of such a rule as grows out of the present determination of the board? In what way could confidence be more abused than by the withholding such depositions as militated against the opposing claimants? Depositions, when taken upon interrogatories, as required in this case, become the property of both parties; depositions, to be admissible, should, like the oath to the witness, declare not only the truth but the *whole* truth. What is there, if these depositions are allowed, to prevent an agent from withholding a deposition or even making an alteration? It is no answer to say that the honorable standing of the agent in this particular case, and his known sense of propriety, would forbid it; rules must be universal as to men and apply to all equally. The rules which the board have prescribed relate only to *manner of taking and authentication.* It would have been impossible to point out any objection that the depositions, when taken, would be subject to. Would it be said that the deposition of an agent, the deposition of an insane man, a deposition in the handwriting of an agent, a deposition taken before a magistrate who was a party or agent, would have been allowed? Yet neither has been prohibited by the rules. It seems to me at war with the first principles of common justice to allow a man to be prejudiced by evidence when its truth or its falsehood is to depend upon the bare will of his adversary, and particularly where there is a mode by which it can be prevented and the adversary entitled to the same benefits. The decision of the board I consider as required, not only by rules of policy and justice, but sanctioned by the universal practice of all courts, whether foreign or domestic, international or municipal, whose rules I have any acquaintance with. If it be said that the same strictness is not required as to depositions adduced in *support* of claims, the answer is, that the opposing claimant has already had the full benefit of that rule, and obtained an allowance of his claim under it, and can with a very bad grace now object to it. For these reasons my opinion is that the depositions be suppressed.

HENRY SEAWELL.

Mr. Pleasants' opinion.

Having concurred with my colleague, Mr. Seawell, in the opinion that the depositions produced on the part of these claimants, whose cases have been favorably determined by the board, the object of which depositions is to prevent a recovery or rebut the presumptive evidence which it has been agreed exists in favor of the Chesapeake claimants generally, I concur with him in the general reasonings in support of the opinion we have given. The rules prescribing the form in which those depositions shall be taken and authenticated are silent as to the manner in which they shall be transmitted to the board; and the reason of this silence certainly was, on my part at least, and I presume on the part of the other members, that they would be forwarded in the mode prescribed by the statutory provisions or the rules of those courts where such testimony is used, which I believe to be general without exception; that is, that they shall be carefully sealed up and transmitted to the tribunal before which they are to be used. The great inferiority of *written* to *oral* testimony, in its very best form, points out, most strongly, the propriety of making use of every mean which can be devised for preserving the testimony as pure as practicable. The loose practice of forwarding depositions open, or placing them in the power of any of the parties interested, must, at first view, present such strong exceptions to them that, to my mind, it is a conclusive objection. Having relied principally *on this* objection, which exists in the case of these depositions, I deem it unnecessary to go into the examination of others; they, indeed, are stated as abovementioned by my colleague, and I concur generally with him.

JAMES PLEASANTS.

20TH CONGRESS.] No. 483. [1ST SESSION.

REPORT FROM THE STATE OF MAINE RELATIVE TO THE NORTHEASTERN BOUNDARY OF THAT STATE.

COMMUNICATED TO THE SENATE APRIL 14, 1828.

IN THE SENATE OF THE UNITED STATES, APRIL 14, 1828.

Resolved, That the report of the Joint Select Committee of the Senate and House of Representatives of the State of Maine, in relation to the northeastern boundary of that State, together with the report of the agent appointed by the Executive of said State, referred to the Committee on Foreign Relations on the 5th of March last, be printed for the use of the Senate.

Attest:

W. LOWRIE, *Secretary.*

STATE OF MAINE.

IN SENATE, *January* 4, 1828.

Ordered, That so much of the communication made by the Governor to the Legislature, with the accompanying documents, as relates to the northeastern boundary of this State, be referred to Messrs. Megquier, Williams, and Hathaway, with such of the House as may join, and that the committee be authorized to cause such of the accompanying documents to be published as, in their opinion, the public good requires.

Read and passed.

Sent down for concurrence.

ROBERT P. DUNLAP, *President.*

HOUSE OF REPRESENTATIVES, *January* 5, 1828.

Read and concurred; and Messrs. Deane, of Ellsworth; Fuller, of Augusta; Vance, of Baring; Carpenter, of Howland; and Burnham, of Unity, were joined.

JOHN RUGGLES, *Speaker.*

Report of the Joint Select Committee of the Senate and House of Representatives of the State of Maine, in relation to the northeastern boundary of the State.

The aforesaid Joint Select Committee of the Senate and House of Representatives of the State of Maine have considered the whole subject submitted to them by the aforesaid order, to wit: All the Governor's message which relates to the northeastern boundary, which is as follows, to wit: "In the number of our resources is one so conspicuous that it must early attract your notice. It is that of a wild and fertile territory, embracing about six millions of acres. It is not necessary now to attempt to show how evidently it is subject to your jurisdiction, nor to speak of its distinguished natural advantages, which impart to it the capacity of sustaining some hundred thousand yeomen. Valuable, or rather invaluable, as it is, we ought, without hesitation, to surrender it if we cannot with justice support that claim to it which unfortunately now stands opposed, under the difficulty of an ingenuity which has endeavored to obscure the line, and an opposition which, I trust, you will dispassionately authorize to be resisted under the limitations of a cautious and prudent, yet decided policy.

"The Government of the State, with the exemplary moderation always creditable and necessary, has for years refrained from the exercise of many of its rights. It has been induced to do so, as may be inferred, from its anxious desire to accommodate to the wishes of the Federal Administration, and its disposition to avoid collisions, inevitably unfortunate, in any result. At the same time it cannot abandon its obligations, its title deeds, and its rights. It cannot allow the citizens to be incarcerated in foreign jails. The State would shrink most dreadfully under the shame of such a submission. For the sake of being fully informed, it has for several years solicited the documents possessed by the General Government in relation to this subject. It is with great confidence that I urge its consideration now, inasmuch as all that has been requested has been supplied agreeably to what was understood to be the wish of the last Legislature. That invaluable mass of documents, now in the Secretary's office, and the copies of communications between myself and others, contain nearly all that I can offer. The delicate nature of the subject induces me to ask a particular examination in reference to publication, if that shall be proposed; yet there is no wish, on my part, that what has been written by myself shall be disposed of in one way in preference to the other. On the most thoughtful revisal I find no past deviations from my existing sentiments, and am bound to sustain the most rigorous responsibility.

"Amidst the views urged has been a primary one of that nature, requiring its being submitted to you for correction, if desired. It is in relation to the undefined, and perhaps undefinable, line of rights between States' and United States' authority, along which construction is constantly urging disputed claims, and, in general, has much the advantage in irruptions upon the States. The Executive of the Union has been considered as disposed to submit the question of the boundary of Maine, with a perfectly friendly intent, but without regarding her as a party to the umpirage of a foreign authority. The submission itself admits the possibility of an unjust and disastrous decision. While it is not presumed to cast a shadow of suspicion on the integrity with which that authority may be exercised, nor upon the motives of any person whomsoever, it has, nevertheless, been deemed a suitable precaution to urge the

following propositions. It cannot be arrogance which asserts them as materials of a monument of the rights of our employers, which will become firm by time, when properly combined and cemented by your reflections. If any feeling has been displayed on my part, it has been indulged with a view of eliciting results which it was believed would be salutary and acceptable. At the same time there has been no intention to abandon those prudential considerations, entirely consistent with a free assertion of what it might be supposed the people, through their representatives, would eventually approve and sustain.

"At the period of forming the treaty of 1783, Massachusetts and the other colonies were independent of each other as to territorial rights. The United States, as such, did not exist.

"Although the colonies constituted common agents to form that treaty, the territorial rights secured did not, by virtue of that instrument, accrue to the nation, but were merely acknowledged and confirmed by it to the existing individual corporations according to pre-existing grants, crown lands only being excepted.

"When the Union of the States was framed in that happy arrangement we are still permitted to witness, and which created a general guardianship, without extinguishing a particular independence, the compact left Massachusetts the proprietor, as one party in severalty, of all her soil. She held it fully, with undiminished interest, and has conceded her jurisdictional control only by that magnanimous act, usually called the Separation, which received validity from the concurrence of Congress.

"The Union having no right to cede the territory, the treaty making power, as only a constituent part, cannot exercise a function beyond the grasp of the delegated power over the whole, nor, indirectly, by an umpire, do what it could not accomplish without; that is, consent to the alienation, or the possibility of an alienation of territory, which I will show is solemnly acknowledged through the President to be ours.

"It has, therefore, been believed to be due this State to advance the doctrine that the submission of its boundary to an umpire, unknown to herself, and upon terms not confided to her consideration, will leave her at liberty to act upon the result, as to the country and herself may be dictated by the most just and patriotic inclinations. Yet, if it be true that the fifth article of the treaty of Ghent has involved much of federal authority, beyond the limits which many eminent statesmen have contended to be the true ones, as the treaty exists, the delicacy of the case, in relation to public faith, ought to have some influence upon our assertion of our claim, although an entire concession cannot be expected. It ought to be distinctly understood that there is a perfect harmony of sentiment with the Federal Administration in a most essential particular, in regard to which, the language of Mr. Clay, the Secretary of State, is calculated to be highly satisfactory. It is as follows: '*The Government of the United States is fully convinced that the right to the territory is with us and not with Great Britain. The convictions of Maine are not stronger in respect to the validity of our title than are those which are entertained by the President.*'

"Whatever may be the character of the proposed umpirage, it seems necessary to adopt some rule of procedure, as to the duties to be discharged, before its results shall be known; and I cannot but hope to learn from you, in some way, what measures you will consider to be proper if such acts as that of the arrest and incarceration of Baker shall be repeated. There will be no wish to go beyond your direction, nor to fall short of it; and, thus far, while the object has been to give no assent to injustice, there has been a steady view to your contemplated consultations and probable commands. It was an arrest which the testimony seems to me to condemn; yet it cannot but be hoped that the neighboring Government will place right the hasty acts of unthinking agents, and that we, expecting that generous conduct which springs from the character of an Englishman, should not suddenly and unnecessarily engage with him in contentions. While we were acquiescing in the abeyance of our rights, as connected only with property, the call for interposition was not imperative; but when unauthorized power was applied to the persons of our citizens along the Aroostook, and in other places, it seemed proper to ascertain the facts, in order to submit them to your consideration, and to that of Massachusetts and the nation; both of which will feel an interest, not only in the protection of our fellow citizens in Maine, but in the other relations of the subject. A letter was, therefore, sent to the Lieutenant Governor of New Brunswick, containing a request that he would cause information of the facts relating to the arrest of Baker to be returned. While, in his reply, he acknowledged, in favorable terms, the amicable disposition professed by this Government, so far as, on the occasion, it was represented, he declined to make the explanations requested, excepting to those with whom he is directed to correspond, or under whose orders he is placed.

"It must be known to you that, in addition to the means above mentioned, Mr. Daveis was appointed to obtain the information which all have appeared to consider desirable. From what has transpired there is no doubt in my mind of the intention of the Government of New Brunswick to extend its jurisdiction, and to confirm it, if possible, over the whole disputed territory.

"I cannot but profess to you the disposition, on my own part, subject to your direction, to offer some difficulties against such a course; but it is not to be doubted that the United States Government and that of Great Britain will perceive, on being furnished the facts, that the Government of New Brunswick has advanced beyond the line of tenable ground, and seems not to have listened to those recommendations of mutual forbearance which have been rung so loud that we did not notice its invasions.

"Another of the objects of the mission of Mr. Daveis was to obtain the release of Mr. Baker, whose arrest was thought to be not only cognizable by the United States, but by the particular State of which he is a citizen. His confinement in the jail at Frederickton was an act of power which, considering the nature of the facts as far as developed, required early attention; and the course pursued was accordingly adopted, not however without a careful examination of principles and precedents. If you shall think the measure as involving any excess in the exertion of State power, it would seem to be desirable not to allow it to pass without the expression of your dissent, which would be received, on my part, with the utmost respect and deference.

"The minister plenipotentiary of his Britannic Majesty has communicated to Mr. Clay what are called, by the former, 'sufficient proofs of the decided resolution of his Majesty's Lieutenant Governor of New Brunswick to maintain the disputed territory in the same state in which his excellency received it after the conclusion of the treaty of Ghent.' It certainly would not be desirable to put his Majesty's Lieutenant Governor's decided resolution to the test on this point; but it may be imperatively required to determine how far the treaty of Ghent and previous actual jurisdiction may sanction his authoritative approaches beyond the terms of that treaty without a reasonable expostulation, not however to be followed by any unnecessary resort to forcible resistance.

"It is not to be anticipated that the deplorable event of a war with Great Britain may not occur again. If that melancholy result of human frailty shall be produced, the situation of Maine will require great

resolution and activity. The concentration of the British forces, with the view of dividing the Union, by an occupation of New York, will not be attempted again; but the seaboard and the interior frontier of Maine will be—the one a line of maritime invasion, and the other of excursions and incursions, according to the emergencies relating to our defence. The effort will be probably to cut off this State, or at least for this we ought to be prepared, so as not to admit any repetition here of such scenes as occurred during the last war. It would appear to be proper to solicit of the General Government the erection of some strong fortresses on our interior frontier. Its own disposition, and the obvious utility of works so situated, in anticipation of others where the country is better guarded, would, it may be hoped, assure to a representation of this nature a favorable reception."

The committee aforesaid ask leave to observe, they are unable to perceive that there is anything uncertain in our claim arising out of any obscurity in the treaty of 1783, or any of the documentary evidence, or arguments and discussions which led to the description of the boundary therein contained; nor are they informed that the Government of Great Britain, or any of their negotiators, ever claimed the northern part of this State as a right, but requested it as a cession. It is, therefore, concluded that their strong and persevering endeavors to excite doubts and embarrass the subject are elicited by the zeal of their essayists, and their subordinate agents or negotiators, who, while they recommend themselves to the mother government as zealous, loyal subjects, and faithful agents, are disposed, at the same time, to gratify other feelings arising from other causes.

This subject has on several occasions occupied the attention of the Government of this State, and has been the subject of reports and resolves, and all may have been done which the state of knowledge on that subject rendered proper, or the occasion required. The subject is now, from a variety of considerations, assuming a more interesting character. Such is the state of public inquiry, that it may be expected of this Legislature that they will fairly and candidly spread the evidence of title, and the subject of controversy, before the people, to the end that they may see, examine, and reason for themselves, and form their own conclusions. This, however, would be deemed unnecessary, were it not the fact that what is said, and much of the documentary evidence touching the boundaries of the provinces prior to the treaty of 1783, is in the hands and within the reach of very few.

With a view, therefore, of spreading the evidence of our title fairly before the people of this State, and by the same means before the people of the United States and the world, it is proposed to pursue, generally, the chronological order of events; noticing particularly such as have any direct relation to the subject, and incidentally such as tend chiefly to show the connexion between them.

The discovery of America produced an excitement and a spirit of maritime enterprise among the nations of Europe. Cabot sailed in 1497, under the orders of Henry VII, of England, and discovered Newfoundland and North America, and coasted from Labrador to Florida. The spirit of discovery thus early excited in England subsided, and was not revived for many years. The French prosecuted voyages of discovery to North America, and as early as 1535 attempted a settlement on the St. Lawrence. From this period the voyages of the Europeans to the northern parts of North America were principally confined to the fisheries and to the prosecution of a trade in furs with the natives, and it was not until 1604 that any settlement was commenced which became permanent.

In 1603 Henry Fourth, of France, granted to De Monts all the country in North America between the fortieth and forty-sixth degrees of north latitude, by the name of Acadie. De Monts, to secure to himself the benefits of his grant, with Champlain and other adventurers, fitted out vessels and sailed for America. They first touched on the eastern coast of the grant, then sailed round Cape Sable to the Bay of Fundy, touched at Port Royal, now Annapolis, at the St. John, which river they sailed up some distance, and thence followed the coast to the mouth of a river which they afterwards called St. Croix, where, upon a small island, they erected houses and defences, and established themselves for the winter. In the spring, they, for some cause, determined on quitting the island, and took what they could of the materials of the buildings, and moved, and established themselves at Port Royal, where they lived and prosecuted the business of their settlement for several years.

In 1607 the British commenced a settlement in Virginia, which became permanent. As early as 1613, for the purpose of getting rid of their neighbors, who might at some future period annoy them, as well as for asserting their claim to the whole country, and appropriating it to themselves or the British Government, they fitted out a small expedition, under Sir Samuel Argall, to dislodge the French in Acadie. Sir Samuel dislodged the French at Mount Desert, destroyed all which De Monts had left on the island where he first wintered, and captured the French at Port Royal. Some of the French went to Canada, and some united with the natives. The expedition was attended with no important result, further than it probably suggested to Sir William Alexander the idea of obtaining a grant of the country—and, therefore, after companies had in England obtained grants of various parts of North America, to which they gave their favorite names, such as Virginia and New England, he obtained a grant, which, from its relative situation to New England, or to perpetuate the name of his native country, he called Nova Scotia.*

The grant was made in 1621 by James I, and contained "all the lands of the continent from Cape Sable, thence along the coast of St. Mary's bay; thence across the Bay of Fundy to the river St. Croix, to its remotest spring head; thence by an imaginary line northward to the river St. Lawrence; thence by the shores of the river to the haven* or shore commonly called Gaspe, and thence southward, &c. Sir William seems to have engaged with some zeal, and incurred great expense in fitting out two vessels to take possession of and settle his grant; but all his efforts produced little or no effect, and he abandoned it, and in 1630 sold a part or all of his grant to La Tour, a subject of France. In the year 1628 or 1629 Canada and Acadie were both captured by the British, and were restored in 1632 by the treaty of St. Germains. In 1652 the British fitted out an expedition, and took possession of Penobscot, St. John, Port Royal, and several other places. In 1655 a treaty of commerce was entered into between the French and British, and the question of title to Acadie was referred to Commissioners.

† In 1663 Charles II granted to his brother, the Duke of York, the country called the Duke of York's territory, next adjoining New Scotland, and extending from the river St. Croix to Pemaquid, and up the river thereof to the furthest head of the same as it tendeth northward; and extending thence to the river *Kimbequin*, and upwards by the shortest course to the river of Canada northward.

In 1667, by the treaty of Breda, Acadie was again restored to France. In 1689 another war broke out, and the following year Sir William Phipps conquered Port Royal and other French ports in Acadie.

‡ October 7, 1691, by the charter of William and Mary, the real province of Massachusetts Bay was

* See Appendix. † Appendix 2. ‡ See Appendix 3.

erected, consisting of the former provinces of Massachusetts Bay, New Plymouth, Nova Scotia, District of Maine, and all the territory between Nova Scotia and the District of Maine and the river Sagadahock and every part thereof, and the St. Lawrence, or great river of Canada. It will at once be perceived that the province of Massachusetts Bay was, in the northern part, bounded west by a line drawn north from the westernmost head of the waters of the Sagadahock to the river St. Lawrence, north by the river St. Lawrence, east and south by the Atlantic Ocean. The charter contained a limitation in the exercise of the granting power as to all the tract of country lying beyond the Sagadahock, but it contained no other limitations to its exercise of sovereign power which were not contained in all other charters granting powers of or establishing Governments. Massachusetts exercised some acts of jurisdiction over Nova Scotia, appointed some civil and other officers; but it being so distant, and she having so many other posts, and such extent of other frontier to defend, and the expense being so great, which she must incur for her protection against the assaults of the French and natives, that she was not solicitous to retain it, and in the course of a few years gave it up, and the British Government made it a separate province.

In 1697, by the treaty of Ryswick, Acadie was again restored to the French. In 1702 war was again declared between France and Great Britain, and Acadie, in the course of the war, was again captured by the British, and was, in 1713, by the treaty of Utrecht, ceded by the French to the British, by the description of Nova Scotia, otherwise called Acadie, according to its ancient limits, with some reservations of islands, such as Cape Breton and the islands in the St. Lawrence which were not ceded. For many years Nova Scotia, or Acadie, thus ceded, seems not to have engaged much of the attention of the British Government. They did, in 1719, appoint Richard Phillips Governor,† who, for want of subjects, had to select his council from his garrison. The French inhabitants lived in a state of independence, without acknowledging the right or authority of the British colonial Government; and the object of the British seems to have been to keep possession of the country, to the end that they might hold it and extinguish the claim of France. By the treaty of Aix-la-Chapelle, in 1745, Commissioners were provided to be appointed to settle the boundaries of Nova Scotia, or Acadie, as ceded by the treaty of Utrecht, about the limits of which the British and French could not agree. Colonel Cornwallis was made Governor of Nova Scotia, or Acadie,‡ in 1749, and came with soldiers of the late army and others, between three and four thousand, and settled and built the town of Halifax.

Commissioners, provided to be appointed by the treaty of Aix-la-Chapelle, were appointed in 1750, and began and continued their discussions for some years, the British contending for, and endeavoring to maintain, one construction of the treaty of Utrecht, and the French another construction. The discussions were broken off by the war of 1756. The treaty of Paris, of February 10, 1763, which terminated the war of 1756, ceded both Canada and Nova Scotia to the British in full sovereignty. At this time the power of the French became extinct, and they never made any subsequent effort to regain it. Until this period, although with the British Nova Scotia had been the subject of grants, of conquests, and cessions, they always recognized the St. Lawrence as its northern boundary, never extending their claim beyond, or stopping short of it. When Canada became a territory of Great Britain, it became necessary for her to establish a Government for it, and the King, for that purpose, by his proclamation of the 7th of October, 1763, among other Governments, established the Government of Quebec,§ bounded as follows: "On the Labrador coast, by the river St. John, and from thence by a line drawn from the head of that river, through the Lake St. John, to the south end of Lake Nipissim, from whence the said line, crossing the river St. Lawrence and the Lake Champlain in 45 degrees of north latitude, *passes along the highlands which divide the rivers that empty themselves into the said river St. Lawrence from those which fall into the sea,* and also along the north coast of the Bay des Chaleurs and the coast of the Gulf of St. Lawrence to Cape Rosiers, and from thence crossing the mouth of the river St. Lawrence by the west end of the island Anticosti, terminates at the aforesaid river St. John."

From this description, it is evident that it was the intention of the Crown, in establishing the province of Quebec, to embrace within its territory, after passing Lake Champlain, the sources of all the streams which flowed into the St. Lawrence, and for that purpose the most fit and appropriate words are adopted. It cannot be supposed that it was intended, by this description, that the line, as it run eastward from Lake Champlain, was to pursue a range of mountains, or to run from peak to peak of the highest mountains between the river St. Lawrence on the one hand, and the Atlantic Ocean on the other. The line was the highlands. What highlands? The highlands which divide the waters; any land, therefore, of any elevation, whether plains or mountains, hills or dales, which are at the sources of the respective rivers flowing into the St. Lawrence and the sea, are the highlands by the proclamation intended, and the most apt words are used to describe them. This line leaves all the waters of the Connecticut, Androscoggin, Kennebec, Penobscot, St. John, and Restigouche, falling into the sea, on one hand, and the streams flowing into the Lake Memphremagog, and through it into the river St. Lawrence, the Chaudierre, the Ouelle, Green, Metis, and many other rivers falling into the river St. Lawrence, on the other. The line, it will be observed, pursues the northern coast of the Bay of Chaleurs and not the middle of the bay; there cannot be any pretence, therefore, that the river Restigouche was, within the meaning of the proclamation, a river flowing into the St. Lawrence, but, on the contrary, it is clearly a river falling into the Atlantic Ocean.

Prior to this proclamation the provinces of Massachusetts Bay and Nova Scotia were bounded north by the river St. Lawrence; the proclamation varied the boundary by transferring it from the shores of the river St. Lawrence to the sources of the rivers which emptied themselves into it; and the aforesaid provinces were then bounded north by the same line, to wit: the range of land, be what it might, high or low, in which the rivers respectively had their sources, leaving the rivers St. John and Restigouche partly in the province of Massachusetts Bay and partly in the province of Nova Scotia, the sources being in the former and the mouths in the latter province. This line has not since been altered, except between Lake Champlain and Connecticut river, where, instead of pursuing the highlands, it was fixed to the parallel of forty-five degrees north latitude.

‖ The line thus established by proclamation has often since, by the acts of the Crown and Parliament of Great Britain, been recognized. October, 1763, in the commission to Montague Wilmot, revoking the commission to a former Governor, and constituting him to be Captain-General and Commander-in-chief of the province of Nova Scotia, is the following description of boundary: "Bounded on the westward by a line drawn from Cape Sable, across the entrance of the Bay of Fundy, to the *mouth of the river St. Croix,*

° Appendix 3. † Appendix 4. ‡ Appendix 5. § Appendix 6. ‖ Appendix 8.

by the said river to its source, and by a line drawn north from thence to the southern boundary of our colony of Quebec; to the northward by the said boundary as far as the western extremity of the Bay des Chaleurs," &c.

*In the commission to William Campbell, in 1767, there is the same description of boundaries of the province of Nova Scotia, and the same are again repeated in the commission to Francis Legge in 1771. The proclamation of 1763 was further recognized and confirmed by the act of Parliament of the 14th of George III, by which it is enacted "that all the territories, islands, and countries in North America belonging to the Crown of Great Britain, bounded on the south by a line from the Bay of Chaleurs, along the highlands which divide the rivers that empty themselves into the St. Lawrence from those which fall into the sea, to a point in forty-five degrees of northern latitude, on the eastern bank of Connecticut river."† The limits of the several provinces were the same at the time of concluding the treaty of 1783.

The question may well be asked, where was the northwest angle of Nova Scotia *and the northeast angle* of the province of Massachusetts Bay before the treaty? Had Nova Scotia two northwest angles? It has already been shown by the charter to Sir William Alexander that the northwest angle of his grant was on the shore of the river St. Lawrence; and although, by the charter of William and Mary in 1691, it became a part of the province of Massachusetts Bay, when it was afterwards separated from it its boundaries were the same as before, and its northwest angle still on the shores of the St. Lawrence. Here the angle remained fixed and stationary until 1763, when the boundaries were transferred from the shore to the land from which the streams falling into the river St. Lawrence flowed and had their source. Nova Scotia had, therefore, but one northwest angle. Here the line became fixed and permanent, and on this line, and to the northward of the heads of all the streams which did not flow into the river St. Lawrence, was the northwest angle of Nova Scotia.

When the boundaries between the provinces of Quebec and Massachusetts Bay were thus clearly defined, and limited to that range of land in which the streams falling into the St. Lawrence at the northward and the St. John at the southward, and continued easterly to the head of the Bay of Chaleurs, and southwestwardly to the head of Connecticut river; and when the boundary between the provinces of Nova Scotia and Massachusetts Bay were thus clearly defined and limited to the river St. Croix, and a line drawn north from it to the aforesaid range of land, the boundary of the Government of Quebec, the repeated acts of arbitrary power exercised by Great Britain towards the provinces comprising the thirteen United States caused them to assert their rights; they maintained them successfully; and to terminate the unprofitable struggle Great Britain acknowledged their existence as an independent nation. When their existence as an independent nation was thus secured, it became necessary for the two nations, to prevent new and unprofitable contests, to fix and establish boundaries between themselves. This was first done in the provisional articles of peace concluded at Paris November 30, 1782, and by the provisions of that instrument were incorporated into and became a part of the definitive treaty of peace concluded at Paris September 3, 1783.

The acknowledgment of independence and the boundaries established are described as follows, to wit:

"ARTICLE 1. His Britannic Majesty acknowledges the said United States, to wit: New Hampshire, Massachusetts, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be free, sovereign, and independent States; and that he treats with them as such; and for himself, his heirs, and successors, relinquishes all claims to the government, propriety, and territorial rights of the same and every part thereof. And that all disputes which might arise in future on the subject of the boundaries of the said United States may be prevented, it is hereby agreed and declared that the following are and shall be their boundaries, to wit:

"ARTICLE 2. *From the northwest angle of Nova Scotia, to wit, that angle which is formed by a line drawn due north from the source of the St. Croix river to the highlands, along the said highlands which divide those rivers that empty themselves into the St. Lawrence from those which fall into the Atlantic Ocean, to the northwesternmost head of Connecticut river;* thence down along the middle of that river to the forty-fifth degree of north latitude; from thence by a line due west on said latitude until it strikes the river Iroquois or Cataraguy; thence along the middle of said river into Lake Ontario, through the middle of said lake until it strikes the communication by water between that lake and Lake Erie; thence along the middle of said communication into Lake Erie, through the middle of said lake until it arrives at the water communication between that lake and Huron; thence along the middle of said water communication between that lake and Lake Superior; thence through Lake Superior, northward of the isles Royal and Philipeaux, to the Long Lake; thence through the middle of said Long Lake, and the communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through said lake to the most northwestern point thereof; and from thence on a due west course to the river Mississippi; thence by a line to be drawn along the middle of the said river Mississippi, until it shall intersect the northernmost part of the thirty-first degree of north latitude. South, by a line to be drawn due east from the termination of the line last mentioned, in the latitude of thirty-one degrees north of the equator, to the middle of the river Apalachicola or Catahouche; thence along the middle thereof to its junction with the Flint river; thence straight to the head of St. Mary's river; thence down along the middle of St. Mary's river to the Atlantic Ocean. *East, by a line to be drawn along the middle of the river St. Croix, from its mouth in the Bay of Fundy to its source; and from its source directly north to the aforesaid highlands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the river St. Lawrence,* comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between the lines to be drawn due east from the points where the aforesaid boundaries between Nova Scotia on the one part and East Florida on the other, shall respectively touch the Bay of Fundy and the Atlantic Ocean, excepting such islands as now are, or heretofore have been, within the limits of the said province of Nova Scotia."

The first article describes by name the several States composing the United States, and, had the treaty stopped here without describing their boundaries more minutely, there could have been no doubt but that all the territory embraced within the charter limits, or within the jurisdiction of Massachusetts Bay, passed by that description. Here, from the use of the term Massachusetts, was an evident intention to conform to the lines as they existed before the treaty, which have been already shown from the documents hereinbefore cited, which are of that clear and explicit character which relieves the subject from all uncertainty and doubt.

But when the subject is still further pursued, and the boundaries are more minutely described, what was clear before is still made more clear and explicit. To be more particular: the northwest angle of

*Appendix 9. †Appendix 10.

Nova Scotia, after it is ascertained by the rule given in the treaty, is the point from which the northern line starts. "From the northwest angle of Nova Scotia, to wit, that angle which is formed by a line drawn due north from the source of the river St. Croix to the highlands." Here we may ask what angle was intended? Was it an angle to be formed on the side line of the province, one hundred or more miles from the real and true northwest angle of Nova Scotia, or was the real and true angle of the province at the point where its western line intersected the line of the province of Quebec? The true construction is too obvious to admit a doubt. It is perfectly clear, from the plain and most natural and obvious construction of the language used, that by the northwest angle of Nova Scotia was truly intended the northwestern extremity of that province.

The description then proceeds: "Along the said highlands which divide those rivers that empty into the river St. Lawrence from those which fall into the Atlantic Ocean." The idea that the words of the treaty require a range of mountains to form the line is totally false and absurd. If the Commissioners intended to describe a line pursuing the highest range of mountains between the Atlantic on the one hand and the river St. Lawrence on the other, they would have used the terms fittest for such description, and not have used the words which plainly and distinctly were intended to embrace any height of land from the lowest to any other elevation, provided it did divide the waters falling into the river St. Lawrence from those falling into the Atlantic Ocean. If mountains were found there, they were intended; if there were no mountains or hills, and the lands only ascended gently from the river St. Lawrence, and again descended towards the main streams falling into the Atlantic, constituting in fact a long and extended plain, from the highest parts of which the streams run northwardly and westwardly into the river St. Lawrence, and southerly and easterly into the Atlantic—such a plain is the highland truly intended by the treaty, and the line is on that part of the plain from which the waters flow in different directions; if the lands are only high enough for the water simply to pass off in different directions, as completely and exactly corresponds with the description in the treaty, and are the highlands truly and eminently intended by it.

The treaty describes but two classes of rivers as having any connexion with this part of the boundaries of the United States, to wit: such as flow into the river St. Lawrence and those which fall into the Atlantic. Although the river St. Lawrence itself falls into the Atlantic Ocean, it is alluded to in a peculiar manner to distinguish it from all *other rivers*, and to place it and its tributary streams in opposition to *them*, whether they flowed into Long Island sound, Kennebec bay, Penobscot bay, the great Massachusetts bay, the Bay of Fundy, or the Bay of Chaleur, or into any other part of the Atlantic Ocean. The language of the treaty being thus clear and explicit, it leaves no doubt on the mind that the highlands of the treaty which divide the waters was intended that range of lands, whether high or low, in which the tributaries of the St. Lawrence have their sources and from which they flow. To search, therefore, for mountain ranges, or for the greatest height of land between the river St. Lawrence and the Atlantic Ocean to fulfil the terms of the treaty, is absurd and preposterous. In the latter part of the article quoted, in describing the east boundary, the descriptive language of the first part of the article is nearly repeated: "East by a line to be drawn along the middle of the river St. Croix, from its mouth in the bay of Fundy to its source, and from its source directly north to the aforesaid highlands which divide the rivers which fall into the Atlantic Ocean from those which fall into the river St. Lawrence."

Although, from the French having erected their crosses at the mouths of various rivers, and having at various times given them names from that circumstance, and the part of the country between the rivers St. John and Penobscot not having been early settled, and seldom visited except for the purpose of traffic with the natives, doubts reasonably might arise as to the true river St. Croix; still, when those doubts were removed and the river clearly ascertained, a certain point was fixed, from which the due north line was to start, and nothing remained but to employ artists to survey the line and erect its monuments. This seems to have been a point conceded in the treaty of amity, commerce, and navigation, concluded at London November 19, 1794, and in all the discussions under the fifth article thereof.

Upon the clear and explicit language of the treaty itself, before any intelligent and impartial tribunal the question of boundary and jurisdiction might be safely placed with a perfect confidence in the issue. But the treaty, though definite in its descriptions and requiring no foreign aid in its interpretation, only adopted the boundaries of provinces which had been defined, established, and recognized by the Crown and Government of Great Britain in their different acts from 1621 to 1775, which will appear by a recurrence to the descriptive language contained in the patents, charters, proclamations, and acts of Parliament before quoted, and nearly in the same language. There can, therefore, be no doubt that the ministers of both Governments intended to adopt, and did adopt, in the treaty of peace, as the boundary of the United States, the boundaries between the provinces of Quebec and Nova Scotia on the one part and Massachusetts on the other part, which had been established by, and had long been familiar to, the Government of Great Britain. This construction, if any further support were necessary, is amply and fully supported by the discussions which led to, and the manner in which the boundaries were concluded by the ministers who negotiated the provisional treaty of peace. The negotiation was carried on in form with Mr. Oswald, who advised with Mr. Fitzherbert, the minister to the Court of Versailles, but in fact with the British Cabinet. Mr. Oswald did little or nothing more, not having authority, than to make such propositions as the British Cabinet, from time to time, according to circumstances, commanded, and received such as our ministers made, until near the close of the discussion, when he was clothed with full powers.

A provision in favor of the loyalists was long and ardently urged by the British, and as ardently resisted by our ministers; the right to the fisheries was urged and insisted on by our ministers, and made a *sine qua non* by a part, and resisted by the British, but finally adopted; both of which topics occupied much time. The fixing and defining the boundaries of the United States also occupied much time, and no part or portion of it was so diligently examined and discussed as the eastern and northern boundaries of the present State of Maine. The British, in the first place, insisted upon the Piscataqua as the eastern limit of the United States, then retreated to the Kennebec, and, as a last resort, would consent to go as far as the Penobscot. During this, as during the other parts of the discussion, messengers were continually crossing and recrossing the channel. Among the messengers and aids to the British the ancient clerk of the Board of Trade and Plantations appeared, with volumes of records from that Department, from which he read whatever there was which tended to show the district of Maine, or any part of it, was not, before that time, within the jurisdiction of Massachusetts Bay. The American ministers, in their turn, produced sundry acts of the colonial Government of Massachusetts Bay, showing the jurisdiction which had been exercised by her; the report of the Attorney and Solicitor Generals, who had, upon the matter being referred to them, decided upon the sundry petitions, applications, and claims made for all the country between the Sagada-

hoc (Kennebec) and St. Croix; and their decision, after examining all the evidence, was against them and in favor of the jurisdiction of Massachusetts Bay; also Governor Hutchinson's report, wherein the right of Massachusetts Bay is discussed, and a volume of the doings of the Commissioners at Paris.

When the British insisted upon limiting the United States to the Piscataqua, the Kennebec, or the Penobscot, the ministers of the United States, or some of them, insisted upon going to the St. John, but finally agreed to adhere to the charter of Massachusetts Bay. That they did do that most manifestly appears from a comparison of the treaty with the patents, charters, proclamations, and acts of Parliament hereinbefore quoted.

That it was the intention of the Commissioners to adopt the boundaries between the provinces of Quebec and Nova Scotia on the one part, and Massachusetts Bay on the other part, was expressly conceded and admitted on the part of the British in the discussions under the fifth article of the treaty of 1794. It even, if possible, was more than admitted; it is one, if not the chief, basis of the whole argument, and was enforced with great ability.

The British agent, in his memorial of claim, says: "By the said second article, hereinbefore recited, of the treaty of peace, it appears to be clearly intended that no part of the province of Nova Scotia should be thereby ceded by his said Majesty to the said United States; but that the same province of Nova Scotia, according to its ancient and former limits, should be and remain a part of the territory of his said Majesty, as his said Majesty then and before that time had held and possessed the same." Again, in his argument, he says: "To facilitatet he investigation of the present question, there appears to be one leading principle that appears to be explicitly established by the very terms of the treaty of peace, and which might, indeed, be fairly considered as an axiom in the present discussion, to wit: *That it was clearly intended by the second article of the treaty that no part of the province of Nova Scotia should be thereby ceded by his Majesty to the United States.*" The words made use of in that article will not admit of a different construction, the United States being expressly bounded east by the eastern boundaries of the province of Nova Scotia. The description of the treaty in this part of the boundaries of the United States is as follows: "From the northwest angle of Nova Scotia, to wit, that angle which is formed by a line drawn due north from the source of the St. Croix to the highlands which divide those rivers that empty themselves into the St. Lawrence from those that fall into the Atlantic Ocean." Now, if the northwest angle of Nova Scotia, agreeably to these clear and express words of the treaty, is formed by such a north line from the source of the St. Croix to the highlands, that north line and those highlands must be the western and northern boundary of Nova Scotia.

And the British agent, in pursuing his argument further, says that, by the treaty of 1763, "all the French possessions upon the continent of North America were ceded to Great Britain; the province of Quebec was created and established by the royal proclamation of the 7th of October of that year, bounded on the south by the highlands which divide the rivers that empty themselves into the river St. Lawrence from those which fall into the *Sea or Atlantic Ocean*, thereby altering the northern boundary of the province of Nova Scotia from the southern shores of the river St. Lawrence to those highlands; there being no longer any apprehension of disturbance from the French, it now became necessary for the settlement of the country that had been in dispute between the two nations to ascertain the boundary line between the provinces of Nova Scotia and Massachusetts Bay."

Having quoted in the preceding pages the main documents on which our title rests, there will not, in the sequel, be a necessity for anything more than general allusions. By a recurrence to the history of that time it will be seen that the treaties were opposed in the British Parliament; but they were opposed by those who had lately been in power, and opposition to the ministry seems to have constituted the leading objection. So far as the treaty with the United States came in question, the objections raised were on account of there being no provision in favor of the loyalists, and the right to the fisheries being secured to the United States; but there was no objection to it on account of the boundaries therein prescribed to the eastern part of the United States. If the boundaries had not been such as were well known and familiar from their own records, the variance would have produced scrutiny; and if any objection could have been raised against it on that account, it would have been brought forward to increase and enforce their other objections.

When the river St. Croix had been consecrated by De Monts in 1604, and by its being the first resting place of Europeans who became permanent settlers in the northern parts of North America; and when, from that circumstance, and from the expedition of Sir Samuel Argall, its name found its way across the Atlantic, yet, from the imperfect geographical knowledge at that time, the position of it could not have been known to the Europeans; and when, in the prosecution of the settlement of the country, other places became more alluring, and the river St. Croix and the country on its borders did not become the site of any settlement or military post, and the natives were there left to pursue their fisheries and the chase without molestation; and when, also, many other rivers on the coast were afterwards designated by the same name; and when all the maps prior to the American Revolution were imperfect, it is not wonderful that doubts, and serious doubts, arose as to which river was intended as the boundary between the province of Massachusetts Bay and the province of Nova Scotia. Hence, as the river St. Croix was a part of the boundary between the provinces, when the settlements on the coast began to approach each other it became necessary to ascertain the river truely intended, to prevent collision and the conflict of jurisdiction.

Before the American Revolution, and as early as the year 1764, it had become the object of the serious research and investigation of the respective provinces. From the researches of the agents of the province of Massachusetts Bay, made on the spot from the concurrent information of all the natives, and from all the maps in their possession, they were convinced that the river Magaguadavic was the river St. Croix. Such was the tradition, and such was the conclusion.

It generally was considered and believed, in the province of Massachusetts Bay, that it was bounded east by the river Magaguadavic, and by a line drawn due north from its source to the highlands which divide the rivers that empty themselves into the St. Lawrence from those which fall into the sea, or, in other words, by a line drawn due north from the source of the said Magaguadavic river to the southern line of the province of Quebec, which had, by proclamation, been created the preceding year. The province of Nova Scotia, on the other hand, believed that the province extended westward to the river Schoodic, and was bounded west by the east line of the province of Massachusetts Bay, and north by the aforesaid south line of the province of Quebec. Impressed with such a belief, the Governor of Nova Scotia, as the settlements extended westward, and individuals wished for grants of land made them, and

from the year 1765 to 1774, made sundry grants of land lying between the Magaguadavic and the Schoodic rivers.

Such were the different opinions entertained at the commencement of the Revolution, and such they continued to be when the provisional treaty and the treaty of peace were concluded. When the provinces were cut asunder, and ceased to be under the control of the same general sovereignty, and after the close of the war, the loyalists settled on the eastern banks of the Schoodic, and extended their settlements between that and the Magaguadavic rivers, under the grants of the province of Nova Scotia or the Crown. The attention of Massachusetts was aroused, and called distinctly to the subject; and the Government, July 7, 1784, passed a "Resolve for appointing agents to the eastern part of this State, to inform themselves of encroachments made by the British subjects, and instructing them how to proceed." The agents were appointed, repaired to the place where the dispute existed, viewed the rivers, and made all such other inquiries as were within their power, and became convinced that the river Magaguadavic was the river St. Croix of the treaty of 1783. In answer to inquiries made by the Lieutenant Governor of Massachusetts, dated Autevil, near Paris, October 25, 1784, the late John Adams, one of the negotiators of the provisional and the treaty of peace, says: "We had before us, through the whole negotiation, a variety of maps, but it was Mitchell's map upon which was marked out the whole boundary line of the United States; and the river St. Croix, which was fixed on, was, upon that map, the nearest to the St. John's; so that, in all equity, good conscience, and honor, the river next to the St. John's should be the boundary. I am glad the general court are taking early measures, and hope they will pursue them steadily until the point is settled, which it may be now amicably; if neglected long, it may be more difficult." Massachusetts became confirmed in her claim as her inquiries and researches were extended. She pressed her claim upon the consideration of Congress and upon the consideration of the Governors of Nova Scotia and New Brunswick. Representations were made by Congress to the Government of Great Britain through the minister of the United States.

The different parties, so far from settling the difficulties, probably became more and more confirmed in their different opinions. After the organization of the Government of the United States under the Constitution, by a resolve passed February 1, 1790, it was "*Resolved*, That his excellency the Governor be, and he hereby is, requested to write to the President of the United States, in behalf of this Commonwealth, informing him that the subjects of his Britannic Majesty have made, and still continue to make, encroachments on the eastern boundary of this Commonwealth, in the opinion of the Legislature contrary to the treaty of peace; and that his excellency be requested to forward such documents as may be necessary to substantiate the facts." Thus Massachusetts called on the Government of the United State to protect them in the possession of their territory.

The doubts which had arisen extended no further than to what river was intended by the river St. Croix in the treaty of 1783, the treaty only describing it by its namen; or could they, for when that was settled, the rule was clearly and distinctly given for finding the northwest angle of Nova Scotia. That is clearly implied in the first part of the fifth article of the treaty of 1794, for it says: "Whereas doubts have arisen what river was truly intended under the name of the river St. Croix, mentioned in the said treaty of peace, and forming a part of the boundary therein described, that question shall be referred to the final decision of Commissioners." The same article made it the duty of the Commissioners, "by a declaration under their hands and seals, to decide what river was the river St. Croix intended by the treaty, and further to describe the river, and to particularize the latitude and longitude of its mouth and its source." If any other doubts could have existed, or if the residue of the line could not have been ascertained by a survey, or if it had not been considered that ascertaining the river St. Croix settled the whole dispute, and if such were not the convictions of the contracting parties, it is not unreasonable to suppose that further provisions would have been introduced into the treaty.

It was contended by the agent of the United States, before the Commissioners, that the river Magaguadavic was the river St. Croix truly intended by the treaty of 1783, and he founded his claims and argument on many depositions of the natives, and of the persons who first settled in that part of the country, on the examination and reports of agents on the letters and testimony of several other persons and on sundry maps.

It was contended by the agent for his Britanic Majesty that the river Scoudiac was the river St. Croix truly intended by the treaty of 1783, and he founded his argument on the grant to Sir William Alexander, Les Carbot and Champlain's histories of the voyages of De Monts, and their description of the country, the commissions to Governors of Nova Scotia from 1719 to 1771, the proclamation of 1763, and two acts of Parliament of the 14th of George III, and sundry maps* and depositions. His argument, and the facts and documents upon which he founded it, clearly admits and demonstrates that the only uncertainty was as to what river was intended by the river St. Croix, and that from the source of the river which the Commissioners should decide and designate according to the treaty of 1794, the eastern boundary line of the United States and the western boundary of the province of Nova Scotia must commence and continue due north to the highlands, to wit, the highlands between the river St. Lawrence and the Restigouche or the St. John, according as the source should be fixed further east or further west. He expressly admits that the line due north from the St. Croix will, in any event, cross the river St. John to the highlands between that and the river St. Lawrence, to wit, the lands which divide the streams which flow into the St. Lawrence from those which fall into the Atlantic.†

The discussion was closed in 1798, and the time had not then arrived when, from "*cupidity*," or a desire to establish a line from which they could attack the United States in the rear, while their Navy should attack them on the seaboard, when they were determined to acquire, by effrontery or sophistry, the territory which they had sought in vain as a cession.

The Commissioners, on the 25th of October, 1798, made the declaration, under their hands and seals, deciding what, and describing the river also which was truly intended by the river St. Croix in the treaty of 1783.‡ Prior, however, to their making their final declaration, they had agreed, and were about making it the final declaration, that the river Schoodic, from its mouth at Joes Point to the lake Genesagranagum-sis, now called the Round lake, being the lowest of the western Schoodic lakes, was the river St. Croix of the treaty; which declaration they did not make, but by the agreement or consent of the agents of the United States and Great Britain and the advice of the British minister.§ They adopted the branch called the Cheputnetecook to its source as a part of the river which they were to decide and designate. If the British Government gained no advantage in the decision of the Commissioners, as,

* See Appendix. † Appendix 11. ‡ Appendix 12. § Appendix 13.

from the evidence submitted, the Commissioners might well have decided that the Magaguadavic was the river St. Croix intended by the treaty, they did, in fact, gain a most decided and important advantage in the adoption of the source of the Cheputnetecook, instead of the source of the other branch of the Schoodic river, where it issues from the lake Genesagranagum-sis, being the first lake on the western branch of the Schoodic, above its junction with the Cheputnetecook. By an inspection of the map it will appear that the British have gained a tract of land, by a change of the declaration of the Commissioners as to the source of the river St. Croix, of more than one hundred and forty miles in length by more than ten miles in breadth. These facts are not named because there is any disposition on our part to violate the good faith pledged in the treaty and the decision which was thus amicably made. The British, if they be, as they declare themselves to be, "a great, honorable, and magnanimous nation," ought equally to abide the decision and its consequences in good faith, more especially as they gained so much by the result. Here every real doubt or difficulty of any importance was settled and removed, and nothing remained but to run and mark the line and erect its monuments. Trifling differences in surveying the line might occur, arising from the variation of the needle, and from the peculiar situation of the land on the line of the Government of Quebec at the northwest angle of Nova Scotia, one of which would tend to change the longitude and the other the latitude of the angle possibly a mile, but not in any instance to a distance of any importance to either Government.* Some trifling differences might also arise in surveying the line between the Government of Quebec and Massachusetts in running the line southwesterly from the northwest angle of Nova Scotia, as to the precise points which divide the waters and the lines which should connect those points; but all such differences are within a very narrow compass. That the only subject of doubt or difficulty of any importance was what river was truly intended by the river St. Croix is not only conceded by the treaty of 1794, but is demonstrated by the documentary evidence produced by the agent of his Britannic Majesty, to wit: the patents, charters, proclamations, and acts of Parliament, and his arguments founded upon these documents; his arguments being, in fact, founded upon this plain and simple proposition, that the lines described by the treaty of 1783 were, and were intended to be, the lines which had before been estsblished between the province of Massachusetts Bay on the one hand, and the provinces of Quebec and Nova Scotia on the other.*

When the subject is again recurred to by the respective Governments it is not treated as a subject involving anything more than possible difficulties of trifling importance. Hence, in a convention between his Britannic Majesty and the United States, which was dated the 12th day of May, 1803, but which was not ratified by the United States, instead of reciting that whereas doubts have arisen, &c., as in the treaty of 1794, says: "Whereas it has become expedient that the northwest angle of Nova Scotia, mentioned and described in the treaty of peace between his Majesty and the United States, should be ascertained and determined, and that the line between the source of the river St. Croix and the said northwest angle of Nova Scotia should be run and marked, according to the provisions of the said treaty of peace." And again, when the subject is recurred to, in a paper delivered to Lord Harrowby, September 5, 1804, the following language is used: "By the treaty of 1783, between the United States and Great Britain, the boundary between those States and Nova Scotia and Canada is fixed by a line which is to run along the highlands bounding the southern waters of the St. Lawrence." The same subject is once more recurred to by our ministers at the Court of St. James, in April, 1807, and the same language is used in a proposed article on the same subject as was used in the unratified convention of 1803, before recited.

The subject is not again recurred to between the respective Governments until 1814, in the correspondence which preceded, and in the fifth article of the treaty of Ghent. In order to arrive at a full and perfect knowledge of the facts, to the end that the just and true interpretation of the fifth article of the treaty of Ghent may more fully appear, a particular examination of the correspondence which preceded it between the ministers of the respective Governments of the United States and Great Britain, connected with the great chain of evidence of title, and implied, and direct, and positive concessions of the British is deemed important. The correspondence touching the subject in discussion is as follows:

In the protocol made by the American Commissioners of the first two conferences held with the British Commissioners, the third point presented by the Commissioners on the part of the British as subjects of discussion is, "the revision of the boundary line between the *territories* of the United States and those of Great Britain adjoining them in North America."†

In the protocol of conference of August 8, 1814, among the subjects stated for discussion by the British Commissioners, the third is, "a revision of the boundary line between the British and American territories, with a view to prevent future uncertainty and dispute."‡

In a letter dated Ghent, August 12, 1814, from the American Commissioners to the Secretary of State,§ the British Commissioners stated three subjects as those upon which it appeared to them that the discussions would be likely to turn, and on which they were instructed. The third subject stated is, "a revision of the boundary line between the United States and the adjacent British colonies." With respect to this point they expressly disclaimed any intention on the part of their Government to acquire an increase of territory, and represented the proposed revision as intended merely for the purpose of preventing uncertainty and dispute. In a letter dated Ghent, August 19, 1814, from the American Commissioners to the Secretary of State, the third subject stated by the British Commissioners is, "a direct communication from Halifax and the province of New Brunswick to Quebec to be secured to Great Britain. In answer to our question, in what manner this was to be effected, we were told that it must be done by a *cession* to Great Britain of that portion of the district of Maine (in the State of Massachusetts) which intervenes between New Brunswick and Quebec, and prevents their direct communication."‖

In a note of the British Commissioners, dated Ghent, August 19, 1814, they say: "As they are desirous of stating every point in connexion with the subject which may reasonably influence the decision of the American plenipotentiaries in the exercise of their discretion, they avail themselves of this opportunity to repeat, what they have already stated, that Great Britain *desires the revision of the frontier between her North American dominions and those of the United States, not with any view to an acquisition of territory as such, but for the purpose of securing her possessions, and preventing future disputes.*"¶

Then follows a proposition that the military possession of the lakes shall be left in the hands of the British; then the note proceeds, "if this can be adjusted, there will then remain for discussion the arrangement of the northwestern boundary between Lake Superior and the Mississippi, the free navigation

* Appendix 11. † State Papers, vol. 9, page 327. ‡ Ibid., 330. § Ibid., 320. ‖ Ibid., 332. ¶ Ibid., 339.

of that river, and such a VARIATION *of the line of frontier as may secure a direct communication between Quebec and Halifax.*"

In a letter dated Ghent, August 24, 1814, from the American to the British Commissioners, they say: "The undersigned further perceive that, under the alleged purpose of opening a direct communication between two of the British provinces in America, the British Government require *a cession of territory forming a part of one of the States of the American Union*, and that they propose, without purpose specifically alleged, to draw the boundary line westward, not from the Lake of the Woods, as it now is, but from Lake Superior. It must be perfectly immaterial to the United States whether the object of the British Government in demanding the dismemberment of the United States is to acquire territory as such, or for purposes less liable, in the eyes of the world, to be ascribed to the desire of aggrandizement. Whatever the motive may be, and with whatever consistency views of conquest may be disclaimed while demanding for herself or for the Indians a cession of territory more extensive than the whole island of Great Britain, the duty marked out for the undersigned is the same. They have no authority to cede any part of the territory of the United States, and to no stipulation to that effect will they subscribe."*

In a letter dated Ghent, September 4, 1814, from the British to the American Commissioners, they say: "With respect to the boundary of the district of Maine, and that of the northwestern frontier of the United States, the undersigned were not prepared to anticipate the objections contained in the note of the American plenipotentiaries, that they were instructed to treat for the revision of their boundary lines, with the statement which they have subsequently made, that they had no authority to cede any part, however insignificant, of the territories of the United States, although the proposal left it open for them to demand an equivalent for such cession in territory or otherwise.

"The American plenipotentiaries must be aware that the boundary of the district of Maine has never been correctly ascertained; that the one asserted at present by the American Government, by which the direct communication between Halifax and Quebec becomes interrupted, was not in contemplation of the British plenipotentiaries who concluded the treaty of 1783, and that the greater part of the territory in question is actually unoccupied. The undersigned are persuaded that an arrangement on this point might be easily made, if entered into with the spirit of conciliation, without any prejudice to the interests of the district in question. As the necessity for fixing some boundary for the northwestern frontier has been mutually acknowledged, a proposal for a discussion on that subject cannot be considered as a demand for a cession of territory, unless the United States are prepared to assert there is no limit to the territories in that direction, and that, availing themselves of the geographical error upon which that part of the treaty of 1783 was founded, they will acknowledge no boundary whatever, then, unquestionably, any proposition to fix one, be it what it may, must be considered as demanding a large cession of territory from the United States."*

In a letter dated Ghent, September 9, 1814, from the American to the British Commissioners, the American Commissioners say: "With regard to the cession of a part of the district of Maine, as to which the British plenipotentiaries are unable to reconcile the objections made by the undersigned with their previous declarations, they have the honor to observe that, at the conference of the 8th ultimo, the British plenipotentiaries stated, as one of the subjects suitable for discussion, a revision of the boundary line between the British and American territories, with a view to prevent uncertainty and dispute; and that it was on the point thus stated that the undersigned declared that they were provided with instructions from their Government; a declaration which did not imply that they were instructed to make any cession of territory in any quarter, or to agree to a revision of the line, or to any exchange of territory where no uncertainty or dispute existed.

"The undersigned perceive no uncertainty or matter of doubt in the treaty of 1783 with respect to that part of the boundary of the district of Maine which would be affected by the proposal of Great Britain on that subject. They never have understood that the British plenipotentiaries who signed that treaty had contemplated a boundary different from that fixed by the treaty, and which requires nothing more, in order to be definitely ascertained, than to be surveyed in conformity with its provisions. This subject not having been a matter of uncertainty or dispute, the undersigned are not instructed upon it, and they can have no authority to cede any part of the State of Massachusetts, even for what the British Government might consider a fair equivalent.†"

In a letter dated Ghent, September 19, 1814, from the British to the American Commissioners, they say: "With respect to the boundary of the district of Maine, the undersigned observe, with regret, that although the American plenipotentiaries have acknowledged themselves to be instructed to discuss a revision of the boundary line with a view to prevent uncertainty and dispute, yet, by assuming an exclusive right at once to decide what is or is not a subject of uncertainty and dispute, they have rendered their powers nugatory or inadmissibly partial in their operation."‡

In a letter dated Ghent, September 26, 1814, from the American to the British Commissioners, they say: "The undersigned are far from assuming the exclusive right to decide what is or what is not a subject of uncertainty or dispute with regard to the boundary of the district of Maine. But until the British plenipotentiaries shall have shown in what respect the part of that boundary which would be affected by their proposal is such a subject, the undersigned may be permitted to assert that it is not."

The treaty of 1783, described the boundary as "a line to be drawn along the middle of the river St. Croix, from its mouth, in the Bay of Fundy, to its source, and from its source, directly north, to the highlands which divide the rivers that fall into the Atlantic Ocean from those which fall into the river St. Lawrence, and thence along the said highlands to the northwesternmost head of Connecticut river." "Doubts having arisen as to the St. Croix designated in the treaty of 1783, a provision was made in that of 1794 for ascertaining it; and it may be fairly inferred, from the limitation of the article to that sole object, that, even in the judgment of Great Britain, no other subject of controversy existed in relation to the extension of the boundary line from the source of that river. That river and its source having been accordingly ascertained, the undersigned are prepared to propose the appointment of Commissioners by the two Governments to extend the line to the highlands, conformably to the treaty of 1783. The proposal, however, of the British plenipotentiaries was not to ascertain, but to vary those lines in such a manner as to secure a direct communication between Quebec and Halifax, an alteration which could not be effected without a cession by the United States to Great Britain of all that portion of the State of Massachusetts intervening between the province of New Brunswick and Quebec, although unquestionably included within the boundary lines fixed by that treaty. Whether it was contemplated on the part of Great Britain

* State Papers, vol. 9 p. 381. † Ibid., p. 398. ‡ Ibid., p. 400.

to obtain a cession with or without an equivalent, in frontier or otherwise, the undersigned, in stating that they were not instructed or authorized to treat on the subject of cession, have not declined to discuss any matter of uncertainty or dispute which the British plenipotentiaries may point out to exist, respecting the boundaries in that or any other quarter, and are therefore not liable to the imputation of having rendered their powers on the subject nugatory or inadmissibly partial in their operation."*

In a letter dated Ghent, October 8, 1814, from the British to the American Commissioners, they say: "The British Government never required that all that portion of Massachusetts intervening between the province of New Brunswick and Quebec should be ceded to Great Britain, but only that small portion of unsettled country which interrupts the communication between Halifax and Quebec, (there being much doubt whether it does not already belong to Great Britain.")† In the letter dated Ghent, October 21, 1814, from the British to the American Commissioners, they say: "On the question of boundary between the dominions of his Majesty and those of the United States, the undersigned are led to expect, from the discussion which this subject has already undergone, that the northwestern boundary, from the Lake of the Woods to the Mississippi, (the intended arrangement of 1803,) will be admitted without objection.

"In regard to other boundaries, the American plenipotentiaries, in their note of August 24, appeared in some measure to object to the proposition then made by the undersigned as not being on the basis of *uti possidetis*. The undersigned are willing to treat on that basis, subject to such modifications as mutual convenience may be found to require; and they trust that the American plenipotentiaries will show, by their ready acceptance of this basis, that they duly appreciate the moderation of his Majesty's Government, in so far consulting the honor and fair pretensions of the United States, as, in the relative situation of the two countries, to authorize such a proposition."‡

In a letter dated Ghent, October 24, 1814, from the American to the British Commissioners, they say: "Amongst the general observations which the undersigned, in their note of August 24, made on the propositions then brought forward on the part of the British Government, they remarked that those propositions were neither founded on the basis of *uti possidetis* nor that of *status ante bellum*. But so far were they from suggesting the *uti possidetis* as the basis on which they were disposed to treat, that in the same note they expressly stated that they had been instructed to conclude a peace on the principle of both parties restoring whatever territory they might have taken. The undersigned also declared in that note that they had no authority to cede any part of the territory of the United States, and that to no stipulation to that effect would they subscribe; and in the note of September 9, after having shown that the basis of *uti possidetis*, such as it was known to exist at the commencement of the negotiation, gave no claim to his Britannic Majesty to cessions of territory founded upon the right of conquest, they added, that even if the chances of war should give to the British arms a momentary possession of other parts of the territory of the United States, such events would not alter their views with regard to the terms of peace to which they would give their consent.

"The undersigned can only now repeat those declarations, and decline treating upon the basis of *uti possidetis*, or upon any other principle involving a cession of any part of the territory of the United States; as they have uniformly stated, they can only treat upon the principle of a mutual restoration of whatever territory may have been taken by either party. From this principle they cannot recede; and the undersigned, after the repeated declarations of the British plenipotentiaries that Great Britain had no view to the acquisition of territory in this negotiation, deem it necessary to add that the utility of its continuance depends on their adherence to this principle."§

In a letter dated Ghent, October 25, 1814, from the American Commissioners to the Secretary of State, they, after stating that an article had been reduced to writing securing merely an Indian pacification, had been agreed to be accepted, subject to the ratification or rejection of the Government of the United States, say: "But you will perceive that our request for the exchange of a project of a treaty has been eluded, and that in their last note the British plenipotentiaries have advanced a demand, not only new and inadmissible, but totally incompatible with their uniform previous declarations that Great Britain had no view in this negotiation to any acquisition of territory. It will be perceived that this new pretension was brought forward immediately after the accounts had been received that a British force had taken possession of all that part of the State of Massachusetts situated east of Penobscot river."‖

It having been shown in the first part of this report what the lines between Massachusetts and Nova Scotia, and Massachusetts and the province of Quebec, as formed and established by the Government, were prior to the provisional treaty and the definitive treaty of peace of 1783; and the investigation which took place, and the care and diligence with which the subject was examined by the Commissioners of both Governments and the Cabinet of Great Britain, and that it was the intention of both Governments to adopt the lines above mentioned as a part of the boundary of the United States; and that the treaty itself, in describing the boundary, contains almost the precise language which the British had often used in relation to the same lines; it having also been shown that the only difficulty in relation to the line arose from the uncertainty as to what river was truly intended by the river St. Croix, and which uncertainty arose from facts and circumstances which existed long before, and at the time of concluding the treaties, and which were not removed by the treaty, in consequence of the river St. Croix not being designated with any more particularity than it was before in the patents, charters, acts of Parliament, and documents, in which it had been mentioned; and also that in the discussions on the subject between the Governments of the United States and Great Britain it had been admitted, more especially by the agent for the latter, that let the Commissioners designate what river they would as the river St. Croix trulyintendedby the treaty of peace, from the source of that river the line run due north to the highlands, the southern line of the Government of Quebec, and the northern line of Massachusetts and the province of Nova Scotia; and, in any event, even if they adopted the most western point, which he described as the head of the river St. Croix, the line running north must cross the river St. John to the highlands dividing the waters which fall into that river from those which fall into the river St. Lawrence.¶

It also having been further shown that, since 1798, when the river St. Croix was designated by the Commissioners under the treaty of 1794, from all the correspondence and treaties which had been formed or proposed to be formed by the Commissioners of the two Governments, the right of the United States had not been considered any way doubtful, and the whole object of the arrangements thus attempted to be made had been limited to surveying and marking the line.

With a recurrence to these facts and circumstances, a more particular attention to the correspondence

* State Papers, vol. 9, p 405. † Ib., p. 415. ‡ Ib., p., 427.
§ Ib. p 428. ‖ Ib., p. 375. ¶ See Appendix 11.

which preceded the treaty of Ghent, which is hereinbefore quoted, to the end that the true intent and meaning of the contracting parties in the fifth article of that treaty may be more clearly ascertained and better understood, is not deemed unimportant.

The British Commissioners ask a revision of the boundary line between the United States and the adjacent British colonies, disclaiming expressly, at the same time, any disposition to acquire an increase of territory, and limiting their proposition to the simple fact of so ascertaining the line as to prevent uncertainty and dispute. Such was their first proposition; but as the conferences progressed, they in some measure varied their proposition, and instead of asking simply a revision of the line, to prevent uncertainty and dispute, they ask a direct communication from Halifax and the province of New Brunswick to Quebec; and when they are requested to explain, explicitly declare that it must be done by a cession of that portion of the district of Maine which intervenes between New Brunswick and Quebec and prevents a direct communication.

Here they clearly and distinctly ask the territory as a cession, thereby conceding the title is not in them, which the subordinate agents, since appointed, have had the ingenuity to claim as a right. The American Commissioners most clearly and explicitly deny any authority on their part to cede any portion of the territory asked of them, whether to secure the right of passage between their different provinces or otherwise, and the denial is repeated as often as the subject recurs in the conferences or correspondence.

The British Commissioners, in giving a construction to their own proposition for securing a direct communication between New Brunswick and Quebec, say: "Their proposal left it open to the American Commissioners to demand an equivalent for such cession in territory or otherwise." Here our right is again conceded in language which admits no doubt, for the supposition that the British would consent to purchase of us that territory to which they had title is absurd and preposterous. The British are too vigilant in their negotiations to overlook their claims, whether well or ill founded. They are not generous beyond what their interests dictates, nor are they liable to the imputation of undue or disinterested generosity in their negotiations.

The American ministers most explicitly stated that they were not instructed to agree to any revision of the line where no uncertainty or dispute existed; and that they could perceive no uncertainty or matter of doubt in the treaty of 1783, with regard to that part of the boundary of the district of Maine, which would be affected by the proposal of Great Britain on the subject; that they never understood that the British plenipotentiaries who signed that treaty had contemplated a boundary different from that fixed by the treaty, and which requires nothing more, in order to be definitively ascertained, than to be surveyed in conformity with its provisions. The subject not having been a matter of uncertainty or dispute, they were not instructed upon it, and had no authority to cede any part of the State of Massachusetts, even for what the British might consider a fair equivalent.

To which the British ministers replied, that although the American Commissioners acknowledged themselves to be instructed to discuss the revision of the boundary line, yet, by assuming to decide for themselves what was or what was not a subject of uncertainty or dispute, they had rendered their powers nugatory or inadmissibly partial.

The American Commissioners having stated their construction of the treaty of 1783, as it applied to the line between Maine and the provinces of Nova Scotia and Canada, say that they have not pretended to assume anything, but shall persevere in their opinions until the British Commissioners should point out in what respect the part of the boundary which would be affected by their proposal is such a subject of uncertainty or dispute. That all the doubts which could have ever existed in relation to the line were settled under the treaty of 1794, and were prepared to propose the appointment of Commissioners to extend the lines to the highlands in conformity to the treaty of 1783. That the proposition of the British was to vary those lines, by obtaining a cession of the territory between New Brunswick and Quebec, although that territory was unquestionably included within the boundary lines fixed by the treaty.

Although the subject is again thus clearly pressed upon the consideration of the British Commissioners, and they are called upon to point out any uncertainty or dispute, or cause of uncertainty or dispute in relation to the boundary, with a perfect understanding that their acquiescence would be taken as the admission of the fact, to wit, that there was no uncertainty or dispute as to the boundary line; they pointed out no uncertainty, but contented themselves by saying, the "British Government never required that all that portion of Massachusetts which intervenes between the province of New Brunswick and Quebec should be ceded to Great Britain, but only that small portion of territory which interrupts the communication between Halifax and Quebec, (there being much doubt whether it does not already belong to Great Britain.") Here no uncertainty or dispute is pointed out; they do not once say the line stops at Mars Hill, or any other point, but admit that it does not, by invariably asking the territory, or a communication between New Brunswick and Quebec, or Halifax and Quebec, as a cession. Instead of meeting the proposition of the American Commissioners in the frankness and candor with which it was made, they do no more than superadd a doubt, which the whole correspondence shows they did not believe, perhaps with a glimmering hope that the British Government might find some daring agent who would have the hardihood to claim, and by ingenious sophistry endeavor to maintain, as a right, that which, from their convictions of right and justice, they requested only as a cession; some one who would not be restrained by that highminded and honorable course which ought ever to be preserved to maintain the relations of peace and harmony between nations, but would sacrifice every consideration of that kind to acquire a temporary advantage, regardless of its future results.

After the British had taken military possession of Castine, and claimed from that circumstance the military possession of the territory of the State of Maine, east of Penobscot river, and having altogether failed, even in the prospect of obtaining any part of the State of Maine by cession, they change their proposition, and, to effect the same object, proposed the principle of *uti possidetis* as the basis, subject to such modifications as mutual convenience may be found to require. To this proposition the American Commissioners promptly and unequivocally, as they had done on all other occasions, refused treating "on the principle of *uti possidetis*, or upon any other principle involving a cession of any part of the territory of the United States."

Can it for a moment be supposed, that when the British Commissioners so often requested the territory as a cession, and expressed a disposition to give an equivalent if it would be received, and when they were as often and peremptorily denied on the ground of total want of authority to cede, that it was the intention of the Commissioners to do anything more than to provide for the survey and marking of the lines, and to guard against any possible difficulties of a minor character, such as the variation of the needle, or the precise spot where the corner, to wit, the northwest angle of Nova Scotia, should be fixed,

on the range of highlands, limiting the sources of those rivers which empty themselves into the river St. Lawrence, or some other possible difficulties of a similar character; none of which would vary the lines materially, or in any important degree, to either Government. When the whole is fairly and candidly examined, such must be the conclusion. No other conclusion can be made, unless it be on the ground that the American Commissioners undertook to exercise a power which they so often and explicitly declared to the British they did not possess; and if they did exercise a power which they did not possess, their acts were not obligatory upon the Government.

A careful examination of the fifth article of the treaty of Ghent does not involve a conclusion that the Commissioners departed from the powers given them and their repeated and reiterated declarations. The part of the article relating to the point under discussion is as follows: "Whereas neither that point of the highlands lying due north from the source of the river St. Croix, and designated in a former treaty of peace between the two Powers as the northwest angle of Nova Scotia, nor the northwesternmost head of Connecticut river, has yet been ascertained; and whereas that part of the boundary line between the dominions of the two Powers, which extends from the source of the river St. Croix, directly north, to the abovementioned northwest angle of Nova Scotia; thence, along the said highlands which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean, to the northwesternmost head of Connecticut river; thence, down along the middle of that river, to the forty-fifth degree of north latitude; thence, by a line due west on said latitude, until it strikes the river Iroquois or Cataraguy, has not yet been surveyed: it is agreed that, for these several purposes, two Commissioners shall be appointed, sworn, and authorized to act exactly in the manner directed, with respect to those mentioned in the next preceding article, unless otherwise specified in the present article. The said Commissioners shall have power to ascertain and determine the points above mentioned, in conformity with the provisions of the said treaty of peace of one thousand seven hundred and eighty-three, and shall cause the boundary aforesaid to be surveyed and marked according to the said provisions. The said Commissioners shall make a map of said boundary, and annex it to a declaration under their hands and seals, certifying it to be a true map of said boundary, and particularizing the latitude of the northwest angle of Nova Scotia and of the northwesternmost head of Connecticut river, and of such other points of said boundary as they may deem proper."

Here the question may be repeated: Has Nova Scotia two northwest angles, or an ideal one placed where the "*cupidity*" or the interested views of either party may dictate; or is the northwest angle of Nova Scotia the northwest angle of Nova Scotia as established by the Crown and Government of Great Britain, adopted by the treaty of 1783, and recognized in the discussions by the agents under the fifth article of the treaty of 1794, and also recognized by all subsequent discussions between the United States and Great Britain? It cannot be reasonably supposed that the Commissioners had any other angle in view, especially as the article seems to recognize and place the location of the angle on the construction of the treaty of 1783, explained as it was by the treaty of 1794, and the discussions under that treaty. It cannot be supposed that the British Commissioners expected to gain that which they had requested as a cession, or the American Commissioners expected to lose anything which they had denied, from the language used and references made in the article above quoted; but it is to be supposed that both parties, in agreeing to the article, limited to the description in the treaty of 1783, as the same had been defined, and the rights of the parties under it had been explained by direct and implied acknowledgments of its true construction, from the time of its adoption, intended simply to provide for the survey and marking of the line. No other conclusion can follow, unless it be supposed that the highminded and honorable men who negotiated the treaty did, on the one part, resort to the most despicable chicanery, and the other to a gross and palpable violation of the power and authority to them delegated; neither of which can be true. It follows, then, that to fulfil this article nothing more was required than to survey and mark the lines, and that the difficulties which could arise, if any, were of minor consequence, not involving in any event but a trifling extent of territory, and of little importance to either Government, and by no means involving the title to the intervening territory between New Brunswick and Quebec, which had often been sought as a cession to secure a direct communication, and as often denied.

If the Agents and Commissioners of the two Governments have departed from this plain and natural interpretation of the treaty, they must have erred from causes which are creditable to neither. If a line were to be established contrary to this obvious construction, it is to be foreseen that the party thus deprived of its rights would imbibe a spirit not to be subdued, and which would seek its redress whenever it could at any sacrifice. If the British colonists were to be governed by their true interests, they would not endeavor to acquire anything by construction, against the true and common sense interpretation of all the treaties, because in that they would discover the germs of eternal hostility.

If, in the prosecution of the duties under this article, the Agent of the United States has misconstrued and extended its application beyond its plain and obvious construction, or had not a clear and distinct view of the meaning of the terms "*highlands which divide the waters*," in the treaty of 1783, or was bewildered by mountains, or mountain ranges, when even mole hills answer the description precisely, if they do "divide the waters which flow into the river St. Lawrence from those which fall into the Atlantic;" and if the British agent, in the prosecution of his duties under the same article, has pretended that the northwest angle of Nova Scotia is at Mars Hill, and that the line of the United States runs southwestwardly from that point, when the territory extending north, northwest, west, and southwestwardly, is claimed as a part of the ancient province of Nova Scotia, thereby destroying the northwest angle of Nova Scotia, which had been established by a series of acts of the British Government, and acknowledged by them to this time, and substituting therefor a southwest angle; and if from the course, so absurd and preposterous in itself, ingenuity should obtain a temporary triumph over right, a question will arise, growing out of the nature of and the organization of the State and National Governments, has the United States any constitutional authority to cede any part of an independent sovereignty composing one of its members?

The Commissioners of the United States who negotiated the treaty of Ghent uniformly denied the right of cession; but whether they founded their denial on the want of authority in the instructions given them, or upon the Constitution of the United States, is not perfectly clear. If upon the first, they adopted a right course; if upon the last, their course was also right; and there must be perfect harmony of opinion, because either principle preserves the rights of the individual States. On this subject it may be important to consider the object and nature of the association of the States which led to the adoption of the Constitution.

The General Government, which had originated in the oppression of Great Britain, and had been sustained by the pressure of an external enemy, and had carried the country through the Revolution, when

peace was restored, was found to be too feeble for any valuable purpose to the States. Its inherent defects had, by a few years' experience, been shown, and the States, for want of general union, were in danger of degenerating and falling into anarchy, and of becoming a prey to each other or any foreign nation. The independent sovereignties saw the necessity of associating anew, which they did, and in that association mutually delegated limited parts of their sovereign power for the greater security of those retained.

As in the first confederation mutual defence and protection was a primary object, so it was in the last confederation; a mutual protection, not limited to the personal right of individuals, but extended to the full and free exercise of the whole sovereign power, not delegated to the extent of the territorial jurisdiction of the State. With this view of the object of the confederation, composed as it was of independent sovereignties, it cannot be supposed that they ever intended to give to the General Government any power by which they might be destroyed and consolidated, or by which even their rights of sovereignty and jurisdiction might be abridged. It has never been pretended that Congress has the power of taking from one State and giving to another, or to incorporate new States within the limits of old ones; nor has it ever claimed to exercise such a power. The most it has ever done, or has a constitutional right to do, has been to give its consent to the compact made between the parties immediately interested, and to admit the new State into the Union.

If Congress do possess the power of ceding any portion of an independent State, they possess a power to break down the State sovereignties by which they were created, and at their pleasure to produce a consolidation of those sovereignties—a power which was never delegated or intended. If, therefore, the Congress of the United States attempt to exercise such a power, the State thus deprived of or limited in its rights of sovereignty must submit or enforce its rights.

The rights of protection in the exercise of the sovereign power of the State are equal, whether it is an exterior or interior State, and Congress can have no more constitutional right to take from Maine and cede to New Brunswick, than they have to take from Virginia a part of her territory and cede it to North Carolina. Congress has not claimed to exercise such a power, for the construction of the treaty of Ghent, hereinbefore given, does not involve such a power, unless from a misconstruction of its provisions, limiting as it does the whole power of the commission to the surveying and marking of the lines and erecting its monuments, according to the treaty of 1783.

But it will at once be seen, if the Government of the United States yield to the misconstructions of the agents, so far as to be endangered by the result, that by the misconstructions of the one and the ingenuity of the other, arising from a strong desire to acquire for his country the territory which had been so often but unsuccessfully sought as a cession, and by its final result the lines of the State of Maine are materially changed, she will be as much dispossessed of her territory and sovereignty as she would have been by a direct exercise of the power of cession. The one mode, equally with the other, involves an assumption of power which was never delegated. If such an unfortunate occurrence ever arises, from any cause, the duty which the State owes herself and her sister Republics is plain.

While it is the duty as well as the interest of individuals, as well as States, to yield a peaceable and quiet obedience to every exercise of constitutional power on the part of the Government of the United States, it is equally their duty and their interest to resist all encroachments on the rights which they have reserved. If a part of the State of Maine should be surrendered by the Government of the United States, either by a direct or indirect exercise of the power of cession, it will then be a duty which she owes herself to consider whether she has, by such an invasion of her rights, lost her right of sovereignty and jurisdiction. Such an exercise of power can have no obligatory force; and unless Maine quietly and peaceably submits, it will be a duty of the States, the duty imposed by the Federal Government, to afford her aid and protection, and to aid her in regaining her rights.

From the provisional treaty of peace, in 1782, to the treaty of Ghent, for a period of more than thirty-two years, the British always conceded our title and our rights whenever the subject was presented in the discussions between them and the United States. Even in the argument of the British agent, under the fourth article of the treaty of Ghent, delivered before the Commissioners in September, 1817, after the board, under the fifth article of the same treaty, and the agents had made their agreement for a survey, he unequivocally admits and shows our title. He says: "That the northwest angle of Nova Scotia, mentioned in the treaty as the commencing point in the boundary of the United States, is the northwest angle of the said province of Nova Scotia, designated in the grant to Sir William Alexander in 1621, subject only to such alterations as was occasioned by the erection of the province of Quebec, 1763."

Since the treaty of Ghent, and the entire failure on the part of the British to obtain the territory by cession or purchase, and since September, 1817, they have pretended to claim it as a right, and do, in fact, pretend to claim a much greater extent than they had ever sought by way of cession, by extending the claim much further south and west than is necessary to secure a communication between Halifax and Quebec.

The idea of claim, as they at present make it, probably originated with some of their subjects in the provinces, who, having a great desire to hold the country, endeavored to stimulate the Government of Great Britain that she might, by some means, be induced to obtain it. In order to show the origin as well as the substance of their claim as they now make it, the following extract is made from a work published a little before the organization of the commission under the fifth article of the treaty of Ghent, entitled "A Topographical Description of the Province of Lower Canada, with remarks upon Upper Canada, and on the relative connexion of both provinces with the United States of America. By Joseph Bouchette, Surveyor General of Lower Canada, Col. C. M." This work was dedicated to the present King, George IV, then Prince Regent, and was accompanied with splendid maps. Colonel Bouchette was attached to the commission under the fifth article of the treaty of Ghent, at the commencement, as principal surveyor on the part of the British.

He says: "The height of land on which the boundary is supposed to pass runs to the northeast, and divides the waters that fall into the St. Lawrence from those flowing into the Atlantic; and which height, after running some distance upon that course, sends off a branch to the eastward that separates the head of the Thames, falling into Lake Temiscouata and river St. John, and by that channel into the Bay of Fundy, from those that descend in a more direct course to the Atlantic.

"The main ridge, continuing its northeasterly direction, is intersected by an imaginary line prolonged in a course astronomically due north from the head of the river St. Croix, and which ridge is supposed to be the boundary between Lower Canada and the United States; at least such appears to be the way in which the treaty of 1783 is construed by the American Government, but which ought to be more fairly

understood, as follows, to wit: That the astronomical line running north from the St. Croix should extend only to the first easterly ridge, and thence run westerly along the crest of the said ridge to the Connecticut, thereby equitably dividing the waters flowing into the St. Lawrence from those that empty into the Atlantic within the limits of the United States, and those that have their streams within the British province of New Brunswick. It is important, and must always have been in contemplation, that an uninterrupted communication and connexion should exist between all his Majesty's North American possessions; but by the manner in which the treaty is insisted upon by the opposite party, a space of more than eighty-five miles would be placed within the American limits, by which the British provinces would be completely secured; it would also prove the inconvenience of having the mail from England to Quebec carried over that distance of American territory, and which may be deemed either a matter of indulgence or complained of as an encroachment, according to the transfer of the times. Within this tract is also the Madawaska settlement, consisting of nearly two hundred families, all holding their grants from the British Government. England, at all times highminded and generous, never shrinks from the fulfilment of her engagements, even though, from the want of political acuteness in the persons employed, they may have been formed in a manner prejudicial to her interests. But at the same time she has a right to require that the interpretation of them should not be overstrained or twisted from the obvious meaning and intent by a grasping cupidity after a few miles of country, which could be of little advantage to the opposite party."

The above extract has been made because it shows the whole of the British claim as they have since made it, as well as the substance of all the arguments they have urged in its support. All which has since been done by them, whether in making surveys, collecting documents, or making arguments, for a period of more than five years, has not placed their pretensions in a stronger light. If subsequent occurrences have given their claim any additional plausibility, it can only be attributed to the agents having transgressed the authority given them by the treaty, and discussed a claim which was not submitted. Here it is wholly unnecessary to repeat the facts and documents herein before quoted or referred to; a mere recurrence to them, and placing them in opposition to the British argument, shows, to use no harsher term, its total absurdity.

The argument seems to be addressed to the pride of the British and vanity of the Americans. As it relates to the British, the argument has had its effect; but as it relates to the Americans, it has been a little too gross to deceive. If the discovery had been made more seasonably it might have acquired a temporary appearance of plausibility; but when the subject had come before Parliament, and had also been under discussion by the Commissioners and agents of the two Governments; and, last of all, when the British Commissioners had perseveringly sought the territory in every form as a cession from 1782 to 1814, a period of thirty-two years, the argument is not calculated to deceive, and ill accords with the character always "highminded and generous, and which never shrinks from the fulfilment of its engagements."

The territory, from all our researches, never has been claimed as a right by the British Government, or any of its Commissioners or agents, until 1817, after the commission under the fifth article of the treaty of Ghent was organized; but, on the contrary, as has been before shown, the right has always been conceded to be in the United States. Now, their claim, stripped of its verbiage and translated into plain language, rests on this plain and simple proposition: The country lies between two of our provinces; it will be useful to us, not only by facilitating communication, but it is important also in a military point of view; we could not obtain it by cession, though we were willing to give an equivalent; but we want it, and we will have it.

The State of Massachusetts, considering her right of sovereignty and jurisdiction coextensive with her title, did not anticipate any disturbance or intrusion, and did not consider herself under any necessity of cultivating her whole territory, or of keeping up a military force for its protection; relying upon the good faith which had appeared to manifest itself on the part of the British in the negotiations and discussions between them and the United States, and presuming, also, that the British, whenever they were found to have crossed her lines, would disavow the act and restore the country, she had, from time to time, made grants of her unappropriated public lands, as the same were sought for public and private purposes. She early granted Mars Hill to some of the soldiers of the Revolution.

In September, 1806, Massachusetts conveyed two half townships—one to Deerfield and the other to Westfield Academies—lying west of the township of Mars Hill, pursuant to a survey and plan made in conformity with the provisions of a resolve which had passed some time before. In December, 1807, she conveyed one township lying on both sides of the Aroostook, and near the meridian line, from the source of the St. Croix, according to a selection, survey, and plan made under a resolve passed in March, 1806. In January, 1808, she conveyed ten thousand acres lying west of the aforesaid township, and on both sides of the Aroostook, pursuant to a survey and plan made under a resolve of March, 1806. Had the residue of territory been applied for she would have continued granting it, in large or small tracts, until she had granted the whole, provided the objects of the grants had met her approbation. Hence she not only exercised sovereign power coextensive with her title, but also individual acts of sovereignty, and to what extent she pleased.

The restrictive system adopted by the Government of the United States, commencing about this period, checked the general business of the country, and, at the same time, allayed the spirit of improvement and settlement, and entirely put a stop to speculations in wild lands; and there being no more applications for grants of wild lands, she had no occasion to make them. The war succeeded, which still further checked the progress of improvement and settlement, and several years were required to recover from the diversions occasioned by it. Hence, from a coincidence of circumstances, no grants were made.

Entertaining no suspicion that any claim would be made by the British or discussed by the agents inconsistent with everything which had transpired, and especially in all the correspondence which had preceded, and in the treaty of Ghent itself, she could have had no reason to presume that claims would be made and urged which could infringe her rights of sovereignty and jurisdiction. Hence she reposed in perfect confidence that the lines would be run and marked, and monuments erected, according to her title, as it had always been understood by her and conceded by the British, and therefore made no inquiries to ascertain the claims urged, or the progress of the commission. In 1819 she passed the act of separation between her and the district of Maine, which was approved by Congress the next session, and Maine was admitted into the Union as an independent State. By the act of separation, Massachusetts retained the fee simple of a moiety of the wild lands, but the residue, and the entire sovereignty and jurisdiction, was vested in Maine. Maine having thus become an independent State, and more than three years having

elapsed after the organization of the commission under the fifth article of the treaty of Ghent, (a time more than sufficient to have performed all which was submitted,) and there being reports that the British agent was vigilant and the American remiss, and that surveys were going on in quarters wholly unanticipated, she of course became anxious, and had reason to fear the subject was taking a direction never in the contemplation of the Commissioners who negotiated or involved in the treaty itself. The Governor of the State noticed the subject in the first message, which was delivered June 2, 1820, to both branches of the Legislature. He says: "What progress has been made, under the fifth article of the British treaty, in settling the eastern boundary of the State against the province of New Brunswick, and the northern boundary against that of Lower Canada, I am unable to inform you. As this State and Massachusetts have so deep an interest in the settlement of these boundaries, there would seem to have been a propriety in the agent appointed on the part of the United States being taken from one of these two States. But, under existing circumstances, you will consider whether the interest of the State does not require from you the adoption of such arrangements as are best calculated to afford the present agent such information in relation to this important subject as the people in this State have it in their power to give."

The message was answered on the 12th of June, 1820, wherein it was, among other things, resolved, "That the Governor of this State be requested to transmit to the President of the United States a copy of the resolve, accompanied with such representations in relation to this subject as he shall think proper and best calculated to effect the object." The request was complied with by the Governor, who, in July, 1820, transmitted a copy of the resolve to the President, and, among other things, observed to him: "When it is considered that Massachusetts and Maine have the right of soil; that Maine has also a State jurisdiction; that the people here have not the honor of an acquaintance either with the Commissioner or agent, and have not been advised of any reason for the delay to the present time, it will not be considered a matter of surprise that their extreme solicitude should be such as to render desirable information on the subject so generally interesting."

"It is not unknown to the people of this State that the British agent has been very attentive to the business in which he has been engaged, and that he has caused the country near the lines to be examined and explored in the most particular manner, while it is not understood that comparatively anything has been done on the part of the American agent. With impressions such as these, the boundary being an extensive one, it would be highly satisfactory to the people of this State, should it comport with the views of the Executive of the United States, to designate a person to assist the present agent in his important duties, that the boundary may not only be more expeditiously, but more satisfactorily adjusted."

The substance of the reply which was made appeared in the next message of the Governor.

This year, in the exercise of their general powers of sovereignty and jurisdiction, the marshal of Maine, under a law of the United States, took the census of the inhabitants settled on the St. John river and its tributary streams west of the meridian line from the monument at the source of the Saint Croix, and the south line of the province of Quebec, or Lower Canada.

In the autumn of the year 1820 an agent was sent by the Governor and Council to explore the public lands upon the St. John and its branches west of the meridian line from the monument, which service he performed.

The Governor again, in his message which was delivered January 11, 1821, to both branches of the Legislature, called their attention to the subject of the preservation of the timber on the public lands, and, after enumerating several places as the scenes of depredations, says: "It appears that trespasses within our acknowledged territory, particularly on the rivers Aroostook, De Chute, Presquille, and Meduxnekeag, committed by persons residing in the British provinces, are very great. Accordingly, arrangements have lately been adopted with a view to prevent such predatory incursions in future."

He also states that he forwarded the resolve of the prior session of the Legislature to the President and Secretary, transmitted a copy of the same to the American Commissioners, who, in reply, "gave a reasonable ground of expectation that the final decision of the points in controversy respecting those lines would have been made in October last," and, from information obtained from other sources, adds: "All reasonable hope of a speedy adjustment seems therefore to have vanished."

The Governor, after having received information that British subjects were trespassing on the timber lands of Maine and Massachusetts, on the Aroostook, appointed Benjamin J. Porter, Esq., with the advice of Council, to proceed immediately to that place, and to notify the persons whom he should find trespassing on the timber lands aforesaid west of the line which had been run by order of the Commissioners appointed by the United States and Great Britain, from the monument at the source of the St. Croix to the line of the province of Lower Canada, that if they would pay a proper consideration for the timber that they had cut, and desist from any further depredation on that part of our territory, he was authorized to settle with them on those principles; but if they declined, he was directed to proceed to Houlton Plantation, and adopt the necessary measures, and obtain such assistance as, in his judgment, would be required to take the trespassers and their teams and bring them to Houlton Plantation, and there keep them until the Executive could be advised of the measures adopted.

The agent, thus appointed and instructed, proceeded to the Aroostook and found British subjects trespassing there, with whom he settled, and received also the assurances required that they would not return, and would desist from cutting the timber.

The efforts thus far made not having produced the intended results, the Legislature, January 16, 1822, passed a resolve requesting the Senators and Representatives of this State in the Congress of the United States to collect information touching the causes of the differences between the American and British Commissioners under the treaty of Ghent, respecting the boundary line between this State and the British provinces of Lower Canada and Nova Scotia, and the extent and nature of the claims set up by the said British Commissioners. The resolve was duly communicated. No progress was, however, made, and the object of the resolve was not answered. In February, 1822, an agent was appointed with full power to prevent trespassing upon the timber in the public lands on the Aroostook, Maduxnekeag and Presquilla rivers, and their branches west of the meridian line from the monument; and he entered immediately upon the duties of his agency, and visited the places required, and accomplished the objects of his appointment. The subject is again recurred to January 10, 1824, by the Governor in his message, which led to no specific act on the part of the Legislature. January 7, 1825, the Governor again calls the attention of the Legislature to the subject of the northeastern boundary, stating also that he had understood from respectable sources that depredations had been committed on our timber lands on the Aroostook and Madawaska, and other streams emptying into the St. John; and that unless energetic

measures are speedily adopted on the part of the State, our valuable timber in that region will be soon destroyed; and that, from the representations, the depredations were committed by British subjects.

This led to an investigation as far as the limited means possessed by the Government of this State permitted, and a resolve passed January 24, 1825, among other things requesting the Governor of this State to correspond with the Governor of the province of New Brunswick, relative to the depredations which had been committed by British subjects on the timber on the public lands of this State, west of the boundary line between this State and the province of New Brunswick, as heretofore recognized, and to ascertain whether that Government had authorized any persons to cut timber upon these lands or to settle thereon.

The land agent of Maine was instructed, in conjunction with such person as should be designated by Massachusetts, or, if none should be appointed, without that agent, forthwith to take effectual measures to ascertain the extent of the depredations on the lands belonging to this State and Massachusetts, or on lands belonging to this State; by whom the same have been committed, and under what authority, if any, such depredations were committed.

The Governor was also requested to forward each of the Senators and Representatives in Congress from this State a copy of the report of the committee on the part of the Governor's message relative to depredations on the public lands, and of the resolves, and also to request them to take the necessary measures to obtain an early adjustment of the northeastern boundary of this State.

The Governor enclosed and forwarded the same on the 25th of January, 1825. During the same session of the Legislature, February 22, 1825, they passed a resolve respecting the settlers on the St. John and Madawaska rivers: "Whereas there are a number of settlers on the undivided public lands on the St. John and Madawaska rivers, many of whom have resided thereon for more than thirty years; therefore, *Resolved*, That the land agent of this State, in conjunction with such agent as may be appointed for that purpose on the part of Massachusetts, be, and he is hereby, authorized and directed to make and execute good and sufficient deeds, conveying to such settlers in actual possession, as aforesaid, their heirs and assigns, one hundred acres each of land by them possessed, to include the improvements on their respective lots, they paying the said agent, for the use of the State, five dollars each, and the expense of surveying the same."

The Commonwealth of Massachusetts, June 11, 1825, did provide, by resolve, among other things: "Whereas there are a number of settlers on the St. John and Madawaska rivers, many of whom have resided there more than thirty years; therefore, *Resolved*, That the land agent of this Commonwealth, in conjunction with such agent as has been or may be appointed for that purpose on the part of the State of Maine, be, and the same is hereby, authorized and directed to make good and sufficient deeds, conveying to such settlers in actual possession, as aforesaid, their heirs and assigns, one hundred acres each of land by them possessed, to include their improvements on their respective lots, they paying to the said agent, for the use of this Commonwealth, five dollars each, and the expense of surveying the same."

The agents thus authorized did, in the autumn of that year, proceed up the St. John to the Madawaska settlement, and thence to the mouth of the Maryumpticook, and surveyed and conveyed two lots of land, on the 3d of October, to John Baker and James Bacon, citizens of this State. They had settled above the French neutrals on the St. John and its waters; and at the time when the settlements on the lots were commenced, there was no settlement within several miles of them. They also posted up notices, stating their authority, and proposing to give deeds, according to the resolves under which they acted.

This year Maine and Massachusetts, in continuing their surveys of the undivided lands, surveyed all which had not been previously done, and conveyed two ranges of townships on the meridian line, running north from the monument at the source of the St. Croix, and above Mars Hill, to a place within a few miles of the river St. John. The two grants of Massachusetts, made in December, 1807, to the town of Plymouth, and in January, 1808, to William Eaton, on the river Aroostook, according to surveys made in 1807, compose a part of the ranges.

In a letter bearing date May 23, 1825, from the British minister at Washington to the Secretary of State of the United States, in answer to his of the 27th of March preceding, complaining of the encroachments of the inhabitants of New Brunswick, committed upon lands of Maine and Massachusetts, in cutting and carrying away timber within the boundaries of those States, and the places where the trespasses were committed were also described in the accompanying papers to be on the Aroostook and Madawaska rivers.

The British minister, in reply states that he had made inquiries of Sir Howard Douglass, the Governor of New Brunswick, and had been assured by him that the charge, as far as the Government of the provinces was concerned, was unfounded, and that he should use his best endeavors to put a stop to practices in themselves so disgraceful. It was further stated by Sir Howard, "that in assuming the Government of New Brunswick, he found that licenses to cut timber, and other acts of sovereignty, had long been exercised on the part of Great Britain over certain tracts of land in which the Bistook" (Aroostook) "and Madawaska were included, heretofore well understood to belong to New Brunswick, but subsequently claimed by the Commissioners of the United States appointed to negotiate with the British Commissioners for adjusting the boundary line of the respective provinces; to these claims no disposition was ever shown on the part of Great Britain to accede."

It is not supposed that Sir Howard intended to misrepresent facts, because it would be entirely inconsistent with the honorable character which he is supposed to sustain; but, acquitted of that charge, his representations must be attributed to ignorance of the subject, or want of research into the premises. Compare the history of the negotiation of the provisional treaty of peace in 1782; the doings of the Commissioners under the fifth article of the treaty of 1794; more especially the argument of the British agent, and all the correspondence which preceded the treaty of Ghent, wherein the British Commissioners so often and so repeatedly ask the country in which the Madawaska settlement is included as a cession, and are so often denied by the American Commissioners, on the ground that they possess no authority to make a cession, and no further comment is necessary to show the falsity of his representations.

It is further said by Sir Howard: "In fact, by a reference to documents in the possession of the British Colonial Department, it appears that the settlement at Madawaska, in the province of New Brunswick, was made under a grant from the Crown upwards of thirty years ago; so late as the year 1810 no claim had been advanced by the United States, although the settlement had been established at the time for upwards of twenty years, under a grant from the Government of New Brunswick, and had been constantly designated the Madawaska settlement.

Admitting the fact, as to the antiquity of the settlement, to be as stated, giving the utmost extent to both modes of expression, it commenced under grants about the year 1790, long after the treaty of 1783.

Unless the grants were within the province of Nova Scotia they were intrusions. That they were not within the province abundantly appears from all the documents before quoted in relation to the boundaries. No valid claim of national sovereignty can be based on such acts in the forum of honor, conscience, or law; and no jurisdiction can, with any semblance of propriety, be claimed beyond the actual possession. It cannot, without violating the acknowledged principles in such cases, be extended by construction. If such were the facts, and the settlements had been made as early as 1790; if the British considered that they had any claim to the territory on that account, it is extraordinary that they should have been entirely overlooked by the Government, its ministers and Commissioners, and never have been discovered until 1817, or since that time; more especially, when the treaty of 1794, and the discussions under the fifth article of it, wherein it was conceded that the line due north from the source of the St. Croix, wherever it should be established, crossed the St. John to the line of the Government of Quebec, and by a reference to the map it will at once be seen that, had the most westerly point been adopted which the British agent contended for, the Madawaska settlement is west of the meridian, and at all events within the United States. When, also, the subject of surveying the boundaries had been discussed on several occasions between that time and the treaty of Ghent, and when, also, during the whole discussion which led to the treaty of Ghent, that territory is sought as a cession, and with great perseverance, by a resort to every mode which circumstances or their own ingenuity suggested.

But the facts as stated are not admitted; the settlement at Madawaska did not succeed, but had preceded many years grants which Sir Howard states, and therefore cannot be said to be made under the grants. The settlement was made principally by French neutrals, whose ancestors had lived near the Bay of Fundy previous to the American Revolution. They, to avoid the British laws, moved up the river St. John to a place called St. Anns, now Fredericton. After the close of the war, when the British established a town and military post at that place, and circumscribed them in their quarters, stimulated by their repugnance to the British, and desirous of living under their own regulations, they pursued their course up the river, and established themselves at Madawaska, where they lived many years probably entirely unknown to the world. Some of their countrymen joined them from Canada. If the settlers or some of them now have grants from the province of New Brunswick, the reason for making such grants does not now appear. The intention of the Government can be inferred only from the facts disclosed; from which it most clearly follows that they did not, by the intrusion, consider themselves as extending their rights of property or jurisdiction, not having stated the fact for that purpose until long since the treaty of Ghent. If the fact had been relied on by them as giving any claim, the ministers who negotiated the treaty of Ghent, while they were endeavoring by every means in their power to obtain the territory in which the Madawaska settlement is situated by cession, would not have been guilty of the omission.

Sir Howard still further says: "With regard to the timber cut by British subjects on the river Bistook, (Aroostook,) the very circumstance of its having been seized by Mr. Porter, of the State of Maine, proves that the inhabitants of that State consider themselves as at full liberty to appropriate all the timber in that district to their own use. In truth, that territory is especially represented by the Senate of Maine as lying within the acknowledged boundaries of that State. Now, this is notoriously not the fact; the British Government contend that the northern boundary line of the United States, running from the source of the river St. Croix to the highlands, is terminated at Mars Hill, which lies at the southwest of the Bistook, (Aroostook;) at least, therefore, the British territory declared to be the undoubted property of the State of Maine is but a point in abeyance. Both parties claim, and it appears have exercised, an equal right over it."

That the British pretended any claim to the territory to the westward of the meridian line from the source of the St. Croix, and southerly of the line of the province of Quebec or Lower Canada, was totally unknown to the United States until long after the treaty of Ghent, and it seems to have been equally unknown to the British. The observation, "this was notoriously not the fact," can only apply to a period subsequent to the treaty; when it had been deemed proper by individuals and the subordinate agents of the British Government to acquire by some means the territory which they could not demand as a right. The above observation does not appear to be true, from anything which had transpired of a public character between the American and British Governments. Such pretended and unfounded claims could not have been and were not anticipated. But after all the pretensions, the claim and exercise of right he admits to be equal, which is extraordinary when the whole is taken into consideration and contrasted with the recent origin of and bold assumptions on which they are founded.

It has already been shown that Massachusetts has made several grants before 1808, some of which were on the Aroostook near the meridian line, from the monument at the source of the river St. Croix, and that she and Maine had, in addition to their general jurisdiction, exercised all necessary acts of particular jurisdiction. And the British subjects found there committing depredations on the timber by Mr. Porter were there as mere trespassers, not claiming any right or authority from any source. It was not until long after this period that any persons were there under licenses from the province of New Brunswick, which caused the mention of it in the Governor's message in January, 1825. The British claim, as they make it, is even void of plausibility; they ought not to have claimed the territory upon the Bistook (Aroostook) and upper part of the St. John and its tributary streams as a part of the ancient province of Nova Scotia; but they ought to have continued the line from Mars Hill eastward to the Bay of Chaleurs, and have insisted that that was the northern line; thereby yielding a part of Nova Scotia, and have left the upper part of the St. John and its tributaries, and the Restigouche river, in the province of Quebec or Lower Canada; and if by that means they had violated one of their favorite principles of exposition, to wit, that the province which has the mouth, ought also to have the sources of the river, still the whole would have been within the general sovereignty of Great Britain, one province only gaining more than the other lost. Yet, such a claim, though more plausible, by relieving them from the solecism of destroying the northwest angle, or rather converting the northwest angle of Nova Scotia into a southwest angle, which can only be arrived at by running first north for more than forty miles from the monument at the source of the river St. Croix, and then southwesterly for more than one hundred miles, would have been no better, nor would it be based on a more solid or substantial authority.

The British minister then observes: "The Governor of New Brunswick informs me he does not consider himself at liberty to alter, in any way, the existing state of things, as far as regards the district above mentioned, but he assures me that he will take especial care to keep well within the limits of the line of duty marked out for him; and, considering the shape which this question is now assuming, he will feel it imperative on him to apply immediately for still more precise instructions for guidance of his conduct in a matter of so much delicacy."

More notice has been taken of the foregoing letter than its importance otherwise demanded, on account of its being the first document of an official character in the archives of this State which goes to show the British claim as it had been made by their agent under the fifth article of the treaty of Ghent.

The Secretary of State, November 25, 1825, wrote the Governor of this State, enclosing a copy of a note from the British minister to him, and a copy of a note from Sir Howard Douglass to the British minister. On the 25th of December, 1825, the Governor of this State transmitted to the Secretary of State of the United States a letter, with a copy of the resolve of this State, respecting the settlers on the St. John and the Madawaska rivers, under which the agent of the State acted; a copy of the resolve of the Legislature of Massachusetts respecting the same; also the report of the land agent of Maine, detailing particularly the transactions of the two agents under said resolves. From which report it appears that the land agents had pursued the authority given them by the resolves, and had not done some of the acts complained of by the British.

The subject of the northeastern boundary was again noticed by the Governor in his message to both branches of the Legislature, the 7th January, 1826, which was answered by the Legislature in a report on the 17th January, and a resolve on the 26th of January of the same year: "That the Governor, for the time being, be authorized and requested to take such measures as he may think expedient and effectual, to procure, for the use of the State, copies of all such maps, documents, publications, papers and surveys, relating to the northeastern boundary of the United States described in the treaty of 1783, and such other information on that subject as he may deem necessary and useful for this State to be possessed of."

"That the Governor of this State, in conjunction with the Governor of Massachusetts, (provided the said Commonwealth shall concur in the measure,) be authorized to cause the eastern and northeastern lines of the State of Maine to be explored, and the monuments upon these lines, mentioned in the treaty of 1783, to be ascertained in such a manner as may be deemed most expedient."

The surveys of the unappropriated lands of Maine and Massachusetts were continued, and five ranges of townships were surveyed, and extending from the line drawn west from the monument, and extending from that line to Fish river, and near the river St. John.

The Fish river road, extending from the east branch of the Penobscot river northwardly to Fish river, was laid out also under the authority of the States.

The resolve was communicated to the Senators of this State in the Congress of the United States, and enclosed by the Governor on the day of its passage. And there was procured, in consequence of it, a copy of the general map compiled by the United States surveyors from surveys made under the fifth article of the treaty of Ghent.

The subject was again presented to both branches of the Legislature by the Governor in his message on the 4th of January, 1827. And the Governor also, by special message, communicated a letter from the Secretary of State of the United States, dated January 29, of the same year, accompanied by a letter of Charles R. Vaughan, Esq., the British minister, dated January 7, 1827, wherein he complains of the acts of Maine and Massachusetts, in surveying and laying out townships and roads, and concludes by saying: "I think it advisable to make you acquainted, without delay, with the communication which I have received from the Lieutenant Governor of New Brunswick, whom, I beg leave to assure you, cautiously abstains on his part from exercising any authority in the disputed territory which could invite encroachments as a measure of retaliation." All which were considered and became the subject of a report in the Legislature on the 12th day of February, 1827, and a resolve was passed thereon, on the 23d day of the same month, respecting the northeastern boundary of the State, to wit:

"*Resolved*, That the Governor be, and he is hereby, requested to take all such measures, both in acquiring information and in procuring a speedy adjustment of the dispute, according to the treaty of 1783, as he may deem expedient and for the interest of the State."

To this period nothing of any importance had been obtained under the resolves of the State, although they had been regularly communicated; and all the information which was in possession of the Government of this State consisted in the few, and very few, copies of letters from the British minister, which had been elicited by the resolves of the Sate of Maine; and beyond that, there was no official information of the proceedings of the commission under the fifth article of the treaty of Ghent, nor the claims set up by the British, except what was derived from public reports, vague in their nature, and uncertain in their character. It was not until long after the Commissioners had terminated their labors that any official communication was made which tended to show the British claim; and even that, from the looseness of its phraseology, seemed to convey no other distinct idea than that the British, from causes known to themselves, claimed all the country north and west of Mars Hill as a part of the ancient province of Nova Scotia, and even that did not appear until near the middle of the year 1825. The delay to give information to the State of Maine, when it had been so often requested, particularly in the letter of the Governor of July, 1820, to the Executive of the United States, containing a request that some one might be added from the State of Maine to assist in the examination of the subject; and considering that the sovereignty of the whole country to which the British had, in such an extraordinary manner, and so contrary to the discussions which preceded the treaty of Ghent, pretended a claim was in Maine, and that the Government of the United States had no constitutional authority to cede any portion of an independent sovereignty, directly or by construction, is certainly very extraordinary. And it cannot fail to appear extraordinary that the same policy on the part of the Government of the United States should be continued, when, by uniting Maine in the controversy, all reasonable ground of complaint on her part would have been removed; at least, if she had in her sovereign capacity engaged in the controversy, she must have been concluded by the result. If she had mismanaged her concerns, that could never have been brought up as a reasonable cause of complaint against the United States. Maine, as she was in a state of profound ignorance, had no opportunity to aid or assist the United States; nor does she claim that she has a right to interfere in the course its Government chooses to adopt; but she has the right of reading the Constitution of the United States, of judging for herself, and if she is deprived of the exercise of her sovereignty and her property she has a right to remonstrate and assert her rights; and by force of the original compact, she is entitled to the aid and assistance of the independent sovereignties constituting the United States to reinstate her in that of which she has been deprived by an unjust and unconstitutional exercise of power.

The promptness, decision, perseverance, and ability with which the Governor has executed the request contained in the last resolve merits the encomiums and approbation of the State. If further comment were necessary, the fact that all the information which had been so long but unsuccessfully sought was obtained speaks a language more satisfactory to him and the State than anything we could

add. As to the positions taken and maintained by the Governor, they must be in accordance with the views and common sense of the State, and we cannot present his discussions in a clearer or more acceptable light than to request a fair, candid, and impartial examination of them. With these remarks, and without further comment, the correspondence between him and the Government of the United States is annexed.

Thus we have detailed at some length the principal facts and circumstances touching the title and the extent of the title of the State to territory and jurisdiction; from which it appears that our title is perfect to all the territory bounded by the southern line of the province of Lower Canada, to wit: by the line drawn from the head of Connecticut river along the lands which limit the sources of the rivers that fall into the river St. Lawrence, to the head of the Bay of Chaleurs, and westward of the line drawn due north from the source of the river St. Croix to that line, being the line described and adopted by the British Government long before the Revolution, and being the lines which are also described and adopted by the provincial and definitive treaties of peace. That the British Government have always, directly and indirectly, conceded our title, in all the negotiations and discussions on the subject, prior to the discussions under the fifth article of the treaty of Ghent, and made no claim of title founded on any intrusion of theirs; the ministers, who sought it as a cession not having urged or even stated the fact, except by way of allusion, and that Massachusetts and Maine have always exercised jurisdiction according to the title of Maine, and have continued their progress of surveys, sales, and settlements, and other acts, and that the United States have always exercised general jurisdiction, and did in 1820 exercise acts of jurisdiction as far as there was any occasion for it. That there was no reason, from any knowledge in possession of the United States, until very recently, and still more recently in possession of this State, more immediately interested, to suppose that, if the British Government had crossed the above described lines, she would not, as soon as the lines were surveyed, withdraw, and cease to commit like acts of intrusion; and it has also appeared, from representations made by the British minister to the Secretary of State, "that the Lieutenant Governor of New Brunswick had given assurances that he would cautiously abstain from all acts of authority which could invite encroachments as a measure of retaliation."

But notwithstanding all these facts, circumstances, and assurances, John Baker, a citizen of the State of Maine and the United States, was arrested in his own dwelling-house, situated on the land he purchased of and holds by the deed from Massachusetts and Maine, on a warrant and other process served by the sheriff of the county of York, accompanied by armed men, and in the night time, at least before Baker had risen from his bed, and was carried to Frederickton and thrown into prison, where he is now confined. Processes have also been served within our territory, on the Aroostook, and the cattle and property of our citizens have been taken away by the civil officers of New Brunswick. Baker is charged, among other things, with an intrusion and trespass on the premises he holds under Massachusetts and Maine.

When the Governor of this State had received notice that the sovereignty of the State, by the officer of the Government of New Brunswick, had been violated, in the abduction and imprisonment of one of its citizens and other acts, he issued his proclamation, and commissioned an agent of the State to proceed to the province of New Brunswick to inquire into the cause of the arrest, and the other violations of the State sovereignty, and to demand of the Government of New Brunswick the restoration of Baker; all which will more fully appear in the documents annexed. The Governor has in this, with his usual promptness, discretion, and ability, performed his duty to the State and its citizens. The agent, in prosecution of the object of his commission, proceeded to Fredrickton, the capital of New Brunswick, and notified the Government of his arrival and official capacity. He was not received in his official capacity. From what cause that arose, whether from their own policy, or their misconstruction of the power and authority of the Governor of this State, is not certain. It seems to us there would have been no objection to the recognition of the agent of this State, had his commission been only to demand a fugitive from justice, or that the Governor of New Brunswick would consider that he was transcending his power were he to send an agent to this State to demand a fugitive from his own Government. Notwithstanding he was not received in an official character, we are happy to have it in our power to say that he was politely received by the gentlemen of the place. The object of his agency, therefore, so far as it related to the arrest and imprisonment of Baker, totally failed, as it did also in some other respects.

His official capacity embraced two objects:

1st. To demand a delivery of persons.

2d. To obtain public information.

If not recognized for any other purpose, he might have been permitted as a person authorized to inquire into the truth of facts, important to the rights of the people of the State and peace of the country.

From all the facts, we cannot perceive on what ground they can justify the violation of the State and national sovereignty in the arrest of Baker on his own soil and freehold, which he holds in fee under the States of Massachusetts and Maine, and the other acts of their officers on the Aroostook. On the ground of title they have no justification, and they can only justify themselves on the ground of a possession *de facto*, which cannot, by the acknowledged principles of law, be extended beyond actual occupation. In the case of Baker, the settlement on his lot was commenced not within even a possession de facto, feeble and slender as that would be; and in relation to the Aroostook, there is not even a possession of any kind, unless it has been acquired by the lawless depredations of individuals, for which they have, from time to time, atoned by settlements with the agents of the State of Maine. Even the few who have settled on the Aroostook, settled there considering it to be within this State, and intending, also, to settle out of the province of New Brunswick. The course pursued by the British must be accounted for on another principle than "a cautious abstinence of the exercise of authority which could invite encroachments as a measure of retaliation."

When the British are thus attempting to extend their intrusion, and imprisoning and otherwise harassing, by legal process, citizens of Maine, they have constitutional claims on her protection; and although Massachusetts and Maine, from the treaty of peace, have exercised the same jurisdiction over all the wild lands which had not been particularly appropriated for cultivation to this time, if such acts are repeated it cannot be expected that Maine will be a quiet spectator. It will be her duty to enforce her laws within her own jurisdiction, and to protect her own rights and the rights of her citizens.

The Government of the United States have a duty to perform towards the State and its citizens, not less towards those who are forcibly taken from the territory and imprisoned than towards those who are taken from the national marine. An agent has been sent to the province of New Brunswick, who has returned, and we have confidence that the whole business will be adjusted, and that the constitutional rights of the State and the liberties and rights of the citizens will be protected and preserved.

Your committee, impressed with the importance of the subject to this State and the United States, and approving most cordially of the measures taken by the Governor, believe, from the past, that the State has a well founded assurance that its best interests will be protected and its constitutional rights preserved.

JOHN L. MEGQUIER.
REUEL WILLIAMS.
JOSHUA W. HATHAWAY.
JOHN G. DEANE.
HENRY W. FULLER.
WILLIAM VANCE.
JOSHUA CARPENTER.
RUFUS BURNHAM.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, *January* 26, 1828.

All which, with the annexed resolve and documents, is respectfully submitted, by order of the committee.

JOHN G. DEANE.

HOUSE OF REPRESENTATIVES, *February* 14, 1828.

This report was read, considered, and *unanimously* accepted.
Sent up for concurrence.

JOHN RUGGLES, *Speaker.*

Attest:
JAMES L. CHILD, *Clerk of the House of Representatives.*

IN SENATE, *February* 16, 1828.

This report was read, considered, and *unanimously* accepted, in concurrence with the House of Representatives.

ROBERT P. DUNLAP, *President.*

Attest:
EBENEZER HUTCHINSON, *Secretary of the Senate.*

STATE OF MAINE.

A RESOLVE relating to the Northeastern Boundary.

Resolved, That the Governor be, and he is hereby, requested to transmit a copy of the report of the committee to whom was referred so much of his communication made to the Legislature as relates to the northeastern boundary of this State to the President of the United States, to the Governor of each State in the Union, and two copies to each of our Senators and Representatives in Congress, and each of our foreign ambassadors; and that one hundred and fifty copies be at the disposal of the Governor.

IN THE HOUSE OF REPRESENTATIVES, *February* 16, 1828.

Read and passed.

JOHN RUGGLES, *Speaker.*

Attest:
JAMES L. CHILD, *Clerk.*

IN SENATE, *February* 18, 1828.

Read and passed.

ROBERT P. DUNLAP, *President.*

Attest:
EBENEZER HUTCHINSON, *Secretary.*

FEBRUARY 18, 1828.

Approved.

ENOCH LINCOLN.

APPENDIX.

No. 1.

An extract from the grant of James 1*st to Sir William Alexander, (afterwards Lord Sterling,) passed September* 10, 1621.

We do by these presents give, grant and convey to the said Sir William Alexander, his heirs and assigns, all and singular the lands upon the continent, and the islands situate, lying, and being in America, within the head or promontory commonly called Cape Sable, in the latitude of forty-three degrees nearly, or thereabouts, from that promontory along the shore, stretching to the west to the bay commonly called

St. Mary's bay; thence to the north by a direct line crossing the entrance or mouth of the great bay, which extends eastward, between the countries of the Siroquois and Etchemins, so commonly called, to the river commonly called by the name of the Holy Cross, or the St. Croix, and to the furthest source or spring, upon the western branch of the same, which first mingles its waters with those of the said river; thence by an imaginary direct line, to be drawn or run through the country, or over the land to the north, to the first bay, river, or spring emptying itself into the great river of Canada; and from thence running to the east, along the shores of the said river of Canada, to the river, bay, or harbor, commonly called and known by the name of Gachepe or Gaspee; and from thence southeast to the islands called Baccalaos or Cape Breton, leaving the same islands upon the right, and the gulf of the said river or bay of Canada and Newfoundland, with the islands thereunto belonging, upon the left; and from thence to the head or promontory of Cape Breton aforesaid, lying near the latitude of forty-five degrees or thereabouts; and from the said promontory of Cape Breton to the southward and westward to Cape Sable aforesaid, the place of beginning, including and comprehending within the said coasts and shores of the sea, and the circumferences thereof, from sea to sea, all the lands upon the continent, with the rivers, torrents, bays, shores, islands or seas, lying near to or within six leagues from any part thereof, on the western, northern, or eastern parts of the said coasts and precincts of the same, and to the southeast where Cape Breton lies, and to the southward thereof where cape Sable lies, all the seas and islands to the south, within forty leagues of the said shores, including the great island commonly called the Isle of Sable or Sablon, lying south-southeast in the ocean, about thirty leagues from Cape Breton aforesaid, and being in the latitude of forty-four degrees, or thereabouts.

All which lands aforesaid shall at all times hereafter be called and known by the name of Nova Scotia, or New Scotland, in America. And if any questions or doubts shall hereafter arise upon the interpretation or construction of any clause in the present letters patent contained, they shall all be taken and interpreted in the most extensive sense, and in favor of the said Sir William Alexander, his heirs and assigns aforesaid. Moreover, we, of our certain knowledge, our own proper motion, regal authority, and royal power, have made, united, annexed, erected, created, and incorporated, and we do, by these our letters patent, make, unite, annex, erect, create, and incorporate the whole and entire province and lands of Nova Scotia aforesaid, with all the limits thereof, seas, &c., officers and jurisdictions, and all other things generally and specially above mentioned, into one entire and free dominion and barony, to be called at all times hereafter by the aforesaid name of Nova Scotia.

No. 2.

Extract from the grant of Charles the 2d to James, Duke of York, dated 12th of March, 1663.

Know ye, that we, for divers good causes, &c., have, &c., and by these presents, &c., do give and grant unto our dearest brother, James, Duke of York, his heirs and assigns, all that part of the main land of New England, beginning at a certain place called or known by the name of St. Croix, next adjoining to New Scotland, in America; and from thence extending along the seacoast unto a certain place called Pemaquie or Pemaquid, and so up the river thereof, to the furthest head of the same as it tendeth northward; and extending from thence to the river Kimbequin, and so upwards, by the shortest course to the river of Canada, northward. And also all that island or islands commonly called by the several name or names of Matowacks or Long Island, situate, lying and being towards the west of Cape Cod and the Narrow Higansets, abutting upon the main land between the two rivers, there called or known by the several names of Connecticut and Hudson's river; together, also, with the said river, called Hudson's river, and all the lands from the west side of Connecticut river to the east side of Delaware bay. And also all those several islands, called or known by the names of Martin's Vineyard, and Nantukes, or otherwise Nantucket.

No. 3.

Extract from the charter of the Province of the Massachusetts Bay, in New England, dated 7th of October, 1691, *3d William and Mary.*

William and Mary, by the grace of God, King and Queen of England, Scotland, France, and Ireland, Defenders of the Faith, &c., to all to whom these presents shall come, greeting: We do by these presents, for us, our heirs, and successors, will and ordain that the territories and colonies commonly called or known by the names of the colony of the Massachusetts Bay and colony of New Plymouth, the province of Maine, and the territory called Acadie, or Nova Scotia, and all that tract of land lying between the said territories of Nova Scotia and the said province of Maine, be erected, united and incorporated; and we do by these presents unite, erect, and incorporate the same into one real province, by the name of our province of the Massachusetts Bay in New England; and of our especial grace, certain knowledge, and mere motion, we have given and granted, and by these presents, for us, our heirs, and successors, do give and grant unto our good subjects, the inhabitants of our said province or territory of Massachusetts Bay, and their successors, all that part of New England, in America, lying and extending from the great river commonly called Monomack, alias Merrimack, on the north part, and from three miles northward of the said river to the Atlantic, or western sea or ocean, on the south part, and all the lands and hereditaments whatever lying within the limits aforesaid, and extending as far as the outermost points or promontories of land called Cape Cod and Cape Malabar, north and south, and in latitude, breadth, and in length, and longitude, of and within all the breadth and compass aforesaid, throughout the main land there, from the said Atlantic or western sea and ocean, on the east part, towards the south sea, or westward, as far as our colonies of Rhode Island, Connecticut, and the Narragansett country; and also all that part and portion of Maine land, beginning at the entrance of Piscataqua harbor, and so to pass up the same into the river of Newichwannock, and through the same into the furthest head thereof, and from thence northwestward,

till one hundred and twenty miles be finished, and from Piscataqua harbor mouth aforesaid, northeastward along the seacoast to Sagadehock,* and from the period of one hundred and twenty miles aforesaid, to cross over land from Piscataqua harbor, through Newichwannock river; and also the north half of the Isles of Shoals, together with the Isles of Capawack and Nantucket, near Cape Cod aforesaid; and also the lands and hereditaments lying and being in the country or territory commonly called Acadie or Nova Scotia; and all those lands and hereditaments lying and extending between the said country or territory of Nova Scotia, and the said river of Sagadehock, or any part thereof.

That it shall and may be lawful for the said Governor and General Assembly to make or pass any grant of lands lying within the bounds of the colonies, formerly called the colonies of the Massachusetts Bay, and New Plymouth, and province of Maine, in such manner as heretofore they might have done by virtue of any former charter or letters patent, which grants of lands, within the bounds aforesaid, we do hereby will and ordain to be and continue forever of full force and effect, without our further approbation or consent. And so as nevertheless, and it is our royal will and pleasure, that no grant or grants of any lands lying or extending from the river of Sagadehock to the Gulf of St. Lawrence and Canada rivers, and to the main sea northward and eastward, to be made or passed by the Governor and General Assembly of our said province, be of any force, validity, or effect, until we, our heirs, or successors, shall have signified our approbation of the same.

No. 4.

Copy of Colonel Phillipps' commission for the Government of Nova Scotia, 1719.

George, by the grace of God, &c., to our trusty and well beloved Richard Phillipps, Esq., greeting:

Know ye, that we, reposing especial trust and confidence in the prudence, courage, and loyalty of you, the said Richard Phillipps, out of our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint, and by these presents do constitute and appoint you, the said Richard Phillipps, to be our Governor of Placentia in New Foundland, and our Captain General and Governor-in-chief in and over our province of Nova Scotia or Acadie, in America: and we do hereby require and command you to do and execute all things in due manner that shall belong unto your said command, and the trust we have reposed in you, according to the several powers and directions granted or appointed you by this present commission, and the instructions herewith given you, or by such further powers, instructions or authorities as shall at any time hereafter be granted or appointed you under our signet and sign manual, or by our order in our Privy Council, and according to such reasonable laws and statutes as shall hereafter be made and assented to by you, with the advice and consent of our Council and Assembly of our said province, hereafter to be appointed.

And for the better administration of justice and management of the public affairs of our province, we hereby give and grant unto you, the said Richard Phillipps, full power and authority to choose, nominate, and appoint, such fitting and discreet persons as you shall either find there or carry along with you, not exceeding the number of twelve, to be of our council in our said province, till our further pleasure be known, any five whereof we do hereby appoint to be a quorum.

No. 5.

Draught of a commission for the Hon. Col. Cornwallis, to be Governor of Nova Scotia, April 29, 1749.

George the Second, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c., to our trusty and well beloved the Hon. Edward Cornwallis, Esq., greeting: Whereas we did, by our letters patent, under our great seal of Great Britain, bearing date at Westminster, the 11th day of September, in the second year of our reign, constitute and appoint Richard Phillipps, Esq., our Captain General and Governor-in-chief in and over our province of Nova Scotia or Acadie, in America, with all the rights, members, and appurtenances whatever thereunto belonging, for and during our will and pleasure, as by the said recited letters patent, relation being thereunto had, may more fully and at large appear: Now know you, that we have revoked and determined, and by these presents do revoke and determine, the said recited letters patent, and every clause, article, and thing therein contained; and further know you, that we, reposing especial trust and confidence in the prudence, courage, and loyalty of you, the said Edward Cornwallis, of our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint, and by these presents do constitute and appoint you, the said Edward Cornwallis, to be our Captain General and Governor-in-chief in and over the province of Nova Scotia or Acadie, in America, with all the rights, members, and appurtenances whatever thereunto belonging.

18th March, 1752. The commission given to Peregrine Thomas Hopson, as Governor of the province of Nova Scotia, is the same, mutatis mutandis, as that given to Edward Cornwallis, Esq.

* The following words, viz: "And up the river thereof to the Knybecky river, and through the same to the head thereof, and under the land northwestward, until one hundred and twenty miles be ended, being accounted from the mouth of Sagadehock," as inserted in George's grants, (from which the descriptive part of the boundaries of Maine, in this charter, is taken,) appear to have been inadvertently omitted, being necessary to render those boundaries intelligible, and should follow the word Sagadehock, to which the asterisk is affixed.

No. 6.

Extract from the proclamation of the King of Great Britain of the 7th of October, 1763, establishing four Governments.

BY THE KING, A PROCLAMATION.

GEORGE R.

Whereas we have taken into our royal consideration the extensive and valuable acquisitions in America, secured to our Crown by the late definitive treaty of peace, concluded at Paris the 10th day of February last; and being desirous that all our loving subjects, as well of our Kingdoms as of our colonies in America, may avail themselves, with all convenient speed, of the great benefits and advantages which must accrue therefrom to their commerce, manufactures, and navigation: we have thought fit, with the advice of our Privy Council, to issue this our royal proclamation, hereby to publish and declare to all our loving subjects that we have, with the advice of our said Privy Council, granted our letters patent, under our great seal of Great Britain, to erect within the countries and islands ceded and confirmed to us by the said treaty four distinct and separate Governments, styled and called by the names of Quebec, East Florida, West Florida, and Grenada, and limited and bounded as follows, viz:

First, the Government of Quebec, bounded on the Labrador coast by the river St. John, and from thence by a line drawn from the head of that river, through the lake St. John, to the south end of the lake Nipissim; from thence the said line crossing the river St. Lawrence and the lake Champlain in forty-five degrees of north latitude, passes along the highlands which divide the rivers that empty themselves into the said St. Lawrence from those which fall into the sea; and also along the north coast of the Baye des Chaleurs, and the coast of the Gulf of St. Lawrence to Cape Rosieres, and from thence, crossing the mouth of the river St. Lawrence, by the west end of the island of Anticosti, terminates at the aforesaid river St. John.

Representation to his Majesty, with the draught of a commission for Charles Lawrence, Esq., to be Governor of Nova Scotia:

To the King's most excellent Majesty:

May it please your Majesty: In obedience to your Majesty's order in Council, dated the 18th instant, we have prepared the draught of a commission for Charles Lawrence, Esq., to be Captain General and Governor-in-chief of your Majesty's province of Nova Scotia, in America, which, being in the usual form, we herewith humbly lay it before your Majesty, and shall prepare the necessary instructions for him with all possible despatch.

Which is most humbly submitted.

DUNK HALIFAX.
J. PITT.
JAMES OSWALD.
ANDREW STONE.

WHITEHALL, *December* 18, 1755.

No. 7.

Governor Ellis' commission, April 1, 1761.

George the Third, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c., to our trusty and well beloved Henry Ellis, Esq., greeting: Whereas our late royal grandfather, of blessed memory, did, by his letters patent, under the great seal of Great Britain, bearing date at Westminster, the ——— of ——— in the ——— year of his reign, constitute and appoint Charles Lawrence, Esq., Captain General and Governor-in-chief in and over our province of Nova Scotia, or Acadie, in America, with all the rights, members, and appurtenances whatever thereunto belonging, for and during his late Majesty's will and pleasure, as by the said recited letters patent, relation being thereunto had, may more fully and at large appear: Now know you, that we have revoked and determined, and by these presents do revoke and determine the said recited letters patent, and every clause, article, and thing therein contained; and further know you, that we, reposing especial trust and confidence in the prudence, courage, and loyalty of you, the said Henry Ellis, Esq., of our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint, and by these presents do constitute and appoint you, the said Henry Ellis, to be our Captain General and Governor-in-chief in and over our province of Nova Scotia or Acadie, in America, with all the rights, members, and appurtenances whatever thereunto belonging.

No. 8.

Draught of a commission for Montague Wilmot, Esq., to be Governor of Nova Scotia, dated October, 1763.

George the Third, by the grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c., to our trusty and well beloved Montague Wilmot, Esq., greeting: Whereas we did, by our letters patent, under the great seal of Great Britain, dated at Westminster, the——day of——in the first year of our reign, constitute and appoint Henry Ellis, Esq., Captain General and Governor-in-chief in and over our province of Nova Scotia or Acadie, in America, with all the rights, members, and appurtenances thereunto belonging, for and during our will and pleasure, as by the said recited letters patent, relation being thereunto had, may more fully and at large appear: Now know you, that we have revoked and determined,

and by these presents do revoke and determine the said recited letters patent, and every clause, article, and thing therein contained.

And further know you, that we, reposinge special trust and confidence in the prudence, courage, and loyalty of you, the said Montague Wilmot, of our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint, and by these presents we do constitute and appoint you, the said Montague Wilmot, to be our Captain General and Governor-in-chief in and over our province of Nova Scotia, bounded on the westward by a line drawn from Cape Sable across the entrance of the Bay of Fundy to the mouth of the river St. Croix, by the said river to its source, and by a line drawn due north from thence to the southern boundary of our province of Quebec to the northward by the same boundary as far as the western extremity of the Baye des Chaleurs; to the eastward by the said bay and the Gulf of St. Lawrence, to the cape or promontory called Cape Breton, in the island of the same name, including that island, the island of St. John, and all other islands within six leagues of the coast; and to the southward by the Atlantic Ocean, from said cape to Cape Sable aforesaid, including the island of that name, and all other islands within forty leagues of the coast, with all the rights, members, and appurtenances whatsoever thereunto belonging.

No. 9.

Governor Legge's commission.

George the Third, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c., to our trusty and well beloved Francis Legge, Esq., greeting: Whereas we did, by our letters patent, under our great seal of Great Britain, bearing date at Westminster, the eleventh day of August, in the sixth year of our reign, constitute and appoint William Campbell, Esq., commonly called Lord William Campbell, Captain General and Governor-in-chief in and over our province of Nova Scotia, in America, bounded on the westward by a line drawn from Cape Sable across the entrance of the Bay of Fundy to the mouth of the river St. Croix, by said river to its source, and by a line drawn due north from thence to the southern boundary of our colony of Quebec; to the northward by the said boundary as far as the western extremity of the Baye des Chaleurs; to the eastward by the said bay and the Gulf of St. Lawrence to the cape or promontory called Cape Breton, in the island of that name, including that island, the island of St. John, and all other islands within six leagues of the coast; and to the southward by the Atlantic Ocean, from the said cape to Cape Sable aforesaid, including the island of that name, and all other islands within forty leagues of the coast, with all the rights, members, and appurtenances whatsoever thereunto belonging, for and during our will and pleasure, as by the said recited letters patent, relation being thereunto had, may more fully and at large appear. Now, know you, that we have revoked and determined, and by these presents do revoke and determine the said recited letters patent, and every clause, article, and thing therein contained; and further know you, that we, reposing especial confidence and trust in the prudence, courage, and loyalty of you, the said Francis Legge, of our especial grace, certain knowledge, and mere motion, we have thought fit to constitute and appoint you, the said Francis Legge, to be our Captain General and Governor-in-chief of our said province of Nova Scotia, bounded on the westward by a line drawn from Cape Sable across the entrance of the Bay of Fundy to the mouth of the river St. Croix, by the said river to its source, and by a line drawn due north from thence to the southern boundary of our colony of Quebec; to the northward by the said boundary as far as the western extremity of the Baye des Chaleurs; to the eastward by the said bay and the Gulf of St. Lawrence to the cape or promontory called Cape Breton, in the island of that name, including that island and all other islands *within six leagues of the coast*, excepting our said island of St. John, which we have thought fit to erect into a separate Government; and to the southward by the Atlantic Ocean, from the said cape to Cape Sable aforesaid, including the island of that name, and all other islands within forty leagues of *the coast*, with all the rights, members, and appurtenances whatsoever thereunto belonging.

And we do hereby require and command you to do and execute all things in due manner that shall belong unto your said command, and the trust we have reposed in you, according to the several powers and authorities granted or appointed you by the present commission, and the instructions herewith given you, or by such further powers, instructions, and authorities as shall at any time hereafter be granted or appointed you under our signet and sign manual, or by our order in our Privy Council, and according to such reasonable laws and statutes as are now in force or shall hereafter be made or agreed upon by you, with the advice and consent of our Council and the Assembly of our said province under your government, in such manner and form as is hereafter expressed.

No. 10.

The act of the British Parliament of the 14*th year of George III,* 1774, *relating to the province of Quebec, provides as follows:*

That all the territories, islands, and countries in North America, belonging to the Crown of Great Britain, bounded on the south by a line from the Bay of Chaleurs along the highlands which divide the rivers which empty themselves into the river St. Lawrence from those which fall into the sea to a point in the 45th degree of north latitude on the eastern branch of the river Connecticut, keeping the same latitude directly west through Lake Champlain, until in the same latitude it meets the river St. Lawrence; from thence up the eastern bank of said river to Lake Ontario; thence through the Lake Ontario and the river commonly called Niagara; and thence along by the eastern and southeastern bank of Lake Erie, following the said bank until the same shall be intersected by the northern boundary granted by the charter of the province of Pennsylvania, in case the same shall be so intersected; and from thence along the said north and west boundary of the said province until the said western boundary strikes the Ohio; but in case the said bank of said lake shall not be found to be so intersected, then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the northwest angle of

the said province of Pennsylvania; and thence by a right line to the said northwest angle of said province; and thence along the western boundary of said province until it strikes the Ohio, and along the bank of the said river westward to the bank of the Mississippi, and north to the southern boundary of the territory granted to the merchants, adventurers of England, trading to Hudson's Bay; and also all such territories, islands, and countries which have, since the 10th day of February, 1763, been made part of the Government of Newfoundland, be, and they are hereby, during his Majesty's pleasure, annexed to and made a part of the province of Quebec, as created and established by the said royal proclamation of the 7th of October, 1763.

No. 11.

Extract from the British Agent's argument before the Commissioners under the fifth article of the treaty of amity, commerce, and navigation, concluded between the United States and Great Britain, at London, November 19, 1794.

By the 12th section of the act entitled "An act to restrain the trade and commerce of the province of Massachusetts Bay and New Hampshire, and colonies of Connecticut and Rhode Island and Providence Plantations, in North America, to Great Britain, Ireland, and the British islands in the West Indies, and to prohibit such provinces and colonies from carrying on any fishing on the Banks of Newfoundland or other places therein mentioned, under certain conditions and limitations," they say, it is provided and enacted "that the river which emptieth itself into Passamacadie or Passamaquoddy bay on the western side, and is commonly called or known by the name of the St. Croix river, be held and deemed, for all the purposes in this act contained, to be the boundary line between the provinces of Massachusetts Bay and Nova Scotia."

This act creates no new boundary; it merely recognizes, confirms, and establishes the river St. Croix as a boundary between the provinces of Nova Scotia, in the patent to Sir William Alexander, in 1621, which was agreed upon, settled, known, and acknowledged as the boundary between the province of Nova Scotia and the territory of New England, granted to the Council of Plymouth in the year 1620, which, after the surrender of their grand charter, was the boundary between Nova Scotia and the territory granted to the Duke of York in 1664, which was recognized as the western boundary of Nova Scotia by the charter of William and Mary to the province of Massachusetts Bay in 1691, and which, from the treaty of Utrecht, in 1713, was the boundary between the provinces of Massachusetts Bay and Nova Scotia, received and established by the Crown, and known, acknowledged, and acquiesced in by the Gov ernment of Massachusetts Bay.

That from the time of the passing of this act of Parliament, in 1774, the boundaries of the province of Nova Scotia remained unaltered to the treaty of peace, in 1783, will not, it is presumed, be denied. And it will not be difficult now to show that the river Scoudiac, under the name of the river St. Croix, formed a part of the boundary described in that treaty.

It is sufficient here to observe, that at the time the treaty of peace was made in 1783 the provinces of Quebec and Nova Scotia belonged to and were in the possession of the Crown of Great Britain, and that his Britannic Majesty at that time had an undoubted right to cede to the United States of America such part of these territories as he might think fit; and that, in making the cession of the territory comprised within the boundaries of the United States, as described in the second article of the treaty of peace, his Majesty must be supposed to have used the terms describing these boundaries in the sense in which they had been uniformly understood in the British nation, and recognized in public documents and acts of Government. In this sense, and in no other, could they have then been understood, or can they now be claimed or insisted upon by the United States. In this sense, and in no other, is his Majesty bound to give the possession. Whatever river was at that time known and recognized by his Majesty and the British Government as the river St. Croix, forming a boundary between the province of Massachusetts Bay and Nova Scotia, that river, and no other, can now be claimed as a part of the eastern boundary of the United States. It is sufficient that in this act of Parliament the river St. Croix is described by a particular location and boundaries which cannot be mistaken, known to both parties at the time, and assented to on the part of the United States by their accepting the act, and not giving any local designation of the river which they now claim, or of any other river than that thus ascertained by precise description, and known by them to have been established, and at the time contemplated by Great Britain, as the boundary between the provinces.

If this principle were once departed from there would be no check to construction on the subject, though it would be fortunate to his Majesty's interests if he were not thus bound, as it might be clearly shown in that case that the river Penobscot, once, indiscriminately with other rivers upon this coast, called the St. Croix, was the true boundary by which Nova Scotia or Acadie was ceded to his Majesty by the treaty of Utrecht, and ought, in such case, by the principles of the law of nations, to be established as the eastern boundary of the United States.

But the words in the twelfth section of the act of Parliament above recited do not in anywise relate to or suppose any subsisting doubts about the locality or identity of the river called or known by the name of the St. Croix river, but have reference, as has been fully shown, to the ancient limits of the province of Nova Scotia, as established by the original grant of it to Sir William Alexander from King James I, in the year 1621, recognized in all subsequent public documents and transactions relating thereto, and claimed by the province of Massachusetts Bay as their eastern boundary under the charter of King William and Queen Mary in 1691.

[Extract, &c.]

The most accustomed and convenient rule in cases of this kind is to leave to each Power, respectively, the sources of those rivers that empty themselves, or whose mouths are within its territory upon the sea-coast, if it can be done consistently or in conformity with the intent of the treaty. If it can be shown that this rule, in the present case, can be adopted consistently with what has been shown to be the intent of the treaty, it will form an unanswerable argument in favor of a compliance with the rule, more

especially if a different construction will involve the inconveniences intended to be avoided by so just a principle of interpretation.

Let us, in this view, attend to the words made use of in the treaty describing the first station or boundary from which all the other boundaries of the United States are to be traced, viz: From the northwest angle of Nova Scotia, viz., that angle which is formed by a line drawn due north from the source of St. Croix river to the highlands which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean. It appears from a map actually compiled in most instances from actual surveys, an authentic copy of which is now before the board, that a line drawn due north from the source of the Cheputnatecook river, or northern branch of the river Scoudiac or St. Croix, will not intersect the highlands here described, but will intersect the river Restigouche, which empties itself into the Bay of Chaleurs, which falls into the Gulf of St. Lawrence, and will also intersect the Metabediac lake, which is the head or source of the river likewise falling into the Bay of Chaleurs. In addition, therefore, to the argument drawn from the inconvenience resulting from its cutting off the sources of those rivers which discharge themselves within the British territory upon the seacoast, the source of this branch of the Scoudiac or St. Croix cannot be the source intended by the treaty of peace, because in such case we cannot arrive at the northwest angle of Nova Scotia, which is the first bound or station upon which the other boundaries depend, as they must be traced from thence, that is to say, "that angle which is found by a line drawn due north from the source of St. Croix river to the highlands which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean." For, if the fact be as above stated, should a line be traced due north from the source of the Cheputnatecook, if the highlands in such case are on this side or to the southward of the river Restigouche, they will divide the rivers that fall into the Atlantic Ocean or Bay of Fundy from those that fall into the Gulf of St. Lawrence; if they are between the river Restigouche and the Metabediac lake they will divide the rivers which, from different sources, unite and fall into the Gulf of St. Lawrence; if they are beyond this lake, they will divide the rivers which fall into the Gulf of St. Lawrence from those which fall into the river St. Lawrence; the requisite angle therefore will not be found upon this line. But if a line is traced due north from the source of the western or main branch of the river Scoudiac, or St. Croix, it will run to the westward of the sources of all the rivers that fall into the Gulf of St. Lawrence, and will strike the highlands which divide the rivers that fall into the Atlantic Ocean from those which empty themselves into the river St. Lawrence, and consequently give the requisite angle or first bound.

There is certainly a clear distinction in the grant to Sir William Alexander between the river St. Lawrence and the Gulf of St. Lawrence, or rather of Canada; the boundary line by this grant, after striking that river, is to follow the course of it eastward to Gaspee, which lies to the northward of the Bay of Chaleurs, and afterwards the gulf is mentioned, and the words made use of in the grant seem to impoft a considerable distance eastward, between the line where it strikes the river of Canada or St. Lawrence and Gaspee.

It is far from being certain that the ridge of highlands which divides the rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean, is continued to the eastward of the sources of the rivers which fall into the Gulf of St. Lawrence; but whether thus continued or not, the inference is clear, from the foregoing facts and reasoning, that neither the Cheputnatecook, nor consequently the Magaguadavic, or any other river whose source is eastward of the source of the Cheputnatecook, can be the river intended under the name of the river St. Croix in the treaty of peace.

But to apply these facts to the point more immediately under consideration, whether a line due north from the source of the western or main branch of the river Scoudiac, or St. Croix, will leave to each of the parties to the treaty the sources of those rivers that empty themselves, or whose mouths are within its territory upon the seacoast respectively.

The effect, so far as it regards the United States, is completely secured by the treaty in all events, and thence we have further reason to suppose it was intended to be reciprocal in this respect, if a just interpretation will warrant it.

A line due north from the source of the western or main branch of the Scoudiac, or St. Croix, will fully secure this effect to the United States in every instance, and also to Great Britain in all instances except in that of the river St. John, wherein it becomes *impossible*, by reason that the sources of this river are to the westward, not only of the western boundary line of Nova Scotia, but of the sources of the Penobscot and even of the Kennebec, so that this north line must of necessity cross the St. John; but it will cross it in a part of it almost at the foot of the highlands, and where it ceases to be navigable. But if a north line is traced from the source of the Cheputnatecook, it will not only cross the river St. John, within about fifty miles from Frederickton, the metropolis of New Brunswick, but will cut off the sources of the rivers which fall into the Bay of Chaleurs, if not of many others, probably of the Meramichi, among them which fall into the Gulf of St. Lawrence, and thereby be productive of inconvenient consequences to the two Powers, if not of contention between them, instead of "terminating their differences in such a manner as may be best calculated to produce mutual satisfaction and good understanding," which is one of the principal and avowed objects of the treaty.

Had the treaty intended that this north line should intersect a number of rivers which empty their waters through a British province into the sea, a right of navigation or passage down those rivers would doubtless have been secured to the United States by the treaty. That this was not the intention of the treaty, not only appears from the facts and reasoning that have already been adduced, but from a further consideration, that in most, if not all the maps of the interior country, published before the year 1783, although the sources of the river St. Croix are very inaccurately laid down, still it is very uniformly made to terminate in a lake near the eastern branch of the Penobscot; and a line drawn north from that termination upon those maps will not intersect any of the rivers which empty themselves into the sea to the eastward of the mouth of the river St. Croix, except the river St. John. This furnishes an unanswerable argument, so far as any fair conclusions can be drawn from those maps, in proof not only that the river Scoudiac is the true ancient river St. Croix, and *consequently* intended by the treaty of peace under the name of St. Croix, but that its true source is upon that western branch, in a lake, near to an eastern branch of the river Penobscot.

If, then, there were any doubt remaining which is the true source of the river St. Croix from which the line due north to the highlands is to be traced, the inconveniences above mentioned would form the strongest argument against a decision from which they would result, and in favor of that by which they will be avoided; much more so when the latter decision will correspond with and be supported by so

many other incontestable proofs and arguments, clearly establishing the river Scoudiac, to the source of the western branch, to be the river St. Croix, truly intended under that name, in the treaty of peace, and forming a part of the boundary therein described; and the northwest angle of Nova Scotia mentioned in the same treaty, to be formed by a line drawn due north from that source to the highlands described in the treaty.

Whether, therefore, we follow the words of the grant to Sir William Alexander, by which we must be at all events concluded, or follow the main branch of the river retaining the same name, or are governed by the uniform decision of geographers and historians of credit upon the subject, and the rules and principles of the law of nations for the interpretation of treaties, we shall be led to the same place as the source of the river from which the line due north must be traced to the northwest angle of Nova Scotia.

But even if it had not been known at the time of the grant to Sir William Alexander that this river had two branches, and the grant had been expressed generally to the furthest source of the river St. Croix, still the main branch, or that retaining the name of the river at its mouth, must have been followed to its source, not only to satisfy the words of the grant, but to give it its intended construction and operation.

It clearly appears to have been the intention of the grant to give as large a territory to be erected into the province of Nova Scotia as the river St. Croix could give by tracing a line due north from its source to the great river Canada; and it is expressly provided in the grant, contrary to the general rules for the construction of the King's grants, that if any questions or doubts should thereafter arise upon the interpretation or construction of any clause contained in the grant, that they should all be taken and interpreted in the most extensive sense, and in favor of the said Sir William Alexander.

Having traced the original boundaries of the province of Nova Scotia to the furthest source or spring of the river St. Croix, upon the western branch thereof, and thereby found the utmost western limits of the province, it remains only to discover its utmost northern limits in order to ascertain the northwest angle we are in search of.

The province of Nova Scotia, at the time of the treaty in 1783, was, as has already appeared, bounded to the northward by the southern boundary of the province of Quebec, which boundary was established by the royal proclamation of the 7th of October, 1763, and confirmed by the act of the 14th George III, c. 83, passed in the same year with the act of Parliament already cited, by which it is enacted that all the territories, islands, and countries in North America, belonging to the Crown of Great Britain, bounded on the south by a line from the Bay of Chaleurs, along the highlands which divide the rivers that empty themselves into the river St. Lawrence from those which fall into the sea, to a point, in forty-five degrees of northern latitude, on the eastern bank of the river Connecticut, &c., be annexed to, and made a part and parcel of, the province of Quebec.

As then, at the treaty of peace in 1783, the northern limit of the province of Novia Scotia was "a line along the highlands which divide the rivers that empty themselves into the river St. Lawrence from those which fall into the sea," it unquestionably follows that the northwest angle of Nova Scotia, at the time of the treaty of peace in 1783, was that angle which was formed by a line drawn due north from the source of the river St. Croix to those highlands. If we now compare this angle with the northwest angle of Novia Scotia, described in the treaty of peace, viz: that angle which is formed by a line drawn due north from the source of St. Croix river to the same highlands, can it be said, with any degree of propriety, that "the limits and boundaries of the province of Nova Scotia were unknown at the time of the treaty of peace in 1783, and that it, therefore, became necessary to give it a western boundary by the treaty itself, in these words, to wit, that angle which is formed by a line due north from the source of the river St. Croix to the highlands?"

Can it be believed, or for a moment imagined, that in the course of human events so exact a coincidence could have happened between the actual boundaries of the province of Nova Scotia and the boundaries of it described in this treaty, if the latter had not been dictated and regulated by the former?

Can any man hesitate to say he is convinced that the Commissioners at Paris, in 1783, in forming the second article of the treaty of peace, in which they have so exactly described this northwest angle, had reference to, and were governed by, the boundaries of Nova Scotia as described in the grant to Sir William Alexander, and the subsequent alteration of the northern boundary by the erection of the province of Quebec?

Will not this conviction become irresistible when he adverts to the reservations made to his Majesty, in this article of the treaty, "of such islands as then were, or theretofore had been, within the limits of the said province of Nova Scotia, and to the islands included and comprehended within those limits as described in the grant to Sir William Alexander, some of which might have belonged to the United States, as lying within the limits of those States, but for the exception of them in the treaty?

Let us now compare the western boundaries of the province of Nova Scotia, granted to Sir William Alexander, with the corresponding eastern boundaries of the United States. As the river St. Croix is not included in the grant to Sir William Alexander, as stated by the agent of the United States, and as it was not intended to be included, because, as has been made to appear, this river St. Croix was an agreed boundary between the province of Nova Scotia, erected by this grant, and the territory of New England, granted to the grand council of Plymouth, it follows that the line of this grant to Sir William Alexander must legally be construed to run through the middle of the river, the river not being assigned inclusively to either territory.

Upon this principle, then, this part of the western boundaries of the province of Nova Scotia, in the grant to Sir William Alexander, will be a north line across the mouth of the Bay of Fundy to the river commonly called by the name of St. Croix, and through the same to the furthest source or spring upon the western branch thereof, including and comprehending all islands within six leagues to the westward, northward, and eastward, and within forty leagues to the southward of any part of the premises described in the grant.

And the corresponding eastern boundary of the United States, by the second article of the treaty of peace, is, "a line to be drawn along the middle of the river St. Croix, from its mouth, in the Bay of Fundy, to its source, including such islands as then were, or theretofore had been, within the limits of the said province of Nova Scotia;" referring to the province of Nova Scotia, of which the northwest angle, before described, was made the first station or boundary from which the boundaries of the United States were traced.

As it has already been shown that the source of this river St. Croix, otherwise called Scoudiac, upon the western branch and near to a branch of the Penobscot, to which there is a portage or carrying place

from it; the same place is evidently contemplated as the source from which the line due north to the highlands is to be drawn, both in the grant to Sir William Alexander and in the second article of the treaty of peace, and, consequently, this part of the western boundary of Nova Scotia, in the grant, is precisely the same with the corresponding eastern boundary of the United States in the treaty.

Thus, the first principle stated in this argument is established beyond all contradiction, "that by the second article of the treaty of peace it was intended that no part of the province of Nova Scotia should be thereby ceded to the United States, but that the province of Nova Scotia, according to its ancient limits, should be and remain a part of the territories and dominions of his Majesty, as his Majesty had before that time held and possessed the same."

And this principle being established, the necessity of examining into and ascertaining precisely the ancient boundaries of the province of Nova Scotia, in the manner that it has been done, is clear and obvious, and the result of that examination, compared with the boundaries in the treaty of peace, thus serves in its turn to confirm the principle.

This principle being evident from the words of the treaty of peace itself, no explanation of the treaty, by either party, inconsistent with this true and obvious intention of it, can be received consistently with any of the rules and principles of the laws of nations, universally acknowledged and admitted obligatory in such cases, as has already been made to appear, and will be more fully shown in a more particular reply to the arguments advanced in support of the claim of the United States.

From the foregoing facts and arguments, the underwritten agent feels himself warranted in concluding that the river Scoudiac is the river truly intended, under the name of the river St. Croix, in the treaty of peace, and forming a part of the boundary therein described; and that the northwest angle of Nova Scotia, intended by the treaty, is that angle which is formed by a line drawn due north from the furthest source or spring of the western main branch of the Scoudiac to the highlands described in the treaty.

As the final declaration to be made by this honorable board, deciding what river is the river St. Croix intended by the treaty of peace, must particularize the latitude and longitude of its mouth, as well as of its source, it may be proper, and perhaps necessary, in this place, to say a few words respecting the mouth of the river Scoudiac, which has been so fully proved to be the river St. Croix intended by the treaty.

By an inspection of the plan of the surveys now before the board, it will appear, in conformity to Champlain's authority, that its proper mouth is where it empties itself into that part of Passamaquoddy bay which was formerly called the Bay of St. Croix, and is now called St. Andrew's bay, and this mouth is traversed by a line drawn from the north point of St. Andrew's harbor, commonly called Joe's Point, across the river to the opposite point upon the western shore, near to the place where Mr. Brewer now lives. In confirmation of this, the Indians produced and examined before the board as witnesses on the part of the United States have testified that from Brewer's upwards the waters are called Scoudiac, and from thence downwards Passamaquoddy bay.

And the author of the History of the District of Maine also speaks of the proper mouth of this river being at or near St. Andrew's, where, he says, "The English now possess the country as far west as the east bank of the Scoudiac at its mouth."

It being established that the river Scoudiac, under the name of the river St. Croix, made a part of the original boundaries of the province of Nova Scotia, and continued to be a part of its western boundary at the time of the treaty of peace in 1783, it may be proper now to inquire whether that province has, in fact, exercised its jurisdiction agreeably to those limits; and to ascertain this fact, as far as it regards this western boundary, we can go no further back, with any degree of accuracy, than the treaty of peace in 1783, for, previous to the war immediately preceding that period, this part of Nova Scotia, or Acadie, had been, with little interruption, in the hands of the French, notwithstanding the treaty of Utrecht, by which it was fully ceded to Great Britain.

The whole country coming into the possession of his Britannic Majesty by the treaty of 1763, we are from thence to date our inquiries respecting the jurisdiction in fact exercised over this part of the country, down to the peace in the year 1783.

The boundaries of the province of Nova Scotia, as described in the commissions to the Governors of it from his Majesty during that period, conformed, as we have seen, to the boundaries of it as described in the grant to Sir William Alexander, without any material variation, except the alteration of its northern limits, occasioned by the erection of the province of Quebec.

No. 12.

Copy of the declaration executed by the Commissioners, viz:

By Thomas Barclay, David Howell, and Egbert Benson, Commissioners appointed in pursuance of the fifth article of the treaty of amity, commerce, and navigation, between his Britannic Majesty and the United States of America, finally to decide the question "what river was truly intended under the name of the river *Saint Croix*, mentioned in the treaty of peace between his Majesty and the United States, and forming a part of the boundary thereindescribed?"

DECLARATION.

We, the said Commissioners, having been sworn "impartially to examine and decide the said question, according to such evidence as should, respectively, be laid before us on the part of the British Government and the United States," and having heard the evidence which hath been laid before us by the agent of his Majesty and the agent of the United States, respectively, appointed and authorized to manage the business on behalf of the respective Governments, have decided, and hereby do decide: The river hereinafter particularly described and mentioned to be the river truly intended under the name of the river St. Croix in the said treaty of peace, and forming a part of the boundary therein described, that is to say, the mouth of the said river is in *Passamaquoddy* bay, at a point of land called Joe's Point, about one mile northward from the northern part of *Saint Andrew's* island, and in the latitude of forty-five degrees five minutes and five seconds north, and in the longitude of sixty-seven degrees twelve minutes and thirty

seconds west from the Royal Observatory at Greenwich, in Great Britain, and three degrees fifty-four minutes and fifteen seconds east from Harvard College, in the University of Cambridge, in the State of Massachusetts; and the course of the said river, up from its said mouth, is northerly to a point of land called the Devil's Head, then, turning the said point, is westerly to where it divides into two streams, the one coming from the westward and the other coming from the northward, having the Indian name of *Cheputnatecook* or *Chibniticook*, as the same may be variously spelt; then up the said stream, so coming from the northward to its source, which is at a stake near a yellow birch tree hooped with iron, and marked S. T. and J. H., 1797, by Samuel Titcomb and John Harris, the surveyors employed to survey the above mentioned stream coming from the northward. And the said river is designated on the map hereunto annexed, and hereby referred to as further descriptive of it by the letters A, B, C, D, E, F, G, H, I, K, and L. The letter A being at its said source, and the course and distance of the said source, from the island at the confluence of the above mentioned two streams, is, as laid down on the said map, north five degrees and about fifteen minutes west, by the magnet about forty-eight miles one-quarter.

In testimony whereof, we have hereunto set our hands and seals, at Providence, in the State of Rhode Island, the twenty-fifth day of October, in the year one thousand seven hundred and ninety-eight.

THOMAS BARCLAY. [L. S.]
DAVID HOWELL. [L. S.]
EGBERT BENSON. [L. S.]

Witness: EDWARD WINSLOW, *Secretary to the Commissioners.*

No. 13.

Copy of unexecuted declaration.

"By the Commissioners appointed in pursuance of the fifth article of the treaty of amity, commerce, and navigation, between his Britannic Majesty and the United States of America, finally to decide the question, what river was truly intended under the name of the river St. Croix, mentioned in the treaty of peace between his Majesty and the United States, and forming a part of the boundary therein described?"

DECLARATION.

We, the said Commissioners, having been sworn impartially to examine and decide the said question, according to such evidence as should, respectively, be laid before us on the part of the British Government and of the United States, and having heard the evidence which has been laid before us by the agent of his Majesty and the agent of the United States, respectively, appointed and authorized to manage the business on the part of the respective Governments, *have* decided, and hereby *do* decide, that the river described, as follows, viz: The source of it is where it issues from the lake Genesagranagrum-sis, one of the Scoudiac lakes, and distant above five miles and three-quarters, in a direct course, from where the Cheputnatecook falls into it, and about twenty miles and a half, also on a direct course, from the point of land called the *Devil's Head*, and from its said source, as far at least as to the said point of land, it has the Indian name of Scoudiac, and its course for that extent is easterly; and then turning the said point and leaving Oak Point bay on the north, its course is southerly to its mouth, which is where it empties itself into Passamaquoddy bay, at a point of land called Joe's Point, about one mile northerly from the northern point of the island of St. Andrew's, and in the latitude of forty-five degrees five minutes and five seconds north, and in the longitude of sixty-seven degrees twelve minutes and thirty seconds west from the Royal Observatory of Greenwich, in Great Britain, and three degrees and fifty-four minutes and fifteen seconds east from Harvard College, in the University of Cambridge, in the State of Massachusetts, is the river truly intended under the name of the river St. Croix, mentioned in the said treaty of peace, and forming a part of the boundary therein described; and the map of it, hereunto annexed, is hereby referred to as further description of it.

In testimony whereof, we have hereunto set our hands and seals, at Providence, in the State of Rhode Island, the ——— day of ———, in the year one thousand seven hundred and ninety-eight.

PROVIDENCE, *October* 23, 1798.

SIR: I have considered with attention your letter of this day, and it appears to me evident that the adoption of the river Cheputnatecook as a part of the boundary between his Majesty's American dominions and those of the United States, in preference to a line drawn from the easternmost point of the Scoudiac lakes, would be attended with considerable advantage. It would give an addition of territory to the province of New Brunswick, together with a greater extent of navigation on St. John's river, and, above all, a larger stretch of natural frontier, calculated to prevent future difficulties and discussions between the two countries. If, therefore, by assenting to the proposal of the American agents, you can bring about the unanimous concurrence of the Commissioners in this measure, I am of opinion that you will promote his Majesty's real interest, and I will take the earliest opportunity, with a view to your justification, of expressing these my sentiments on the subject to his Majesty's Secretary of State.

I have the honor to be, with great truth and regard, sir, your most obedient, humble servant,

ROBERT LISTON.

WARD CHIPMAN, Esq.

No. 14.

Letter from the Governor of Maine to the Secretary of State of the United States.

PORTLAND, *March* 20, 1827.

SIR: Having had the honor to receive your letter of January 29th last, I transmit, in reply, the accompanying* report and resolves relative to the northeastern boundary of the State of Maine. The attention

* See Resolves of Maine, page 572.

which you have heretofore paid to the adjustment of the United States boundary, especially in another part of the Union, assures me that you will receive the documents I have mentioned with that interest to which they are entitled. With the confidence which belongs to the patriotic and paternal character of the Government of the Union, and without complaining of it in any particular, I may be permitted to say that the growing importance of the country claimed against the United States and Maine carries along an increasing desire to have an open or confidential development of the material facts.

The report and resolves contain the evidence of the present disposition and purposes of the State, which will receive my official co-operation with the same zeal and fidelity that will cheerfully be applied, if requisite, in aiding to carry into effect any Federal measure applicable to the protection of the rights in question. The anxiety of a sovereign State to possess the documents (or copies of them) which contain the evidence of a title to soil, and of a jurisdictional authority, which it will, under the United States, maintain, if it shall discharge its duty either to those States or to itself, will be duly appreciated by yourself and by the President.

While that anxiety is here entertained by all the citizens, it is not only with reference to an important local concern, but is connected with their inclination to a harmonious action with all who consent to admit of it. In pursuance, therefore, of the resolve of the Legislature of Maine, I have the honor to solicit such information relative to the northeastern boundary of that State as the President may deem proper to consent to have communicated. It is also my duty to add that great benefit will be derived from an early determination of a claim harassing to the State, interrupting its best pursuits, threatening to some of its best hopes, and believed to be unfounded.

No. 15.

Letter from the Secretary of State of the United States to the Governor of Maine.

WASHINGTON, *March* 27, 1827.

SIR: I have to acknowledge the receipt of the letter which your excellency did me the honor to address to me on the 20th instant, with a copy of the report of the joint select committee of the Senate and House of Representatives of the State of Maine enclosed, both of which I have submitted to the President. The deep interest which is taken by the State of Maine in the settlement of our northeastern boundary with Great Britain is very natural; and I assure you that it is a subject on which the President feels the most lively solicitude. Mr. Gallatin is charged with, and has actually entered on, a negotiation concerning it, but which was not brought to a close at the last dates from him, nor is it probably yet terminated. At that period the prospect was that there would be no other alternative than that of referring the difference between the two Governments to arbitration, according to the provisions of the treaty of Ghent. Much difficulty was experienced even in adjusting certain preliminary points necessarily connected with the reference, and they have not yet been finally arranged.

When an application was made during the session of Congress prior to the last, by the Senators of Maine, for copies of all the papers in this Department respecting the disputed boundary, it was not deemed expedient to furnish copies of the reports and arguments of the Commissioners, the publication of which, it was believed, would be prejudicial. Copies of any surveys, maps, or documentary evidence, were offered. The same considerations which then existed are still believed to be opposed to letting copies go from this Department of those reports and arguments. With that exception, copies of any of the other papers returned by the Commissioners will be furnished whenever application is made for them.

It is stated in the report of the joint select committee that "We cannot view the acts complained of by the British Government as encroachments upon the rights of New Brunswick or Great Britain, for they relate, and were only intended to relate, to the territory within the description of the treaty." Although the President might be disposed entirely to coincide in this opinion with the State of Maine, it must not be forgotten that an opposite opinion is entertained by Great Britain, with whom we are now treating. If, whilst the controversy is unsettled, and during the progress of a negotiation, each party proceeds to take possession of what he claims to belong to him, as both assert title to the same territory, an immediate collision is unavoidable. The British Government has abstained, according to the assurances given through their minister here, from the performance of any new acts which might be construed into an exercise of the rights of sovereignty or soil over the disputed territory; and they so abstained on our representation, and at our instance. Under these circumstances, the President continues to think that it is most advisable that we should practice the like forbearance, as recommended in the letters which I had the honor of addressing to your excellency on the 4th of January of the last, and the 29th of January of the present year. This mutual forbearance is believed to be essential to the harmony between the two countries, and may have a favorable tendency in the amicable adjustment of the difference between them.

It is worthy also of consideration, that, although Maine is most, she is not the only State interested in the settlement of this question.

Your excellency may be perfectly persuaded that every effort will be employed to obtain as satisfactory and as speedy a decision of this matter as may be practicable; and that not less attention will be paid to it than has been shown on the part of the Executive of the United States in the adjustment of their boundary in another part of the Union, to which you refer, whilst it is hoped that some unpleasant incidents which occurred there may be avoided in the northeast.

I transmit herewith, for the consideration of your excellency, an extract from a despatch of Mr. Gallatin, under date the 30th October last.

No. 16.

Letter from the Governor of Maine to the Secretary of State of the United States.

PORTLAND, *April* 18, 1827.

SIR: I had the honor to receive your letter, bearing date March 27 ultimo, to which it is my duty, as the only organ of communication of the people of Maine, at this time, and on this occasion, to reply.

The rights to which my care will appear to you to be now directed are not, as I trust, jeoparded; but they are so interesting as to demand the sedulous attention of those functionaries of this State who are placed in relations which enable them to represent, through you, to the President the feelings and principles requiring of Maine its special regard, and which may be respectfully offered to the country and the administration.

Without bringing the subject to that test of deep and general anxiety by which, in a certain contingency, it must be tried at last, I shall offer a frank and sincere reply.

The extracts from Mr. Gallatin's communication, with which you favored me, being the foundation of some of your remarks, allow me to advert to a view of the subject to which he informs you he was led by procedures of the Legislature of New Brunswick. I now refer to what he has said as to propositions of compromise by agents of Maine and Massachusetts relating to the boundary line. The danger of inferences, under such circumstances, from the "proceedings of the Legislature of New Brunswick" is so evident that you will not be surprised by a denial of their correctness.

Assenting to the idea that "propositions on our part inconsistent with our construction of the treaty, and which would not secure to us all the waters which empty into the St. John's west of the line running north from the source of the St. Croix, would be dangerous," and being also prepared to admit that Maine would be inconsistent and unjust to herself in making such propositions, I shall satisfy you that she has not been off her guard in the manner which called forth your friendly intervention. And first allow me to assure you that there is no occasion for alarm on the part of the administration, or its minister in England, that Maine will jeopard the common welfare by failing to insist on the justice and indefeasible character of its claim, or by shrinking from a firm assertion in any alternative.

The agents, whose supposed acts "would seem, from certain proceedings of the Legislature of New Brunswick," to have been as incautious as is represented, had no authority to propose any compromise as to our boundary, and if any was offered it was officious and unwarrantable; but I am enabled to inform you that the affair has been misrepresented to Mr. Gallatin, and I should offer the proofs of the correctness of this assurance in detail if I did not believe it improper to pursue the consideration of inofficial acts and of statements ill founded or, if otherwise, inconsequential. Grateful, therefore, for the attention evinced by the caution he has given, however unnecessary, we will receive it as the pledge of his vigilance and ability.

In concluding, as to this point, let me fortify you against any apprehension that Maine will yield too much by declaring to you plainly that it is not believed that either the treaty-making or executive power of the United States extends to the cession or exchange of the territory of any State without its consent, and that, for a stronger reason, no State can barter that domain in which the Union has also an interest, and that jurisdiction which the highest political duty requires it to exercise. Maine will surely, I believe, so far maintain these principles as to warrant a reliance against indiscreet and unconstitutional concessions and a confidence in the application of her means to the repulsion of aggression. I have full reliance upon her disposition and ability to render the President all the aid which can be desired against the unfounded and presumptuous claims made equally against her and the Union to promote an object suggested and supported only by an ambition and cupidity which, although natural, is, nevertheless, on our part, altogether objectionable. If these views shall not satisfy the President of the confidence to which Maine is entitled, as to the assertion and defence of her rights, I shall with pleasure offer those further proofs which I omit at present only from the desire of engaging your indulgence for a few additional observations.

It was with much regret, not unmingled with mortification, that I considered your denial of the use of the reports and arguments of the Commissioners under the treaty of Ghent. From the want of that information, which it was hoped the United States would yield to a party having the same interests with themselves, and only desirous to sustain them, it is assumed that there are reasons for your decision through which that respect will be commanded, now, from great deference, proffered in anticipation. Wishing to act in full coincidence with the views entertained by the Federal Administration, the State must be bound to believe in a mutual regard, and to endeavor to avoid any embarrassing applications on her own part, but it may not be unsuitable for her to expect a degree of confidence in return.

All that forbearance which the occasion requires will, as I may safely assure you, be exhibited by this State. While her extensive and valuable tracts of wild land, which might otherwise soon be improved, remain unsettled; while her progress in wealth and power is checked in a most disastrous manner at the period most favorable to giving an impulse to her prosperity; while many important resources are left dormant during the pendency of the dispute as to her property and jurisdiction; while a frontier, which might soon be made strong, remains unfortified by the freemen anxious to occupy it, she will, I doubt not, forbear, on the request of the General Government, until the imperious call of duty shall summon her to occupy her inheritance. Seeking to promote, by all suitable concessions, the amicable adjustment you refer to, she will only withdraw her deference and submission when a claim unjust in itself may seem to expose a portion of her territory to incorporation with a province. With this spirit of forbearance she has sought information only as to an interest vital to herself, as well as important to the country, without any purpose calculated to excite distrust, with only such patriotic views as have rendered the refusal to comply with her request a subject of that species of surprise which a friend, predetermined to take no offence, feels when he is not treated with correspondent confidence.

Maine, sir, was with great difficulty introduced into the Union, but, if I recollect rightly the arguments which were used, she was introduced as a sovereign and independent State.

As a free, sovereign, and independent Republic, may we not be permitted to have communication with the authorities of the Union, or do they mean that we shall submit implicitly to their direction, however wise it may be, at the same time that they declare their conviction of the propriety of withholding information? The general concerns of the Union are, of course, communicated only to the whole, but

that which relates to a particular community, where its daily intercourse demands information, seems to warrant the request I have made, and which I am reluctantly impelled to renew, with this modification, that any communication made in return will be received, if so required, subject to a restriction on publicity beyond a communication to the Legislature in the usual terms of confidential communications. If the President will not consent to this we must yield with the deference we owe to the station he holds, to the claims he has on our affections and confidence, to the information he possesses, and the prudence he displays, to any extent within which the absolute and indefeasible rights of Maine may not be compromitted. Will you permit me to add that, as to all beyond that, this State may probably claim the right to use her moral and physical energies as she may be directed by the future emergencies, and I am sure, if her good will shall impel her, with power enough to sustain her right to soil and jurisdiction wherever she may probably claim them against any probable foreign and arrogant assumption, especially with the aid of the General Government.

I do not wish to weary your patience by urging the particular arguments which might sustain my proposition. It is true, sir, that Maine is not the only State interested. The Union is interested, and each State is severally interested, in having a powerful community on our northeastern boundary, which may, like New York in the last, be the pride and defence of the nation in the next war. Whenever again there shall be a struggle between the natives and armies of this Republic and Great Britain, the position of Maine will require activity, strength, and confidence. She will be exposed to a large portion of danger and suffering, and will be, I hope and believe, resolute to acquire the glory to which such exposure, with unimpaired means, will invite her.

Politically peninsulated, with three foreign Governments pressing upon her borders, with the high ambition inspired, and the high responsibility created by her destination, can it be believed that she will relinquish her resources, suffer her landmarks to be removed, and yield to a most presumptuous arrogation of a foreign Power? I trust you will more highly appreciate her intelligence and spirit than to imagine that so degrading and pernicious a surrender can be consented to by her.

But is she authorized even to consider this question and to determine the extent of her municipal jurisdiction and that of the territorial limits within which she will exercise it? If a mandate of the Executive of the United States, under an act of the treaty-making power, is, upon principle, imperative, she ought to be silent and passive; but if not, however confidently she may rely upon her safety, as guarded by wisdom and patriotism, she ought to announce her wishes and her principles.

While, under treaties with Great Britain, the boundary in dispute has been settled, the difficulty has occurred only as to the application of the rule in those treaties contained to the surface of the ground. The right to the full extent of the first treaty is perfect. It was not created by that treaty, but its existence was prior to it, and no surrender could then have been made without the consent of the proprietor and the Sovereign. No surrender was made, and there is not a moral or political, in other words, a governmental force, sufficient to change the true, honest determination of the landmark. And there is nothing but sophistry and that ignoble spirit of compromise, which exists not in this Republic, which will consent to the obvious and monstrous falsehoods to which ambitious and artful pretensions have led the enemies of Maine.

In regard to the sentence which you have extracted from the report of the joint select committee, as it contains a sentiment approved by the Legislature and acquiesced in by the people, I shall trouble you with a brief comment in regard to it. It rests upon the idea before suggested, that Maine, with Massachusetts, has a perfect title in the disputed territory, and that the former State has a vested, indefeasible jurisdictional control over it, the exercise of which it may irresponsibly apply. It is a proposition which has been demonstrated by yourself so clearly as to have commanded general respect, that the abstraction of the territory of the United States cannot be made by the treaty-making or executive power. Much more, then, must the domain of a State within its acknowledged limits be sacred, and much more and more is it evident that neither Department of the Federal Government, nor all, can be the exclusive and final arbiter as to the ascertainment of a boundary already established in description; because, if one Department, or all, have this power, they may ascertain the line falsely, indirectly cede our State, converting it into a British dependency, and thus, by the arguments I had the invaluable satisfaction of hearing applied in another case, violate the Constitution. If, therefore, the committee have fallen into error, it has not been in the principle of their judgment as to the rights of this State abstractly considered, but in their view of the extent of our territory, and of the application of our authority over it. They, in fact, substantially assert that the treaty of 1783, in connexion with original grants and subsequent and correlative circumstances, established and defined our bounds, so as to preclude just complaint of our public acts within the scope of those legitimate powers which, at the discretion of the State, it may, within those bounds, anywhere apply. The doctrine of the committee can only be refuted by proving that the national authority is exclusive as to the adjustment of our exterior boundary; but let it be recollected that the present case only admits the ascertainment of a line by a rule prescribed, and not the creation of one arbitrarily, or, in other words, by arbitrament. A right was vested in a third party before the Union existed, and has been confirmed by it since. In short, the committee, it is believed, may be considered as claiming such respect as may be attached to those who have truly exhibited the sentiments of this community.

Anxious, as in my situation I cannot avoid being, for the preservation, during my continuance in office and always after, of the rights of the State, I must express my alarm at a portion of Mr. Gallatin's letter. He says: "An umpire, whether a king or farmer, rarely decides on strict principles of law; he has always a bias to try, if possible, to split the difference," &c. And yet I am informed that there has been in progress an arrangement of the preliminary points for constituting such an umpire. I cannot but hope that no arrangement will be effected which will endanger the half, from the mere circumstance of a wrongful claim to the whole, under the pitiful weakness which is liable to split the difference between right and wrong.

Let me add, in this particular part of my letter, most respectfully, but solemnly, the sentiment that Maine is bound to claim at the hands of the Federal Government the protection of the integrity of her territory, the defence of her sovereignty, and the guardianship of her State rights. She is called upon to urge this, that she may be rather permitted to rest on the parental care of the Union than driven to any independent agency, in any form, in relation to this concern.

That you may not be surprised that the State, after having fruitlessly sought information, should have determined on its course without it, give me leave to say, that, while she cannot be presumed to be

informed in all particulars as to the relations of a deeply interesting character in which she is placed, she is called upon to judge as to others, and is not without the premises necessary to correct conclusions.

Whatever intelligence she might have been permitted to receive as to her relative situation, she would, as she will hereafter, cheerfully co-operate with the General Government to prevent an assumption of our territory, to whatever extent, by the King of Great Britain.

In executing the resolve of the Legislature, it will be convenient to me to possess a schedule of those documents which may be communicated. I will, therefore, hope the favor of being furnished with such an index for the direction of my inquiries.

No. 17.

Letter from the Secretary of State of the United States to the Governor of Maine.

WASHINGTON, *May* 7, 1827.

SIR: I have the honor to acknowledge the receipt of your excellency's letter of the 18th ultimo, and to inform you that I have submitted it to the President. The solicitude which is felt by your excellency and the Legislature of Maine in regard to the settlement of our northeastern boundary, so interesting to that State and so important to the whole Union, is perfectly natural, and justly appreciated by the President; and he is entirely disposed to communicate any information in the possession of the Executive of the United States on that subject which can, in his opinion, be communicated without the danger of public detriment. Accordingly, when, at the session of Congress before the last, an application was made at this Department by the Senators from Maine for copies of all the papers, maps, and other documents reported by the Commissioners who were appointed under the fifth article of the treaty of Ghent, it was stated to those gentlemen that the copies would be furnished whenever requested, with the exception of the reports and arguments of the Commissioners, transcripts from which, considering their peculiar character, in the then state of the question, the President did not think it expedient to allow to be taken. The Senators from Maine availed themselves of the permission, and obtained copies of some of the maps. Copies of all the papers reported by the Commissioners, which are very voluminous, would require the services of two or three copyists for many weeks; but the labor of preparing them would be cheerfully encountered for the accommodation of the State of Maine.

The negotiation with Great Britain is still pending, but there is reason to expect that it will soon be brought to some conclusion, perhaps in a shorter time than would be requisite to copy and transmit the papers reported by the Commissioners to your excellency. The President continues to think that the public interest requires that the communication of transcripts of the reports and arguments of the Commissioners, even under the limitation proposed by your excellency, should be postponed for the present, and until it can be made without the risk of any injurious effect upon the state of the negotiation. Your excellency's experience in public affairs will enable you to make a just estimate of the reserve and delicacy which ought to be observed in all negotiations with foreign Powers involving subjects of deep national interest. This consideration has such weight that it is the uniform practice of Congress, as no one knows better than your excellency, to annex a qualification to the calls which are, from time to time, made for papers relating to the foreign negotiations of the Government. There would not be the smallest objection to an exhibition to the inspection of your excellency, or, confidentially, to any person that you might think proper to designate, of all the papers, without exception, reported by the Commissioners. I abstain from a particular notice of many of the topics of your excellency's letter, not from the least want of respect (on the contrary, I entertain the highest, personally and officially) for your excellency, but from a persuasion that the discussion of them is without utility. It has been thought most profitable to limit my answer to the specific requests contained in your letter.

I transmit herewith, in conformity with your wish, a list of the papers reported by the Commissioners, copies of any of which may be procured for the use of the State of Maine whenever desired, with the exception which has been stated.

No. 18.

A list of books, papers, &c., relative to the fifth article of the treaty of Ghent.

BOOKS.

Journal of Commission.—Volume I.

Claims of Agents.—Volume II contains claim of the agent of the United States. 1st. Memorial concerning the northwest angle of Nova Scotia and the northwesternmost head of Connecticut river, &c.: By the agent of his Britannic Majesty. 2d. Memorial concerning same: By same.

Answers of Agents.—Volume III contains a reply to the memorial of the agent of the United States, filed June 8, 1821, exhibiting the line of the boundary of the United States from the source of the river St. Croix to the Iroquois or Cataraguy.

Answer of the agent of the United States to the claim and opening argument of the agent of his Britannic Majesty. Read August 10, 1821.

Replies of the Agents.—Volume IV contains the reply of the agent of the United States to the answers of the agent of his Britannic Majesty to the claim and opening argument of the agent of the United States, &c. Read September 27, 1821.

Observations upon the answers of the agent of the United States to the claim and opening argument of the agent of his Britannic Majesty, &c.: By the agent of his Britannic Majesty.

General Appendix.—Volume V contains reports of the surveyors and astronomers, and documents referred to in the arguments of the agents.

Appendix to British Agent's Reply.—(Duplicate) report of Commissioner C. P. Van Ness.

Report of the Commissioner of his Britannic Majesty, addressed to the Government of the United States.

Appendix to the report of his Britannic Majesty's Commissioners.

No. 19.

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B. Streams tributary to Connecticut river, by Mr. Burnham.
C. Extract from Carrigan's map of New Hampshire.
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I. General extract from Mitchell's map.
K. Corrected copy of same extract. Filed August 14, 1821.

S. HALE, *Secretary.*

TITLE OF THE BRITISH.—This atlas (containing the copies of maps, and parts of maps and plans, with the exception of the last Mitchell's map, which was filed as thereon stated,) accompanied the answering argument of the agent of his Britannic Majesty, filed on the 14th of August last.

No. 20.

Letter from the Governor of Maine to the President of the United States.

PORTLAND, *May* 19, 1827.

SIR: The situation in which this State is placed in consequence of the unexecuted provision of the treaty of Ghent relative to its northeastern boundary imposes upon me a duty which I am not permitted to compromise by my feelings of respect for yourself and the high authority with which you are invested. However discouraging may have been the correspondence I have had with the Secretary of State, I

cannot decline a course deliberately determined upon, or admit the belief that a representation relating to the welfare of Maine can be unwelcome. It is not the comparatively light concern of a passing favor or the import of a transient measure that I am about to urge; but it is that of making a memorial for consideration and record as to the demesne and jurisdiction of this member of the Union.

Obliged to depend principally for information upon rumor, the tenacity of knowledge, which is power, has not, however, concealed the fact that the British Government has made a claim embracing a large tract of country adjacent to the province of New Brunswick. Information from various sources cannot fail to have produced on your mind a just impression of the importance communicated to that territory in reference to value and jurisdiction, by its qualities of soil, its variety of native productions, its streams, its situation, and all those properties calculated to render it not only a strong interior barrier to invasion, but fruitful of the means of prosperity to our maritime frontier. The State of Maine claims the propriety in an undivided moiety, and the entire jurisdiction, as far as consistent with the paramount power of the United States, in relation to that extensive tract. Having learned that the title thereto is involved in the details of a diplomatic arrangement, conducted under the sanction of the Executive Department of the Federal Government, Maine, although not consulted, yet bound from deference to pay a due respect to reasons, the nature and force of which she is, from a studious and mysterious reserve, rendered unable to comprehend, believes she ought to present her expostulations in regard to any measures threatening her with injury.

The Secretary of State has informed me that the disputed claims to land along our northeastern boundary are to be submitted to arbitration. By arbitration, I understand a submission to some foreign Sovereign or State, who will decide at pleasure on the whole subject; who will be under no absolute obligations or effectual restraint by virtue of the treaty of 1783; whose conscience will not be bound to impartiality and justice by the solemn sanction of an oath; and whose feelings may naturally be biased against a Republic accused of inordinate ambition, and in whose peace and prosperity there is an interesting lesson and example for nations.

The treaty-making power of the United States on one side, and his Britannic Majesty on the other, engage to consider the decision of the arbitrator final and conclusive. Let me say that to a surrender of territory, involved as a possibility, it will, I trust, be made evident that there is another party not to be an indifferent spectator of its own delaceration. The mind, in contemplating our prospects, is carried to the Courts of Europe, and led to scan the tribunals to which you may refer this subject. It would be unsuitable for me to comment on the dispositions or talents of foreign Sovereigns or States; but it is not in cold blood that I can anticipate the committing the destinies of Maine to an irresponsible arbiter, to be found in a distant land, and necessarily unqualified to act in the case. The character of this arbitership has been portentously exhibited by Mr. Gallatin in that letter in which, on the authority of intelligence from New Brunswick, he most erroneously ascribed an interposition by the agents of Massachusetts and Maine as to a compromise of our boundary. Suffice it to say that the proposed arbitration will jeopard, without her consent and against her will, the rights of Maine; and allow me to add that, if called upon to make the required sacrifice, she will be compelled to deliberate on an alternative which will test the strictness of her principles and the firmness of her temper.

The acknowledgment of the mother country, and the exercise of the inherent power of the people, formed Massachusetts into a body politic, orignally independent of the present Union and of every foreign Government. All the territorial and jurisdictional rights which she could acquire were absolutely her own, and remain so to this day, excepting so far as she has granted them to the United States or to Maine. The treaty of 1783, containing the acknowledgment of her emancipation and exaltation to self-government, was not with the States, exclusively, as a federal body, but partially, at least, as independent communities—that is to say, if in some points of view they appeared as forming a national, in other they were regarded as being an allied association; hence the acknowledgment of independence applied distinctly to each State, as did also the relinquishment by the King of Great Britain of "the propriety and territorial rights of the same and every part thereof." It is necessary to notice that, at the period of the negotiation of the treaty of peace, the confederation, to a slight extent, and in reference to a few objects, drew the States into concert, and gave them a unity of character; but the most superficial examination shows that the confederacy had not a common interest in territory or territorial rights, and that the recognition of these bore upon the ancient colonies only as they held under their charters, or as the fruits of their wisdom and valor, in *fee simple* and absolute sovereignty.

When, by the ratification of the conventions of the States, Massachusetts surrendered to a superintending agency a portion of her power, she yielded no right to dispose of her soil or to abstract any part of it from her jurisdiction. She imparted no authority to enter into new engagements, or, what may be equivalent, to modify the means of enforcing an existing provision of an original compact made in part with herself, nor to expose, without her own consent or that of her successor and representative, to the fate of foreign arbitrament her dearly purchased and sacred rights. On the contrary, Maine, now standing in the place of her parent Republic, may deem the fifth article of the treaty of Ghent as having led to a course endangering her rights, and rendered more painful and alarming by her exclusion from a proper intercommunication and legitimate consideration as a party in the case.

Whatever character appertained to the confederation, or to those who entered into that holy league, it is manifest that the States were not identified and confounded with the Union in relation to the question here presented, under the original treaty of peace and limits. I must, therefore, respectfully urge that, however the policy and principles of the Executive Department of the Federal Government may dictate the imposition upon Maine of silence and forbearance, and however plainly may be indicated the disposition to treat the subject as if merely national, she will not observe any procedure by the United States and Great Britain for the severance of her territory and the abrogation of her authority without a sensibility too serious to be passive. She holds that her domain is not the subject of partition.

I pause, to render more obvious the relevancy of these remarks. Of two principles on which it depends, it may be sufficient to state but one. The power of subjecting to arbitration, with an absolute right in the arbiter to form and establish a territorial limit, is equivalent to the power of ceding territory. The arbiter is the legal substitute and mutual agent of the parties, in this case assumed to be the United States and Great Britain; his acts are their acts, and there is a positive pledge to an unconditional obedience to his behest. It is the delegation of the sovereignty of a despot. The effect may be the cession of all Maine, or of only a part; but if of any, the Government of the United States will participate, by an unauthorized submission, in the injustice of the umpire.

It is not controverted that the control of our foreign relations belongs to the United States as to objects which have arisen under the Constitution or existing laws; but in regard to rights acquired by an independent party, and interests in property vested by acts anterior to the existence of that compact, the interposition by the Federal Executive, without an express grant of power, seems to be gratuitous. No statesman will assert that the treaty-making power is competent to an act transcending the scope of the combined trusts of the Government.

I advert to principles familiar to your mind because it is my duty to present the opinions here entertained. What, then, is the authority or agency which, it may be assumed, would produce no remonstrances from the State the most deeply concerned? Not surely that which admits of what is termed by Mr. Gallatin splitting the difference, nor of conceding property which does not belong to the United States, nor curtailing a jurisdiction above their rightful control. Whatever may be urged to the contrary, it is confidently asserted, not only that the provision of the treaty of 1783 is imperative, but that it describes our boundary with a precision which shames the British claim, and, connected with the making of that claim, casts a shade over the lustre of the British character. By negations we may sometimes arrive at an affirmative. I say, then, that the boundary on the surface of the earth does not rest along the Penobscot, which the British, then perhaps contemplating that vast empire they anticipated in North America, insidiously and surreptitiously seized during the late war. That boundary cannot be established there. It does not rest where the British minister has presumed to place it. The making the claim does not determine its justice, nor the obstinacy of persisting in it create with this powerful nation the necessity of a concession, which will as surely be followed by a more enormous one as it is certain that the Roman Empire was ignominiously subjugated through the base spirit of submission to incipient wrong. Enough has been said to meet the obvious and natural inquiry, what is expected of the Government, or, may I not say, what is demanded of it? It knows the demerit of the British claim; it is conscious of the rights of Maine; and hereafter it cannot be said that her views have not been exhibited. She might therefore be forever justified in the exercise of her jurisdiction and sovereign State rights over the disputed ground. Her faith is not pledged, nor is that of the Union, to permit any reduction of her actual territory; and there is no artifice of construction or force of authority to break off that great component part of her domain now assailed, and to bind her judgment to acquiescence. The cession would be nugatory; and if for a time she should be compelled to submit to it, the abeyance produced by power will not preclude the right of resumption which justice may at some period award.

It has been urged that this concern is so exclusively national that Maine is obtrusive in presenting her views to the consideration of the Executive. It is, nevertheless, believed that she is under high obligations vigilantly to supervise her interests, freely to assert her rights, and not to yield readily to the discouraging but perfectly natural inclination to see in her conduct the humblest deference, and an entire, unquestioning, improvident obedience. She commits no intentional error, and communes with the frankness which belongs to her independence, her character, and her station with her sister Republics and with the Union. In doing so she evinces her respect for their integrity, intelligence, and patriotism; and she avoids, by a prudent forecast, that danger of collision, bred from present distrust, and that querulous and exasperated temper usually exhibited when the evils of measures are experienced, and when causes are appreciated by their effects.

Repeating to you the expression of my regret that you have been pleased to refuse that information contemplated by a resolution of the State, I shall nevertheless continue to hope for the preservation, under the protecting care of Government, of that now exposed territory, destined, under any proprietor, to be soon occupied by a numerous population, engaged in all the pursuits which sustain human life and adorn human nature.

No. 21.

Letter from the Governor of Maine to the Secretary of State of the United States.

PORTLAND, *April* 29, 1827.

SIR: I am induced by considerations which I deem important to avail myself of your obliging offer to obtain copies of all the papers in your office relative to the boundary between this State and New Brunswick which the President may permit to be transmitted. This request applies to maps, with the exception of the map already furnished of the country explored in the years 1817, 1818, 1819, and 1820, by order of the Commissioners under the fifth article of the treaty of Ghent, by Hiram Burnham, United States surveyor.

I have the honor also to solicit transcripts of the arguments of Mr. Chipman and Mr. Sullivan, as agents under the commission for determining the true St. Croix, and of the arguments of Mr. Austin and Mr. Chipman, under the fourth article of the treaty of Ghent, together with the report of the Commissioners in both cases.

Excuse me for adverting to the punctilio of expense, which I shall wish to see liquidated.

I have made a communication to the President on the subject of our northeastern boundary, which, you will perceive, from its nature, was necessarily directed immediately to him.

No. 22.

Letter from the Secretary of State of the United States to the Governor of Maine.

WASHINGTON, *June* 9, 1827.

SIR: The President has received the letter which your excellency addressed to him under date the 29th ultimo, and I am charged by him to convey to you his assurances that your observations on the interesting subject of our northeastern boundary shall receive attentive and respectful consideration. I beg leave to add, that in no contingency is any arbitration of the difference between the United States and Great Britain, relative to that boundary, contemplated, but that for which provision has been solemnly made by treaty. It would afford great satisfaction to the President if a resort to that alternative for

quieting the dispute could be avoided, by obtaining from Great Britain an explicit acknowledgment of the territorial claims of Maine in their whole extent. Candor, however, compels me to state that the prospects of such an acknowledgment at the present time are not encouraging.

No. 23.

Letter from Daniel Brent, Esq., of the Department of State of the United States, to the Governor of Maine.

WASHINGTON, *June* 15, 1827.

SIR: I was directed by the Secretary, before his departure from this city, a few days ago, on a visit to Kentucky, to have copies prepared of the books, &c., &c., requested in your letter to him of the 29th of May, and to transmit them to your excellency with all possible despatch; and I have just collected together the manuscript books containing the arguments of Mr. Chipman and Mr. Sullivan, agents under the commission for determining the true St. Croix, and those containing the arguments of Mr. Austin and Mr. Chipman, agents under the 4th article of the treaty of Ghent, together with the reports of the Commissioners in both cases, fourteen in number, and averaging each about two hundred and fifty pages of close writing on foolscap paper; transcripts of these being particularly noticed by you as wanting. Added to those, the arguments, reports, and papers, including the maps, under the 5th article of the treaty of Ghent, which come, it would seem to me, within the scope of your request, embrace a mass of writing nearly as voluminous as that of these books. I take the liberty, under these circumstances, of troubling your excellency with this communication, to apprise you of the extent of the transcripts which appear to be thus required, and of the delay which must, of consequence, attend the execution of your excellency's commission, as it is at present understood by me.

I beg leave, however, to state that the subject is involved in so much obscurity, from the prolix and complicated arguments, reports, and replies of the several Commissioners, agents, astronomers, and surveyors, that I do not like to venture upon making a selection for the copyists, though I feel fully persuaded that this might be advantageously done, to the great abridgment of their work, and to the expediting of the fulfilment of your wish. The Senators from your State, Messrs. Holmes and Chandler, have seen the books, and, as well as I recollect, were furnished with copious extracts from them; and perhaps they might favor this Department, through your excellency, with some suggestion leading to a convenient curtailment, which should, nevertheless, be entirely compatible with your excellency's object, in reference to the copies required by you.

No. 24.

Letter from the Governor of Maine to Daniel Brent, Esq., of the Department of State of the United States.

PORTLAND, *July* 14, 1827.

SIR: I had the honor to receive your letter, referring me to the Hon. Messrs. Holmes and Chandler, as to reducing the amount of the draught I had made on the proffered kindness of the Secretary of State. I have availed myself of all possible benefit from your suggestion, but am still disposed to accept, without reservation, the favor he so politely tendered; which is done with the greater sense of obligation, because that favor cannot embrace the principal objects first contemplated, and is, therefore, rendered more valuable as to the residue. It is also believed that Maine ought not to lose the opportunity of placing among her archives all those documents which she can obtain relating to a concern so important as that of a third of her territory.

Extract of a letter from the Governor of Massachusetts to the Governor of Maine, dated

EXECUTIVE DEPARTMENT OF MASSACHUSETTS, *Boston, July* 2, 1827.

"I beg also to avail myself of this opportunity to acknowledge the receipt of several interesting communications from your excellency, in reference to the northeastern boundary, which will receive the most respectful and faithful consideration. My own opinion of the importance of the general views which you have, in detail, and with great force, presented on this subject, has been heretofore expressed in official communications to the Legislature of this Commonwealth and in a correspondence had with the Department of State of the United States."

No. 25.

Letter from the Governor of Maine to the Secretary of State of the United States.

PORTLAND, *September* 3, 1827.

SIR: Since I had the honor of addressing you on the subject of the northeastern boundary of this State facts have been placed within my knowledge which, more imperatively than any other, urge me to solicit the attention of the President to the situation in which we are placed. It is now rendered evident that the representation made to you, and communicated in your letter of the 27th of March last, that the British Government has abstained from the performance of any new acts which might be construed into an exercise of the rights of sovereignty or soil over the disputed territory, was entirely incorrect. That representation, connected with the recommendation by the President, has undoubtedly had much influence

with Maine in producing a forbearance which will probably be objected against her, in comparison with the opposite course by Great Britain, as containing an implied acknowledgment of the rightfulness of the jurisdiction which has been exercised for years, by a foreign Power, in the manner and to an extent which I beg leave now to exhibit, as presented to me by credible testimony. Along the St. John's river, following it up westwardly from the junction of the Matawascah, is a very flourishing settlement, containing a considerable number of peaceably disposed and industrious inhabitants. Among these is a proportion of American emigrants, some of whom hold their land under deeds from Massachusetts and Maine, and the others, or nearly all of them, are anxious to obtain titles in the same way. The latter at present occupy as tenants at sufferance, and neither recognize the lands as being Crown lands, nor do they voluntarily submit to British authority. These persons the Government of New Brunswick treats in all respects as aliens, denies their right to hold real estate, assesses upon them the alien tax, and refuses to permit to them the transmission of their produce as American. I forbear to speak of many acts of violence and petty vexation of which they also complain. The other inhabitants are uniformly treated as British subjects, and new acts of jurisdiction, even to requirement of military duty, are as frequently exercised as the ordinary operations of a municipal control require. Before expressing to you the sentiments which should be connected with the exhibition of these facts, allow me to ask your attention to the sacrifice to which Maine is submitting while her formidable adversary is thus industriously fortifying his positions. She owns, as it is believed, as clearly as she owns any other portion of property, a tract not less than six millions of acres, which, with the exception of about a million and a half situated northeastward of the St. John and Matawascah, is generally valuable for soil and timber, so that the latter along one river has been estimated to be worth $180,000, which is only equal to an average of $150 per square mile. The use of these vast resources is forbidden to her by the circumstance that a claim is made upon it by a foreign Power, and by the respect she entertains for the President's recommendation of a mutual forbearance; yet that Power is in the meantime applying its jurisdiction in the same manner as if the representations of its minister created no pledge and no obligations to sustain their correctness. While it is natural that the same Power should seek to render the province of New Brunswick wealthy and powerful by the prize it hopes to win, it might have been expected that there should be no repugnance between its acts and declarations. The case which will be presented must, as you perceive, necessarily require of Maine a consideration of the duties she owes to her citizens, not left in the condition of neutal subjects without government, as has been supposed, but actually subjugated.

To allow our lands to remain uncultivated, and our public improvements to be postponed through a State necessity, is a sacrifice capable of being endured, compared with that of seeing dominion usurped over those who owe us allegiance, and to whom protection is due. It has been the doctrine of the Government, and of a great portion of the people of the United States, at times when Great Britain was heretofore prosecuting claims against this country, more extensive but not less unjust than the present, that an injury to a single citizen inflicted a wound upon the body politic; and that an evil inflicted upon a part demanded the making a common cause for its remedy.

In such a sentiment, believed to be now as fully as ever entertained, I find my apology for this renewed appeal for protection of the interests of Maine against the reduction of its territory and the oppression of its citizens through foreign interposition.

Availing myself of the present opportunity to offer the President a further view of this subject, which I omitted purposely on former occasions, it is flattering to be able to bring in aid the analogy of the opinions understood by the nation to have been uniformly entertained by our statesmen and jurists in the case of the Mississippi. It being assumed that the protection solicited will be yielded, and that the property demanded cannot be surrendered in any form, or under any mode of procedure, except as superior force may compel submission to a cession of State territory, it is natural to advert to the value of the property at stake. That value is so enhanced as to place it beyond calculation when we apply the doctrine applied to the navigation of the Mississippi, that the ownership of the headwaters of rivers gives the right of free navigation to their sources. The doctrine, subject to some modification of a political and fiscal character, has the same application under the laws of nature and nations, in reference to our right of navigation through the St. John, as this nation always demanded for it in connexion with the great question with Spain, which called it into view. Let me entreat you, then, to look at once to the exciting cause of the cupidity of Great Britain, and the anxiety of Maine as to this profligate claim. The materials for ship building on the disputed territory may be called inexhaustible, and the soil is so fertile that the Matawascah settlement exports many thousand bushels of grain. The towns near the Bay of Fundy, both on the Scoodic and St. John, under the exclusive policy of Great Britain, derive immense annual profits from ship building, and they look with an unholy interest and intent on the extensive forests of Maine. If the merits of the case admitted more measured terms I should use them. But believing that all posterity would reprobate the weakness of yielding what is once so rightfully ours, and so important, I use the freedom which the occasion demands. Beyond what I have urged, let me add that there will be, if you shall defeat the claim upon our territory, a facility of artificial water communication, which, regarding its extent, is unparalleled in the geography of this country. It will embrace all the waters of the St. John, Penobscot, Kennebec, and St. Lawrence.

If the General Government will employ an agent of this State, it will, I am sure, be responsible for proving to him the correctness of all I have stated, to his entire satisfaction and in the most authentic forms.

I cannot close without assuring you of my confirmed belief that Maine will never assent to the result of an arbitration unfavorable to her interests in the great concern in reference to which my duty has compelled me to trouble you with my repeated communications.

No. 26.

Letter from the Secretary of State of the United States to the Governor of Maine.

WASHINGTON, *September* 14, 1827.

SIR: I have received the letter which your excellency did me the honor to address to me on the third instant, and I have lost no time in transmitting a copy of it to the President of the United States, who

will no doubt give it the most respectful and deliberate examination. In the meantime I have also transmitted an extract from it to the British minister, accompanied by the expression that the necessary orders will be given on the part of the British Government to enforce that mutual forbearance from any new acts tending to strengthen the claims of either party to the disputed territory which it has been understood, in the correspondence between Mr. Vaughan and myself, would be on both sides.

No. 27.

Letter from the Governor of Maine to the Lieutenant Governor of New Brunswick.

PORTLAND, *October* 22, 1827.

SIR: It has been represented to me, as Governor of the State of Maine, that one of its citizens, of the name of John Baker, while residing on its territory, has been arrested and is detained in jail at Frederickton. A circumstance so interesting to the peace and character of the State and country compels me to solicit information, which I do with the respect and amicable disposition due authorities of a neighboring Government. It is hoped that you will be pleased to communicate all the facts in the case, and that the result will be to allay the anxiety produced by the impression that the privileges of an American citizen and the jurisdiction of a sovereign Power has been invaded. Maine has not only a wish to be amicably connected with New Brunswick, but her interests impel her to seek a friendly intercommunication; yet you must be aware that honor and justice demand of her the utmost respect and devotion, on her part, to the rights of every citizen.

The attempt to extend the jurisdiction of New Brunswick over the disputed territory will compel counteraction from Maine. The result must be productive of so much evil that it is not deemed indelicate or disrespectful to advert to it. The arrest of our citizens, on what we believe to be a part of our State, will demand its utmost energies for resistance.

No. 28.

Mr. Daveis' appointment.

STATE OF MAINE.

SECRETARY OF STATE'S OFFICE, *Portland, November* 5, 1827.

SIR: I am directed to inform you that you have this day been appointed by the Governor of this State an agent, with authority to act in behalf of the State of Maine, in obtaining information, either informal or by authenticated statements, as to all objects relating to rights of property and jurisdiction between the Governments of the said State and the province of New Brunswick.

I have the honor to be, with great respect, your most obedient servant,

AMOS NICHOLS, *Secretary of State.*

CHARLES STUART DAVEIS, Esq., *Portland.*

No. 29.

Letter from the Governor of the State of Maine to the Lieutenant Governor of New Brunswick.

PORTLAND, *November* 5, 1827.

SIR: I have the honor to solicit your friendly reception of Charles S. Daveis, Esquire, appointed to obtain information relative to our border difficulties. It has been considered due to yourself to select for this agency a gentleman of high character, and who, in the most acceptable manner, may inquire into concerns calculated to produce a war between the United States and Great Britain, unless, by the forbearance of injuries by New Brunswick and Maine, it may be prevented.

In whatever point of view you may regard this subject, I have full confidence that you will permit Mr. Daveis, if only in the capacity of a stranger and a gentleman, to pass, with your countenance, through the territory over which you preside, to the different portions of country he may wish to visit, for the purpose of ascertaining the facts relative to complaints of violence and injustice committed on the citizens of Maine.

This measure has been adopted not to interrupt, but to cherish, the most respectful sentiments and amicable disposition between all those who may be concerned.

Mr. Daveis' authority does not specially designate his object, but you are requested to consider him as fully empowered to demand the release of John Baker, a citizen of Maine, said to be confined in the jail at Frederickton, and that the persons who arrested him and conveyed him there may be delivered up to be tried by the laws of this State, and dealt with as justice may require.

No. 30.

Letter from the Secretary of State of the United States to the Governor of Maine.

WASHINGTON, *October* 30, 1827.

SIR: I have committed to the charge of Mr. William Prentiss, who will have the honor to deliver them and this letter to your excellency, and who is employed for that purpose, twenty-four manuscript

volumes of books, according to the accompanying list, on the subject of the north and northeasterly boundary lines of the United States, prepared at this office for the State of Maine, conformably with the suggestions and desire expressed by your excellency. From the extent of these manuscripts, it is more than probable that they embrace copies of a great deal more, in documents, discussion, and argument, than was in the contemplation of your excellency, or than was desired for the use of your State; but to secure a full compliance with your excellency's views, and to guard against any deficiency, I gave directions to have a transcript made of everything which might by possibility be useful or interesting upon the occasion, having the remotest bearing upon the subject, with the limitation stated in my previous correspondence; and as the selection was necessarily committed to others who may not have had a very accurate view of the extent of the commission intrusted to them, it is not improbable that it may comprise much which may be found superfluous.

I send, also, forty-two copies of maps, likewise prepared with the same views, and under the same circumstances, which Mr. Prentiss will also have the honor to deliver to your excellency.

No 31.

Letter from the Governor of Maine to the Secretary of State of the United States.

PORTLAND, *November* 16, 1827.

SIR: I have received the documents you caused to be transmitted with the satisfaction naturally excited by so valuable a testimonial of regard for the wishes of this State. An attention which has occasioned so much trouble cannot fail to produce a strong sentiment of respect, and to call into action a proper sensibility, in acknowledgment of a burdensome service, from those very deeply interested in obtaining it.

I have also this day received your communication of the date of the 10th instant. From its contents, I am made sensible that the objections I have had the honor to urge against the submission to a foreign umpire of the territorial and jurisdictional rights of Maine, without consulting or advising her as to the conditions, have not been deemed available. If any injury shall result to her, the appeal will be made to the people of this country and to posterity. It has not seemed arrogant or presumptuous to have expected a recognition of her rights, and to have asked that if she is to be made a sacrifice, she might not be devoted without some consideration, on her part, of the terms.

It is not probable that your various important engagements can have allowed to my former communications more than the cursory glance which enables the officer in most cases to despatch business, especially in those cases in regard to which he has marked out his course; but, to save repetition, I must ask your indulgence to refer to those communications as containing statements and principles near to the hearts and interests of this community. When you cautioned us against suggestions of compromise and acts of precaution, it was not believed that it was that you might the more easily throw us within the power of an umpire, but that you intended to intimate that the powerful arm of the Federal Government was holding its ample shield before us. At last we learn that our strength, security, and wealth, are to be subjected to the mercy of a foreign individual, who, it has been said by your minister, "rarely decides upon strict principles of law," and "has always a bias to try, if possible, to split the difference." I cannot but yield to the impulse of saying, most respectfully, that Maine has not been treated as she has endeavored to deserve.

The painful duty of laying before you the testimony to prove the aggressions committed upon the citizens of this State by the inhabitants of New Brunswick was seasonably discharged. It is feared that the violence committed has been but the commencement of a system. The President will surely bestow his attention upon the case of John Baker, who is stated to have been arrested on land conveyed to him in fee simple, in the year 1825, by the Commonwealth of Massachusetts and the State of Maine. The conveyance was virtually a certificate of citizenship and a pledge for protection. It was also an act of State policy, a deliberate political measure, and the "Old Commonwealth" and this Republic may well call upon the President and Secretary of State to be their protectors. All those who have contended against the impressment of the sailor in our ships will resent the arrest of the yeoman on the frontier. Connecting this injury with others which have been suffered and threatened, it has been deemed proper to appoint an agent of the State, to inquire, in a friendly and respectful manner, into the facts, whose report will enable me to answer fully and correctly the questions you have proposed. It is, with great deference, submitted, that every investigation of this subject will satisfy the Federal Government that the representations I have had the honor to present might have been worthy a serious consideration, which I doubt not they have received, although possibly too late. The communications to the Lieutenant Governor of New Brunswick and other documents will accompany this letter.

No. 32.

Proclamation by the Governor of the State of Maine.

COUNCIL CHAMBER, *Portland, November* 9, 1827.

Whereas it has been made known to this State that one of its citizens has been conveyed from it by a foreign Power to a jail in the province of New Brunswick, and that many trespasses have been committed by inhabitants of the same province upon the sovereignty of Maine, and the rights of those she is bound to protect:

Be it also known that, relying on the Government and people of the Union, the proper exertion will be applied to obtain reparation and security.

Those, therefore, suffering wrong, or threatened with it, and those interested by sympathy on account of the violation of our territory and immunities, are exhorted to forbearance and peace, so that the preparations for preventing the removal of our landmarks and guarding the sacred and inestimable rights of American citizens may not be embarrassed by any unauthorized acts.

ENOCH LINCOLN.

By the Governor: AMOS NICHOLS, *Secretary of State.*

No. 33.

Extract of a letter from the Secretary of State of the United States to the Governor of Maine.

WASHINGTON, *November* 27, 1827.

SIR: I have to acknowledge the receipt of the letter which your excellency did me the honor to address to me on the 16th instant, with its accompaniments, all of which have been laid before the President. He sees, with great regret, the expression of the sentiment of your excellency, that "Maine has not been treated as she has endeavored to deserve." Without engaging, at this time, in a discussion of the whole subject of our dispute with Great Britain about the northeastern boundary of the United States, in which the State of Maine is so deeply interested, which would be altogether unprofitable, I am sure I shall obtain your excellency's indulgence for one or two general observations, which seem called for by the above sentiment.

By the treaty of Ghent, on the contingency which unhappily occurred, of a non-concurrence between the British and American Commissioners in fixing that boundary, they were directed, respectively, to report to their Governments, and the difference thus left unadjusted was to be referred to a Sovereign arbitrator. Your excellency, in the course of the correspondence which has passed between you and this Department, has protested against this reference, and your objections to it have received the most respectful consideration. The fulfilment of the solemn obligations imposed upon the United States by the faith of treaties, and the duty with which the President is charged by the Constitution, of taking care that the laws (of which our treaties with foreign Powers form part) be faithfully executed, did not appear to leave him at liberty to decline the stipulated reference. If any other practical mode of settling the differences had occurred, or been suggested by your excellency to the President, it would have received friendly and deliberate consideration.

It is certainly most desirable that nations should arrange all differences between them by direct negotiation rather than through the friendly agency of third Powers. This has been attempted, and has failed. The Government of the United States is fully convinced that the right to the territory in dispute is with us and not with Great Britain. The convictions of Maine are not stronger in respect to the validity of our title than those which are entertained by the President. But Great Britain professes to believe the contrary. The parties cannot come to the same conclusion. In this state of things what ought to be done? National disputes can be settled only amicably or by an appeal to the sword. All will agree that before resorting to the latter dreadful alternative every friendly and peaceful measure should be tried and have failed. It is a happy expedient, where nations cannot themselves adjust their differences, to avail themselves of the umpirage of a friendly and impartial Power. It multiplies the chances of avoiding the greatest of human calamities. It is true that it is a mode not free from all objection; and Mr. Gallatin has adverted to one in the extract which you give from one of his despatches. But objectionable as it may be, it is better, and not more uncertain, than the events of war. Your excellency seems to think that the clearness of our right should prevent the submission of the controversy to an arbitrator. But the other party professes to be equally convinced of the indisputable nature of his claim; and if that consideration were to operate on the one side, it would equally influence the other. The consequence will be at once perceived. Besides, the clearness of our title will attend it before the arbitrator, and, if we are not deceived in it, his favorable decision is inevitable.

The President regrets, therefore, that in conducting the negotiation with Great Britain he could not conform to the views of your excellency by refusing to carry into effect a treaty to the execution of which the good faith of the nation stood pledged, and which was, moreover, enjoined by the express terms of the Constitution.

But if he could have brought himself to disregard this double obligation under which he is placed, how could the interests of Maine have been advanced? Both parties stand pledged to each other to practice forbearance, and to abstain from further acts of sovereignty on the unoccupied waste, until the question of right is settled. If that question cannot be settled by the parties themselves, and may not be settled by arbitration, how is it to be determined? The remaining alternative has been suggested. Whether the time has arrived for the use of that does not belong to the President, but to another branch of the Government, to decide.

I cannot but hope that your excellency, upon a review of the whole subject, in a spirit of candor, will be disposed to think that the Executive of the United States has been endeavoring, with the utmost zeal, in regard to our northeastern boundary, to promote the true interests of the United States and of the State of Maine; and this respectable State has been treated neither with neglect nor injustice.

No. 34.

Letter from the Lieutenant Governor of New Brunswick to the Governor of Maine.

FREDERICKTON, N. B., *November* 15, 1827.

SIR: I have the honor to acknowledge the receipt of your excellency's letter of the 22d October, requesting me to communicate all the circumstances respecting the arrest of the individual named in your excellency's letter.

It is not for me to question the propriety of your excellency's opening a correspondence with the Government of this province on a question now pending in negotiation between his Majesty's Government and the Government of the United States, as contracted under the treaty of Ghent; but it would neither be consistent with my sense of duty nor in conformity with my instructions to give the explanations your excellency requests to any persons excepting those with whom I am directed to correspond, or under whose orders I am placed.

Should any reference be made by the General Government of the United States to his Majesty's minister upon this or any other matter connected with the Government of this province, it will be my duty to afford his excellency the fullest information, to enable him to give whatever explanation he may deem proper.

Although, for these reasons, I must decline any further correspondence with your excellency on this subject, yet it is in entire unison with the sentiments and disposition which I know to animate his Majesty's Government that I take this occasion to assure your excellency of my sincere and cordial desire to do all in my power, so far as I personally am at liberty to use any discretion in the duties with which I am imperatively charged, to meet with respect and consideration the amicable disposition which your excellency professes. I trust my conduct will be found to evince a just and manifest solicitude to repress and punish any acts on the disputed territory which might lead to the interruption of a good understanding between the two countries, and to keep the question in a state propitious for a speedy and amicable adjustment.

IN THE SUPREME COURT.—*Exchequer side.*

YORK, *to wit:*

Be it remembered, that Thomas Wetmore, Esq., Attorney General of our sovereign lord the King for this his Majesty's province of New Brunswick, who prosecutes for our said lord the King, comes, in his own proper person, into the court of our said lord the King, before the justices of our said lord the King, at Frederickton, on the seventeenth day of September, in the eighth year of the reign of our sovereign lord the now King, and, for our said lord the King, gives the court here to understand and be informed—That whereas a certain tract or parcel of land situate in the parish of Kent, in the county of York, in the said province, and lying on both sides of the river St. John, between the mouth of the Madawaska river and the river St. Francis, and containing, in the whole, fifty thousand acres, in the hands and possession of our said lord the King, on the first day of February, in the first year of his reign, and before, and continually after, was, and of right ought to be, and yet ought to be, in the right of his Imperial Crown of the United Kingdom of Great Britain and Ireland, and as part of the dominions of our said lord the King, in this province, and for so long a time as there is no remembrance of any man to the contrary has been in the possession of the said lord the King and his predecessors, the Kings and Queens of Great Britain and Ireland, and a part of the dominions of the said Crown: Nevertheless, one John Baker, of the parish aforesaid, in the county aforesaid, farmer, the laws of the said lord the King in nowise regarding, but intending the disherison of the said lord the King in the premises, on the first day of February, in the second year of the reign of our said present sovereign lord the King, and on divers days and times, before and since, with force and arms, and without any lawful authority, in and upon the possession of the said lord the King, of a part of his said lands, to wit: one hundred acres thereof, lying on the westerly side of the Land Turtle or Mariumpticook river, a branch of the said river St. John, at the parish aforesaid, in the county aforesaid, intruded and entered, and erected and built thereon a certain house and other edifices, and cut and fell divers, to wit: five hundred timber and other trees thereon standing and growing, of the value, together, of one hundred pounds, and took and carried away the timber and wood arising from the said trees, and of his own will disposed thereof, and the issues and profits of the same lands accruing, received, and had, and yet doth receive and have, to his own use, and still holds and keeps possession of the lands; and the said trespass aforesaid, hitherto and yet continuing, to the great annoyance of our said lord the King, in contempt of our said lord the King, and contrary to the laws and against the peace of our said lord the King.

Whereupon the said Attorney General of our said lord the King, for the said lord the King, prays the advice of the court here in the premises, and that the aforesaid John Baker come here to answer the said lord the King in the premises.

T. WETMORE, *Attorney General.*

Endorsed:

J. M. BLISS.

Examined by me and certified to be a true copy.

T. R. WETMORE, *Clerk to the Attorney General.*

NOVEMBER 28, 1827.

STATE OF MAINE.

OFFICE OF THE SECRETARY OF STATE, *Portland, February* 18, 1828.

It is hereby certified that the documents contained in this pamphlet have been compared with the originals, records and copies, remaining in this office, and appear to be correctly printed, with the exception of the errors noted in the table of errata.

A. NICHOLS, *Secretary of State.*

STATE OF MAINE.

IN SENATE, *February* 6, 1828.

The joint select committee to whom was referred the communication from the Governor of the 2d instant, with the report of the agent appointed by the Executive of this State to inquire into and report upon certain facts relating to aggressions upon the rights of the State of Maine, and of individual citizens thereof, by inhabitants of the province of New Brunswick, and also the accompanying documents, have carefully examined the same, and recommend that five hundred copies of the report of the said agent be printed—three hundred thereof for the use of the members of the Legislature, and the remaining two

hundred to be disposed of at the pleasure of the Governor; the committee also recommend the passage of the resolve which is herewith submitted.

JOHN L. MEGQUIER, *Chairman.*

IN SENATE, *February* 6, 1828.

Read and accepted. Sent down for concurrence.

ROBERT P. DUNLAP, *President.*

HOUSE OF REPRESENTATIVES, *February* 7, 1828.

The House so far concur with the Senate as to accept that part of the report which relates to the printing and distribution of the aforesaid agent's report.

JOHN RUGGLES, *Speaker.*

Report of Charles S. Daveis, Esq., agent appointed by the Executive of the State of Maine to inquire into and report upon certain facts relating to aggressions upon the rights of the State, and of individual citizens thereof, by inhabitants of the province of New Brunswick.

PORTLAND, *January* 31, 1828.

SIR: I have already acquainted your excellency with my proceedings at Frederickton, and the manner in which I had performed the duty assigned to me, by your appointment, within the province of New Brunswick.

In pursuance of the further appointment to inquire into the nature of aggressions complained of as having been committed by inhabitants of New Brunswick upon persons residing near the frontier, within the limits of this State, I endeavored to prosecute the inquiry, and to obtain correct information by the best means that were in my power. In the actual condition in which your excellency will perceive the whole inhabited portion of the country bordering upon the river St. John, or any of its branches, within our boundary, or the region that is now termed disputed territory, to be, it will be for your excellency to judge with what benefit I could have proceeded to the highest points of American settlement without the advantage of a sanction from the adjoining authority. It happened, however, that I was enabled, in company with the gentlemen appointed to make corresponding inquiries by the President of the United States, to see several persons who had come to Houlton from the country above the river Madawaska, in consequence of the state of things there existing, or who were engaged in opening a winter road, as a communication for the people living on the river Aroostook, direct to that plantation. The statements of these persons were taken under oath, at my request, before a magistrate of the county of Washington. Other testimony has been also collected in the same form by another respectable magistrate of the same county, among the settlers on the Aroostook; and other evidence has likewise been obtained, from which your excellency may be able, in some measure, to fill up the outline thus exhibited in regard to the true state of affairs in that quarter. It is proper for me to say, that I should not have been deterred from undertaking to complete it by any apprehension of inconvenience, but my situation was not perfectly free from embarrassment; time had been consumed by circumstances beyond my expectation or control, and obstacles existed to my progress which would have rendered it difficult to procure positive testimony anywhere in the district of country upon the river St. John, extending above the river Madawaska.

The first course of inquiry relates to the condition of settlers on the river Aroostook. The rights of the Commonwealth of Massachusetts were exercised upon the territory situated on this river at a very early period after the source of the St. Croix was settled under the convention of 1794. In executing this convention it was distinctly admitted by the representatives of the British Government in this country that the boundary line of the treaty of 1783 crossed the St. John. Grants were accordingly made by the Legislature of Massachusetts of sections of land embracing both banks of the Aroostook and bordering on the boundary line, namely, one to the town of Plymouth and one to General Eaton. Locations of these lands were made, and surveys were commenced under the authority of Massachusetts, and lines were run around one of the tracts more than twenty years ago, and lottings were made in the year 1812.

These acts were performed in the presence of the Provincial Government established on the borders of the river St. John. That stream afforded the only communication then open to this country, and thence supplies and assistants were procured for the purpose of making the above survey in 1806 or 1807. It is not known that any further acts were exercised on behalf of the original proprietors of these granted lands, or that any improvements were made upon them prior to the late war with Great Britain. The further occupation of this remote frontier for the purpose of agriculture was necessarily suspended during that period; nor is it known that there was a single settler of any description upon the Aroostook when this interruption ceased, at the conclusion of peace in 1815. This event was succeeded by a course of seasons and circumstances unfavorable to the progress of population and improvement in that quarter, and also by the measures which ensued for the separation of Maine. Upon the establishment of this State the survey of this section of country was resumed by a joint commission of the two States, for the purpose of dividing their common property, pursuant to the provisions of the act of separation, according to the direction of their respective Legislatures. The progress of these surveys was observed in the province of New Brunswick, and they have been extended over nearly all the country in the territory of Maine watered by the Aroostook.

It was discovered that trespasses were committed on this territory, by persons belonging to the province, in cutting timber. Opportunity has existed for pursuing such practices with impunity, in the open and unguarded state of the country, from the ease of access thereto, by persons engaged in that business from the river St. John. This operation was arrested by the authority of this State, and partial indemnity obtained for the trespasses that had taken place, and, upon objection being made, the practice of granting licenses for this purpose, which it was presumed had issued improvidently, was relinquished by the Government of New Brunswick. Subsequent to the last census, and the adoption of the above proceedings by the authority of this State, in connexion with Massachusetts, a number of persons, some citizens of the United States and others formerly belonging to the British provinces, principally descendants of persons born in this country, out of the province of New Brunswick, before the Revolution, have

settled on this territory. A few foreigners are intermixed with the Americans, and a small number of Irish are understood to have planted themselves in the neighborhood of the line. Some seem to have gone on under the persons who have cut timber. With whatever impression the original trespassers may have gone on, the present settlers appear to have established themselves generally in that country under the opinion that it was American territory. They understood that they were within the boundary line, as it had been repeatedly run. They were so informed by respectable persons, and assured to the same effect by public agents. They learned that a part of the land had been granted by the Government, and knew that the country was surveyed by the States; and their object was to obtain title of confirmation to their possessions either from the proprietor or the States. It is believed that these remarks apply to all the native Americans, and the only exceptions to them are understood to be individuals of foreign extraction. The population of this settlement is represented to be of the same general description which has been formed on the new American settlements in the vicinity of Houlton. The traits of character by which their appearance and conduct are chiefly marked are industry, activity, hardihood, sense, and honesty.

These settlers have only an equitable title to their lands, some of which they have cleared up and cultivated, and from which they have taken good crops for several successive seasons. They have made some attempts to avail themselves of the advantages afforded upon their streams for the erection of grist-mills, which have not been fortunate, and their means for this purpose are quite inadequate.

The settlers of this section have been peculiarly situated. They are nearly isolated from the rest of the community. They have not enjoyed the benefit of any legal magistracy, nor the advantage of any internal intercourse, being surrounded with wilderness, except by the circuitous course of the St. John, toward Houlton. The connexions of these people have been necessarily with that river, where they have sought a market or conveyance for their produce, and whence they have been obliged to derive their supplies. The American inhabitants, whose concerns have carried them towards the river St. John, have been exposed to a system of municipal regulations or inhibitions operating on articles of domestic produce, and subjecting it to seizure anywhere in its transit. The manner in which some of these regulations have been put in force will appear from affidavits of persons belonging a considerable distance below the Aroostook. Instances of this description are complained of as numerous; but, as they principally relate to acts of authority performed within the province of New Brunswick, as some of the offices which produced these vexations have been abolished, and as some modification has lately taken place in the provisions of province law on this subject, the effect of which is not fully understood, the inquiry has not been extended how far they have been applied to any individuals above. Seizures, however, under some pretext, seem to have been committed on the Aroostook.

The settlers upon the Aroostook, in addition to their ordinary privations, have been affected by the general depression occasioned by the recent embarrassment of business and injury to credit among the larger dealers upon the river St. John; and it is natural to suppose that they may have thus found it difficult to obtain the means to satisfy debts, generally small, which they owe upon the river, and they are not able to defray the expenses attached there to litigation. On the other hand, the American territory has afforded them no asylum. No acts of pretended authority, however, in violation of the jurisdiction of this State, under pretext of judicial power, are known to have taken place until a comparatively late period. Mr. George Morehouse resides at Tobique, on the opposite bank of the St. John, within a parish recently formed by the name of Kent; he formerly bore the commission of a subaltern officer in the army, and at present, it is stated, actually exercises a commission of the peace for the county of York. For two or three years past he appears to have been in the habit of issuing precepts, directed to the constables of the parish of Kent, for the recovery of small demands against inhabitants on the Aroostook. One other person, supposed to be a provincial magistrate, is mentioned as having issued a single precept in like manner; and service of these precepts is made upon inhabitants many miles within the boundary line by persons undertaking to act as constables of the parish of Kent. The manner in which these persons proceed to execute their offices, some with more mildness and civility, and one who is represented as generally coming armed, and treating them with greater harshness, is detailed in several affidavits. In the execution of these precepts it appears that the cattle and movables of the inhabitants are subjected to be taken and immediately carried away, to be disposed of within the British territory; and that the practice is extended to take articles of property belonging to the debtor, which are exempted from attachment and execution by the laws of this State. In one instance it appears that the same cow, being the last and only one, was taken twice on a warrant or warrants from Mr. Morehouse, issued on the same demand, the second seizure being on account of costs. The inhabitants themselves have also been arrested on these precepts, and not being able to find bail where none could be legally taken, are removed as fast as possible over the lines to places of safety within the province, where they may be able to procure sureties, or settle the debts, or otherwise make their peace with the officer or the magistrate.

This practice appears to have prevailed with some frequency. One or two cases appear to have occurred in connexion with this practice of Mr. Morehouse, in which precepts have been served, either from him or from authority further below, by a Mr. Craig, deputy sheriff of the county of York. One of the settlers on the Aroostook was solicited by Mr. Morehouse to act as constable for the parish of Kent, but after being qualified by him declined to serve. It is possible that instances have occurred in which settlers above the line, from want of other resort, may have been led incautiously, or from different motives induced to apply to Mr. Morehouse.

But the difficulties to which the inhabitants have been subjected in consequence of this practice, the disproportionate amount of expenses attached to the collection of small demands, and the certainty of the law, as they consider it to be administered by Mr. Morehouse, seem to have produced an endeavor to adjust disputes among themselves by a species of submission to referees, and thereby avoid the authority undertaken to be exercised among them by the officers of the parish of Kent or the county of York.

That this state of things should have resulted in the collisions that have occurred between the persons despatched by Mr. Morehouse and the people living on the Aroostook, is rather a subject of regret than a matter of surprise. In the absence of any regular administration of justice, having adopted the principle of an equitable arbitration, to which they undertook to yield voluntary deference, the inconvenience of having its first operation overruled by the order of Mr. Morehouse seems to have led to a sort of after consideration or inquiry respecting the bounds of the parish of Kent, and consequently into a question concerning the applicability of Mr. Morehouse's authority within the American boundary. Admitting that authority to extend to the settlement on the Aroostook, the opposition into which Dalton

and others, who undertook to aid Arnold in the recovery of his cow, were betrayed, would be clearly without justification. At all events, it is obvious that the state of doubt which has thus been cast upon their condition has led to the unfortunate consequences of irregular reprisal; and however it may be deemed a measure of venial offence against unauthorized aggression, it has involved the well-meaning and otherwise unoffending inhabitants of this settlement in the evils of a state of border warfare. Several illustrative details are exhibited in the affidavits. The inhabitants of the Aroostook, while they have thus been subject to process from Mr. Morehouse, do not seem to have been considered by him as being entitled to the protection of the Government which he undertakes to personate. Early last spring he appeared among them and forbid their working on the lands and continuing their usual labors of clearing and cultivation to get a living. He posted up written notices to this effect on the Eaton grant and in different places, and marked some small parcels of lumber which they had cut for seizure. It was shortly after this period that George Field, whose affidavit is exhibited, appears to have left the country in consequence, he says, of the inconveniences to which he was exposed, and went with his family to Houlton. These settlers seem to have been generally regarded by Mr. Morehouse in some light as a sort of outlaws, or wild people, who had no proper habitancy, and were liable to be dealt with in any manner that might please the province of New Brunswick or its proper officers. In no legal light do they seem to have been regarded as subjects, except as trespassers and intruders on Crown lands liable to judicial process; and under color of some such character measures appear to have been subsequently applied to divest them of their property and expel them from their possessions.

Early in the month of July last Daniel Craig came with the first writ from Mr. Morehouse to take the cow that Arnold had of M'Crea; and also delivered summonses to the settlers to appear forthwith before the court, which was then on the point of sitting at Frederickton, to answer to the King of Great Britain in pleas of trespass and intrusion on Crown lands. This process was served by him indiscriminately on all the inhabitants, including the citizens of the United States as well as those born in the provinces, or others. This sudden proceeding naturally produced a state of confusion and consternation among the settlers. No time was afforded them to deliberate. It was necessary to set out immediately, in order to arrive in season. Some concluded to go, and others determined to stay. Some proceeded part way and then returned home. Others kept on their journey to Frederickton, among whom were some of the Americans. Those who continued to the end were subjected to severe privations, and were obliged to remain several days without means of support or being able to obtain any other satisfaction than that it would be necessary to appear again the present winter. The narrative of these circumstances is contained in some of the affidavits, and may suffice to convey an impression of the embarrassment and distress occasioned among these settlers by the service of this process.

The affair which followed soon after, respecting the taking and retaking of the cow, which was adjudged by the referees to belong to Arnold, on the warrant of Mr. Morehouse, accompanied with a sense of their having exposed themselves to his displeasure, and perhaps to the whole force of authority from New Brunswick, operated, with the menaces of the constable employed on that occasion, and the conduct of the Irishmen at the lines, and the reports which they received now and then from below, to keep the inhabitants of Aroostook in a continual state of agitation and alarm. They were particularly threatened with a visit by a larger party than the former, to punish those who were engaged in that affray, and put an end to any further spirit of opposition by destroying all means of resistance, or removing the inhabitants from the settlement. The reality of the apprehensions entertained by the persons who were concerned in that affair is attested by the circumstances of their being afraid to occupy their own habitations, lodging about in different places, in barns or in the woods, mustering together for the night in larger or smaller parties, or separating for greater security. The statements of several of the settlers on this subject relate to particulars within their experience or knowledge.

A circumstance that may seem not to have diminished the ground of these apprehensions occurred some time in the month of November last. The dwelling of Ferdinand Armstrong was entered about break of day by a small party from below, who seized his brother, James Armstrong, soon after he had risen from bed, and conveyed him in a canoe, without loss of time, out of the territory. He was obliged to give up articles of wearing apparel, and part with what means he had in order to obtain his release, the party pretending to have authority to compel payment of a debt and costs. Threats were also uttered that men and horses were coming up the first sledding to take those who were concerned in the offence about taking the cow away. Richard Inman, who was particularly mentioned as of the coming party, appears to be one of the persons previously employed by Mr. Morehouse, and whom the settlers were most afraid of in consequence of his practice of visiting them with arms.

In consequence of these occurrences and impressions, the inhabitants of the Aroostook have been afraid to go down to the river St. John, either to mill or to obtain their necessary supplies, and have undertaken, the present winter, to effect a communication with Houlton by cutting out a road altogether within the American territory. They were employed upon it the last of December, and judged they were about abreast of Mars Hill, and hoped to accomplish it in about thirty working days. The pioneers employed to mark out the direction had found their way out at Foxcroft, after enduring intense cold and suffering most severe hardships.

The condition of the inhabitants of the Aroostook may be shortly summed up. They are of the same general description as those that have made purchases and improvements within the new townships or plantations on the American territory, living in the neighborhood of each other and of the river St. John. They are upon land, of which grants and surveys were commenced several years ago, sometime before the war with Great Britain, under the authority of Massachusetts, without remonstrance or objection from New Brunswick. They have settled upon the territory along thirty miles into the interior, without title, subject to the rights of the proprietor or the proprietaries, and to the laws of this State then established. They acknowledge its authority, and, as it would seem to follow, are entitled to its protection.

The authority of New Brunswick cannot apply to them on the ground that any of them had been formerly inhabitants of that province any more than that of Maine extends to its citizens in New Brunswick. A Government has no power to cause precepts to be executed upon its own subjects in a foreign jurisdiction. The Government of the United States shields aliens who are residents and are well affected towards its principles and wish to become citizens. But several of them are American citizens.

The actual survey and occupation of this whole country, under the public authority of Maine and Massachusetts, were entitled to consideration from the province of New Brunswick. These acts were at least to be respected, as assertions of right, on the part of those two States; and some regard might have been had to the circumstance, that this right was originally exercised under ignorance of any adverse

claim, and long before any was advanced. On the other hand, no act had ever been exercised on this territory by the Government of New Brunswick, except in permitting its subjects to cut timber the same as on Crown lands.

So irregular a practice could not be sanctioned or sustained, and, in compliance with the sense of the superior Government, it is supposed that the pretension was relinquished as untenable, with a fairness of profession which gave it credit. The power of removing the trees from the territory brought into dispute has been abandoned, and a new practice has taken place, to wit: that of removing the people there planted. If this principle can be supported, it abrogates the whole authority of the State of Maine over this portion of its territory.

The next course of inquiry relates to the state of things upon the territory of Maine upon the river St. John, within the boundary line which crosses that river about three miles above the Grand Falls, where the navigation of the river is interrupted, and where it was contemplated on the part of Great Britain, in determining the St. Croix, that the meridian would cross. It may be proper, in the first place, to advert to the situation of a colony of French settlers which planted themselves within our territory, principally, if not entirely, since the acknowledgment and establishment of the bounds of Massachusetts by the treaty of 1783. This settlement was composed of ancient French neutrals, who had originally endeavored to escape from the Government of Nova Scotia, or of their descendants, who had been expelled from their farms and improvements on the establishment of the province of New Brunswick, and who have been joined, from time to time, by their countrymen from Canada, who have not chosen to continue under the Government established on its conquest.

It is not known whether any individual of European origin existed on this territory at the peace of 1782; nor that, excepting aborigines, any other than descendants of French ancestors had made any occupation prior to the peace of 1815. The Acadians had retired with the Indians from the presence of the population which took possession of that ancient part of Nova Scotia after it was yielded to Great Britain, and settled by emigrants from the United States, who adhered to the British Government; and have always lived in great harmony among themselves, as a distinct race, preserving their own language, habits, and manners. Situated near the borders of the American territory, at a distance from any officers of Government, they appear to have also preserved their neutral character, and to have remained as a people by themselves, so far as they might be permitted by their position toward the province of New Brunswick. Without having any sympathy with the system established in that Government, they have not been in a condition to oppose the exercise of any power that might be exerted over them. Little occasion could be presented for the employment of criminal process among the relics of a primitive population, represented as of a "mild, frugal, industrious, and pious character," desirous of finding a refuge under the patriarchal and spiritual power of their religion. It has been customary for them to settle their civil affairs of every description, including their accidental disputes and differences, among themselves, by the aid of one or two arbiters or umpires, associated with the Catholic priest, who is commonly a missionary from Canada. Without any predilection toward a foreign faith or Power, they have had a natural desire to be quieted in their possessions; and it is stated that one or two of them, under circumstances not exactly known, either obtained or accepted grants of certain parcels of their property at an early period from the province. The propriety of relinquishing any practice of that kind, after the determination of the St. Croix, was obvious; and the benefit of a sanction might have been allowed to the previous facts of this description, without attaching to them any injurious motive or effect. The whole country, however, not in the actual possession of any cultivator, was considered by the French settlers as open to occupation at the period of the last peace with England.

In 1817 an American was invited to seat himself near the mouth of the Madawaska river, where he was assured that no one had any right of property; and when it was afterwards claimed by virtue of a title, the fact was denied by the Indians, on the ground that the right belonged to them. This American, one who went from Kennebec, accordingly moved away from the place which he first took to a situation near the St. Francis, where he still lives, unless recently removed.

It appears that a military post formerly existed at the Grand Falls, immediately below the boundary, and it is said that a militia authority was exercised among the inhabitants of Madawaska. Some power of this kind might, perhaps, have been used at an early period, before the territory was explored and the boundary of New Brunswick determined under the convention of 1794, and it is not probable that the French would have resisted any measure taken to compel them to train as militia. The works at the Grand Falls have been suffered to go to decay, and there is no reason to presume that a superfluous military organization was maintained among the remote inhabitants of Madawaska.

It is not presumable that any usurpation of that nature existed for a long period, especially after the settlement was known to fall within the American territory. If such a use of form or force was continued, however, it is to be inquired whether it can be viewed in any other light than that of aggression upon the rights of the State, and those under its jurisdiction and entitled to its protection. The recent formation of militia companies in that district presents itself as an act of the same character; and it is reported that a foreigner, by the name of Francis Rice, has stationed himself in this settlement, and undertakes to act as an adjutant of the militia of New Brunswick.

Difference of religious faith and diversity of habits have naturally tended to prevent an intermixture between the American and French population. The country in general, above as well as below the river Madawaska, has taken the popular description of that river, and the name is generally made use of by the Americans residing upon the higher and more remote branches of the St. John. The Madawaska settlement extends several miles down the branch of the St. John, below the mouth of the Madawaska river. Several settlers were also scattered above, and a space existed of several miles above the mouth of that river, which has recently been occupied by French settlers, some from Canada and others from the settlement below, and formed into a new settlement, by the name of Chateauqua. They have undertaken to erect a church, and it is stated that a militia company has been formed among them, by authority out of this State. This new settlement extends from the mouth of the Madawaska river to the vicinity of the mouth of the Mariumticook stream, where the American settlement, properly so called, commences. Whether any foreign measures have been taken in forwarding the progress of the new French settlement is not known. They are without titles to their lands, except by occupation, and they have not been disturbed in their possession. Fines, however, have been imposed upon some of them for refusing to perform militia duty, from abroad, during the past year, without regarding the objection that has been made among them to train, on the ground of their being within the American Government.

The situation of the recent settlement seems to merit some attention, from the circumstance of its

now forming the connecting link between the former French settlement below and the American settlement immediately above. It is also brought into notice by the attention apparently bestowed upon it by the province of New Brunswick, which extends the demand of militia duty as high as this settlement, and considers all the Americans who are settled above it as aliens. It may be proper to remark in this place, that any occupation which the Government of New Brunswick may have held within the American territory, being without right and against right, its operation is not to be enlarged by any favorable construction.

Before passing from the consideration of the French settlement in this State, it may be proper to remark, that the population of the whole community, according to the census taken by the authority of the United States in 1820, amounted to over eleven hundred. The computation probably included a number of American settlers who had come into the country not long before, and were enrolled in the same manner with them in the body of American citizens. If, since that period, any of these persons have been induced to go into the province in order to give their votes; if provincial magistrates have been allowed to send civil process into this settlement; if individuals have been employed to officiate in executing the provincial police; these can only be viewed as acts which it is extremely difficult to reconcile with sentiments of respect for the opinion signified by the Government of the United States. After this French settlement was found to fall within the survey of the American boundary, these settlers, being in no other sense to be regarded as British subjects than as they might happen to reside in British territory, it would have manifested a decent respect to the authority of the United States, beyond the most repeated exterior demonstration, to have abstained from direct exercises of supreme jurisdiction.

The first American settlement was made above the French, and commenced, from the clearest information, in the year 1817. It consisted of several persons, then citizens of Massachusetts, who moved from the Kennebec, and established themselves, with their families, on different spots, the lowest at the mouth of the Mariumticook, and the highest not far from the mouth of the St. Francis. It was well known in the province of New Brunswick that these emigrants considered they were on American territory, and that their object was to obtain a title under the American Government. It was also understood that they carried with them a magistrate, and that they intended to procure an incorporation. Whether any, or what measures may have been taken by persons within the province, acting upon this information, it is not within my power to detail. It may be remarked, however, that, according to the best account, the whole territory of which they entered into occupation was previously uninhabited and unimproved. The Provincial Government had never made any grant above the river Madawaska. The American settlers on the St. John were above any French settler. They and their assigns have since continued in the occupation of their lands, and a portion of the original settlers still remain.

In 1825 grants were made by George W. Coffin and James Irish, Esquires, acting as joint agents for the Commonwealth of Massachusetts and the State of Maine, by virtue of resolves of the respective Legislatures, bearing date February 26 and June 11, 1825, to John Baker and James Bacon, severally, describing them as inhabitants of a plantation called and known by the name of the Madawaska settlement, in the county of Penobscot, situate upon the river St. John. The land granted to Baker was described as beginning at Mariumticook stream or point, on the St. John river, and bounded to contain an hundred acres. This was the same point of land which was originally taken up by his brother, Nathan Baker, one of the original emigrants from Kennebec, then deceased. It was a mill seat, where there have been erected a saw-mill and a grist-mill. John Baker married his brother's widow, and has brought up his family. He has been building a new house, which would have been finished last fall. The land granted to Bacon was below the grant to Baker, between the point and the new French settlement. Since the foundation of the American settlement before mentioned, a number of other American settlers had taken possession, and made improvements, without interfering, except by purchase, with any previous occupation.

The land agents of Massachusetts and Maine appointed provisionary agents, with authority to grant permits to cut pine timber on the territory of the United States. Without a permission of this kind, it it may be noticed, the mill at the mouth of the Mariumticook would have been useless. The Government of New Brunswick became informed of this fact. A considerable quantity of lumber, partly purchased by John Baker before mentioned, and partly made at his mill, was afterwards seized in passing down the river St. John. Timber cut on Crown lands within the province by British subjects was allowed to be redeemed by paying a certain duty. This composition was a privilege denied to Baker, whose property on that occasion appears to have been confiscated on the ground that he was not a British subject. All the Americans settled above the river Madawaska are regarded as aliens by the Provincial Government of New Brunswick and a certain fine or tax has been demanded of them, called the alien tax. This is a species of joint military and civil action, exercised in the first place by provincial officers of militia, and enforced by justices of the peace. One or two cases have occurred in which precepts have been sent among the American settlers on civil suits by Mr. Morehouse, who resides upwards of fifty miles below, on the river St. John. On one occasion, an American above Chateauqua was arrested on a warrant from Mr. Morehouse, on a charge of larceny by one of the settlers; but the evidence against him being insufficient, no final proceedings took place, and he was discharged. The real culprit was afterwards discovered, and on his confession the Americans were proceeding to conduct him to Houlton, nearly an hundred and forty miles distant; but on their way he made his escape in the woods. The American settlers have been subject to these and similar inconveniences, no doubt in consequence of the absence of any civil officers, such as were recommended to be appointed by the land agents; and occasions have thus been afforded for admitting the agency of Mr. Morehouse as a civil magistrate, which would not otherwise have existed; and for which some possible apology might be found in the circumstances of the country. An exercise of this intrusive authority, however, in the course of the past year, appears to have given rise to a species of opposition among the Americans, which was construed by Mr. Morehouse as resistance to his authority.

It appears that some difficulty took place in procuring the service of a writ which was sent by Mr. Morehouse against James Bacon, and it may be suitable to state the circumstances accompanying that transaction. It seems that reflection on their situation, combined with a sense of the inconvenience to which they were exposed from the acts of Mr. Morehouse, led to an understanding among them to avoid any employment of his authority, and, having no regular magistrate, to endeavor to settle their affairs as well as they could among themselves. The unfavorable opinion cherished by Mr. Morehouse, in respect to the Americans at that settlement, may have contributed to increase their aversion; and his occasional visits to view their proceedings may have tended to strengthen a mutual dislike Mr Morehouse had

formerly demanded Bacon's deed from the agents, and knew the title under which he held. He had also made inquiry into the authority given to Bacon by the land agents respecting the cutting of timber, and satisfied himself on that subject. Recently he sent a person with a writ to arrest Bacon on a small demand in favor of one of the inhabitants; and the deputy sent by him returned without effecting service. Another person was then sent, accompanied by a considerable party, with a view, probably, to make effectual service. Bacon collected a number of his friends about him at his house, which is on the land granted to him below Baker's, and, supported by their presence, signified his refusal to submit to the mandate of Mr. Morehouse.

The principle on which they placed their determination was that they were Americans, on American ground, and that Mr. Morehouse had no right to extend his authority over them. Some resentment was manifested by them towards the individual who had the indiscretion to apply to Mr. Morehouse; but no violence used towards any of the party who came to arrest Bacon. The leader of the party, who officiated on that occasion as a constable of the parish of Kent, became convinced of the inexpediency of proceeding to execute his precept, and professed to respect the ground of their determination. It was agreed to settle the demand by amicable reference, which was accordingly done, and the affair terminated, except that the constable afterwards pretended to have an execution from Mr. Morehouse for the costs. The spirit of opposition to the power of Mr. Morehouse discovered on this occasion assumed the form of a general agreement among the American inhabitants to avoid all applications of foreign authority, and extended to an outright denial of the British provincial jurisdiction. For the legality of this position they reasoned and relied upon their original character as American citizens, the circumstances of their settlement, in that capacity, upon vacant American territory, and the assurances of the land agents, which they understood decidedly to that effect. Whether they were deceived in the ground they took by officious and unwarrantable acts, or whether any errors they may have committed may be imputable to omissions on the part of either State to provide for the security of property and preservation of citizenship, it belongs only for those to consider by whom the powers in fact exercised were imparted. The measures now made use of by Mr. Morehouse were directly brought to bear upon the right of the two States to make the grant to Bacon. This being the lowest grant upon the river St. John, was the only barrier against a general inroad of authority from the quarter below, where Mr. Morehouse resided, to the American territory above; and the taking of the person of Bacon, without remonstrance, from the position in which he was placed by the act of the two Governments, might have removed the only obstruction and determined the practical question. A paper writing was accordingly drawn up and signed by the American inhabitants generally, constituting a sort of compact, by which they agreed to adjust all disputes among themselves by virtue of referees, without admission of British authority, and that they would support each other in abiding by this determination. This was to be a provisional agreement, to continue in force only for one year; and, in the meantime, application was to be made to the Government, in order to be made certain of their condition, and to obtain, if possible, the benefit of some regular authority. Of the propriety of this resolution, or of the proceedings by which it was accompanied, it is not for me to express an opinion. It may suffice to say that it seems to have been dictated by the necessity of their situation; that, as citizens of Maine, some reference was proper to the rights and sentiments of the State; and that, in any judgment of their actions, some respect should be had to the authority of Maine.

As a prelude to this arrangement, the Americans generally assembled on land conveyed to John Baker by the States of Maine and Massachusetts, and there erected a staff and raised a rude representation of the national eagle. They also partook of a repast provided by Baker, and enjoyed the festivity in the manner that is usual to Americans in celebrating that occasion. One of the French was hired as a musician, and a few others were attracted by the spectacle and invited to the table. The same thing has been sometimes done by Americans transiently collected in the provinces, on the same anniversary, without affording offence. But on the present occasion there is no ground to doubt that it was deliberately done to advertise Mr. Morehouse of the manner in which they viewed their own rights and his authority; and when he appeared, as was probably expected, to inquire into the meaning of this ensign, it was explained to him. Mr. Morehouse thereupon gave order for its removal to Baker, which the latter refused to obey. It is known that either of these persons had any more direct authority for his proceeding than the other; which had the better right may admit of a distinct question. But the object was to apprise Mr. Morehouse of their opinion. Neither Baker nor Bacon pretended to exercise any authority among their fellow-citizens on this occasion, although they probably rendered themselves conspicuous to Mr. Morehouse. The epithet of general was one that was not bestowed on Baker until after this affair. Mr. Morehouse also demanded the paper of agreement that had been entered into by the Americans, which they declined to deliver. Mr. Morehouse was informed that the paper had been offered to one Peter Markee, a French lad who was at the American settlement. If this was done with any intention, it was a circumstance which took place in the absence of Mr. Baker, and was contrary to the original purpose, which was to confine the step to Americans exclusively. Mr. Baker, hearing a report that the route of the mail was altered, (a change which the Americans had no wish to take place, as it was a matter of convenience to them,) and meeting the carrier in his canoe, inquired whether such was the fact. This inquiry was undoubtedly misconstrued by the Frenchman who carried the mail, and the circumstance might have been exaggerated to Mr. Morehouse. Upon information of this kind, however, together with his own knowledge, Mr. Morehouse subsequently proceeded to issue a warrant for the arrest of Baker, and, it is also understood, of James Bacon and Charles Stutson. In the meantime the inhabitants agreed upon referees, and appointed Baker and Bacon a deputation to proceed to the seat of Government with a request to have their case laid before the Legislature at its next session, and to inquire of the executive authority whether they were recognized as citizens of the State, and entitled to the protection of its Government. Having received an answer in the affirmative, to be communicated to their constituents, with injunctions to observe the utmost caution in their conduct, and having left their application to be laid before the Legislature, they returned through the wilderness by the way they came, and arrived at home a short time before the execution of Mr. Morehouse's precept.

Early in the morning of the 25th of September last, soon after their return, while Baker and his family were asleep, his house was surrounded by an armed force, and entered by persons of a civil character, and others, armed with fusees, &c., who seized Baker in his bed, and conveyed him without loss of time out of the State. The particulars relating to this circumstance are detailed in the statement of Asahel Baker, a nephew of John Baker, who was first awakened by the entry, and which, although not exhibiting any solemn attestation, may, nevertheless, be relied upon as substantially correct. It is

proper to add, that the person conducting the execution of the warrant proved to be of high official character and personal respectability in the province of New Brunswick. He was informed that papers were in possession of Baker under the authority of the States, but he replied that it was not in his power to attend to any remonstrance. No resistance was made by Mr. Baker, and no opportunity was afforded him to have intercourse with any of his friends and neighbors, from whom it is reasonable to suppose opposition might have been apprehended. Mr. Baker was carried before Mr. Morehouse in obedience to the warrant. It does not appear that any examination took place, however, but that he was conveyed to Frederickton, and there committed to jail. The letter from your excellency to the American inhabitants at the upper settlement was delivered by him to the authority under which he was imprisoned, and, after some detention, restored to him.

The immediate impression produced among the inhabitants of the settlement by this circumstance may appear from the further statement of Asahel Baker. He was the person employed to bring a representation from them of the arrest of Baker, which was deposited by him in the first post office he reached in Kennebec. He was absent a number of days, and on his return found that several of the inhabitants had departed. It appears that in the interim the alien tax had been again demanded, and process had been served upon the American settlers generally, similar to that which had been previously served on the Aroostook indiscriminately, to appear at Frederickton in October to answer to suits for trespass and intrusion on Crown lands, under the penalty of an hundred pounds. It is understood that the service of this process was extended to the American settlers towards the St. Francis and upon the Fish river, where the road laid out by the Legislatures of the two States terminates. In consequence of these circumstances, it appears that three of the American settlers, viz: Charles Stutson, Jacob Goldthwraite, and Charles Smart, have parted with their possessions, and removed from the settlement into the plantation of Houlton, where they are at present seeking subsistence. Stutson was a blacksmith, in good business, and was concerned in the measures relating to Mr. Morehouse. The motives and particulars of their departure are stated by them in their respective affidavits. In the precarious state of their affairs it is probable that no certain estimate can be formed of their sacrifices; but it is evident that the measures made use of towards the inhabitants in general, for whatever purpose, have had the effect to expel a portion of them and to intimidate the remainder. It is not understood that these measures have been extended to the French settlers on the Madawaska, who are without title to their lands, and it is probably not the case; but it is evident that a corresponding application of judicial proceedings has been made from the province of New Brunswick upon all the settlements above and below the French occupation of Madawaska, tending to their extermination; and that the inhabitants are awaiting, in a state of fearful anxiety, the final measures of execution, from which they see no prospect of relief. The plantation of Houlton is the common place of refuge to which they direct their feet, as it was the custom in the earlier annals of New England for the frontier settlers, in case of apprehension, to gather toward a garrison.

In pursuing the inquiry concerning the nature of aggressions complained of as committed by inhabitants it may not come within the terms of my appointment to ascertain how far any proceedings that have been adopted may be traced to the authority of the Government of New Brunswick. The general application of judicial process, however, from the province of New Brunswick to all parts of the settled territory comprehended in the claim of Great Britain seems to give rise to such an inquiry. The summonses served on the settlers on the Aroostook and upon the St. John, from the Mariumticook to the Fish river and St. Francis, appear, by comparison of numerous copies, to be all in the same form, for trespass and intrusion on Crown lands. A copy of an information served on John Baker since his imprisonment describes the land of which he is in occupation as lying within the parish of Kent, in the county of York. It may be, therefore, pertinent to inquire into the history of the parish of Kent, and refer to other measures of the Provincial Government preliminary to the above mentioned process.

The act of incorporation of the parish of Kent is dated 1821. It is entitled "An act to erect the upper part of the county of York into a town or parish," and provides that "all that part of the county of York lying above the parish of Wakefield, on both sides of the river St. John, be erected into a town or parish by the name of Kent." The parish of Wakefield was incorporated in 1803, by an act also entitled "An act for erecting the upper part of the county of York into a distinct town or parish." A statistical account of New Brunswick, published in Frederickton in 1825, describes the parish of Kent as extending on both sides of the river from the Grand Falls to Wakefield. The parish of Wakefield, it is understood, extended above the military post at Presque Isle, a station which was abandoned the year following the creation of the parish of Kent.

A succinct statement may be made of the measures adopted by the Government of New Brunswick the present season. By an official act of the 9th of March last, reciting that satisfactory assurances had been conveyed to his Majesty's Government of the earnest wish of the Government of the United States to reciprocate the conciliatory disposition shown in regard to the disputed territory at the upper part of the river St. John, it was declared to be most desirable, until the present question thereto should be finally settled, that no new settlement should be made, or any timber or other trees felled in the wilderness parts of that territory, nor any act done which might change the state of the question as it existed when the treaty of Ghent was executed.

Instructions were accordingly issued, addressed, in general terms, to all magistrates residing in the vicinity of what was termed disputed territory, directing them how to proceed in the event of "any depredations being attempted by either party on the lands in question." They were required to be vigilant and use their utmost diligence to discover any attempts which might be made by any of his Majesty's subjects to intrude upon the territory with a view to make settlements or to cut timber, and to make immediate representation thereof to his Majesty's Attorney General, that legal steps might be taken to punish such intruders and trespassers. And should they discover "similar attempts to be made by any other person, whether unauthorized or acting under color of authority," to use their best endeavors to ascertain the names of such persons and report them to the secretary of the province, with affidavits to establish the facts, for the Lieutenant Governor's consideration.

Information of these proceedings was communicated to the Government of the United States by the British minister in September last, as furnishing proof of the friendly disposition which animated the Lieutenant Governor of New Brunswick. Mr. Clay was at the same time informed by Mr. Vaughan that no attempt had ever been made to form new settlements, and that the Lieutenant Governor had abstained from exercising any authority over the unoccupied parts of the disputed territory, except for the purpose of preserving it in its present state, and assured Mr. Clay that it was the wish and the duty of the

Lieutenant Governor to avoid giving the slightest uneasiness to the Government of the United States on the territory which had unfortunately remained so long in dispute between the two Governments.

The letter of the British minister to Mr. Clay, of September 17, is in answer to a communication from the Secretary of State, conveying a representation from your excellency to the Government of the United States respecting certain acts of the Government of New Brunswick which were considered an undue exercise of jurisdiction in the settlement on the river St. John, composed of the grantees under Massachusetts and Maine and other American settlers. In his answer to this communication, the British minister observes, that "it appears from Governor Lincoln's statement that the settlement in question is a British settlement upon the river St. John, westward of the Madawaska, and that it is composed of the original settlers and of emigrants from the United States."

In what manner the settlement west of the Madawaska can be considered a British settlement can only be explained by a subsequent passage in the same letter, in which the British minister says, that "ever since the province of New Brunswick was established, in the year 1784, the territory in dispute (between Great Britain and the United States) has always been considered as forming part of it, and the rights of sovereignty have in consequence been exercised by the British Government." He therefore protests against the validity of any title to lands in the ancient British settlements granted by the States of Maine or Massachusetts "until a change in the right of possession shall have been effected in consequence of the fifth article of the treaty of Ghent."

To support this position the British minister refers to a map of Nova Scotia, published by the Board of Trade in 1755, including the territory in dispute in the province of Nova Scotia: by a map of this territory, published by order of the British House of Commons, June 29, 1827, the territory in question is not included in the province of New Brunswick.

In a subsequent letter from the British minister to Mr. Clay, dated November 21, he speaks of the "proceedings of the magistrates acting under the authority of his Britannic Majesty, in the province of New Brunswick, against two citizens of the United States, established in British settlements upon the rivers Aroostook and Madawaska." These proceedings, he observes, are supported by two affidavits transmitted by your excellency, viz: one of "William Dalton, residing upon the Aroostook," and the other of Jonathan Wilson, relating "to the arrest at Woodstock, upon the Madawaska river, within sixty-five miles of Frederickton, of Mr. Baker, for having interrupted the passage of the mail from New Brunswick to Canada."

The British minister states to Mr. Clay "that the sovereignty and jurisdiction over the territory claimed by the British Commissioners, according to the line laid down by them, running by Mars Hill, comprehending in that portion of the territory of New Brunswick the rivers Aroostook and Madawaska, have consequently remained with Great Britain, having been in the occupation and possession of the Crown previously to the conclusion of the treaty of 1783; and that the opposite claim of the United States cannot furnish any pretext for an interference with, or an interruption of, the exercise of the jurisdiction within that territory by magistrates acting under British authority, on the part of the citizens of the United States who may choose to reside in those ancient settlements." He adds, that he has already communicated to the Secretary of State sufficient proof of the decided resolution of his Majesty's Lieutenant Governor of New Brunswick to maintain the disputed territory in the same state in which his excellency received it after the conclusion of the treaty of Ghent; and that he is convinced that a mutual spirit of forbearance animates the General Government of the United States. The British minister further acquaints Mr. Clay that Sir Howard Douglass deems it his duty, as Lieutenant Governor, not to abandon any right of practical sovereignty which has been exercised in the disputed territory "which has been held, occupied, and located as British settlements," for any period within the past century, or even later. That, considering the conduct of Baker fit matter for cognizance of the law officers of the Crown, his excellency had directed the Attorney General to take such measures as he might deem necessary to enforce the municipal law of the province: and that there could be no grounds for complaint of an undue and illegal exercise of jurisdiction, whatever motive their might be for remonstrance against the severity with which the laws might be executed.

I take occasion to collect these details from the correspondence of the British minister in this country, and present them to your excellency's attention, in order to exhibit the principles on which the acts in question may have been performed, and also because the conclusions which he deduces from them are so undeniable. The character of this avowal is so peremptory that it puts an end to all ground of inquiry on the part of Maine, as the position thus taken on behalf of the British Government extends to justify the exercise of every species of power for which a precedent can be found in the past century, or even the present; and Maine has no right to find fault with the manner in which the laws of the province may be executed in New Brunswick. So remarkable a proposition, however, is not well calculated to diminish our concern on account of the cause for which so large a proportion of territory may be withdrawn from the jurisdiction of the State, although it may allay your surprise at the determination of the Lieutenant Governor of New Brunswick to decline any intercourse with the executive authority of the State, of the kind that has heretofore existed between adjoining Governments.

If it be the correct state of fact, as thus represented, that the territory in question has ever continued in the occupation and possession of the British Crown since the treaty of 1783, it affords a strong color, unquestionably, to the claim insisted upon to the absolute sovereignty; as in a dubious case of right, where lines have become obscured, an open, notorious, and exclusive possession for a great length of time, in the presence and without the reproof of an adverse claimant, must necessarily have great weight in determining the title. And the principle thus strongly assumed gives an important aspect to the demand which has been made upon Maine and Massachusetts, under the form of the fifth article of the treaty of Ghent.

It is to be doubted, however, whether your excellency will be able to discover evidence of the existence of any British settlement whatever within the boundary of Maine. The act of undertaking to remove all the settlers upon the territory to which the British Government lays claim, except the French, as trespassers and intruders, certainly does not tend to give any portion of the territory the character of a British settlement by reason of their residence. Whether the act establishing the parish of Kent was intended to form a British settlement beyond the boundary, may depend upon the limits assigned to it, if it have any other than those of the disputed territory.

The summonses to the settlers on the Aroostook were dated May 19, and served early in July, before any movement of the Americans in the upper settlement on the St. John. On the 11th of August Mr. Morehouse transmitted a list of American citizens settled on the river St. John, above the French settle-

ments. The summonses to the latter, as far as seen, were dated September 17. It is not known that there was any one of the American occupants in that quarter, where all are American citizens, omitted in the process. Warrants were also out against Bacon and Stutson, on charges similar to those against Baker, but had not been executed. It is due to say that I derived valuable benefit from Mr. Barrell, to whom I also endeavored to afford all the aid in my power.

The result of this inquiry, from the justification advanced, is, that the Government of New Brunswick recognizes the acts committed by her magistrates, and adopts them in all their bearings. It is now perfectly understood that the Government of New Brunswick claims to extend the laws of the province over a large portion of the territory of Maine. The operation is not merely left to inference. The design is not affected to be concealed. The pretension is publicly announced in official papers and communications, speaking the unequivocal language of the Government. We have a frank exposition of the views which are entertained by the British minister in this country, and the sentiments and spirit which animate the Lieutenant Governor of New Brunswick. The whole tract of country which has been the scene of late complaints is challenged as being within the allegiance of his Britannic Majesty, under his sovereignty and jurisdiction, and subject to the municipal regulations and control of his Government. No persons are considered as lawfully residing therein, except by the authority or sufferance of the Provincial Government. No inhabitants of this territory, whatever time they have been on, are deemed to be possessed of any estate therein, except by virtue of the province laws. No residents are entitled to acquire any rights in real estate except British subjects. All other occupants of the soil are treated as trespassers and intruders. All other inhabitants are liable to the disabilities of aliens, and to the restrictions imposed upon their actions, intercourse, and industry, by the enactments of provincial legislation; and likewise in respect to the right of bearing arms. Every American citizen is required to report himself, within two months after his arrival, to a regimental quartermaster, and is subjected to an annual assessment for the maintenance of the provincial militia. The residue of the territory, excepting such small portions as may be parcelled out, is reserved as Crown lands; and trees are forbidden to be cut among the royal forests, upon the penalty of the province laws. Grants and licenses are withheld or suspended for profound considerations. In other respects the authority and laws of the province are put in active operation and asserted in full vigor. This description is to be understood as applying to a large part of the State of Maine.

The consequence is, that the class of cases concerning which the Government of Maine is anxious to extend its inquiry is not considered as coming within the scope of her constitutional care and cognizance. The individuals on whose behalf her solicitude is excited are intruders upon the lands not within the State of Maine. Although citizens of that State, they have put themselves out of its power, and lay no longer claim to its protection, but are liable to be dealt with only according to the laws of New Brunswick, and placed under its provincial police. This is the broad ground taken by the Government of that province. While it is certain that no undue severity of motive can be attributed to the superior Executive of New Brunswick, it is equally apparent that the Provincial Government undertakes to exercise, in all respects, the rights of the most incontestable jurisdiction.

The facts are shortly these: Citizens of Maine, and others, settled on lands surveyed and granted by its authority, living within its ancient and long-established limits, are subjected to the operation of foreign laws. These are applied to them in the ordinary course of civil process, in taking away their property, and also their persons. American citizens in this State are proceeded against as aliens, for sedition and other offences and misdemeanors against the Crown of Great Britain; and one of them, a grantee of Massachusetts and Maine, seized on the land granted, remains in prison on charges of that description. A portion of this State, of considerable magnitude, is thus actually incorporated into the adjoining province; and his excellency the Lieutenant Governor, a person of great virtue, is unable, from his situation, to afford the explanations which these acts obviously require, except to those under whose orders he is placed or with whom he is obliged to correspond.

In begging leave to submit these circumstances to your excellency's consideration, and requesting permission to refer to accompanying papers, I am sensible of the occasion there is to solicit your indulgence in performing the duty I owe to yourself and to the State.

I have the honor to be, with the highest respect, your excellency's most obedient servant,

C. S. DAVEIS.

His Excellency Governor LINCOLN.

STATE OF MAINE.

A RESOLVE in relation to aggressions upon the northeast frontier of the State.

Whereas the sovereignty of this State has been repeatedly violated by the acts of the agents and officers of the Government of the British province of New Brunswick, and that Government, by its agents and officers, has wantonly and injuriously harassed the citizens of this State residing on the northeastern frontier of the same and within its limits, by assuming to exercise jurisdiction over them, in issuing and executing civil and criminal process against them, by which their property has been seized and some of them arrested and conveyed out of the State, and subjected to the operation of the laws of that province; in establishiug military companies within the territory of this State; imposing fines for neglect of military duty; imposing upon our said citizens an alien tax, and requiring payment of the same. And whereas, by the exercise of the aforesaid unwarranted acts of jurisdiction by the Government of the said province, some of our citizens have been deprived of their liberty, their property destroyed, many of them driven from their lands and dwellings, the tranquillity and peace of all of them disturbed, and the settlement and population of that part of the State adjoining said province greatly retarded, if not wholly prevented: Therefore,

Resolved, That the present is a crisis in which the Government and people of this State have good cause to look to the Government of the United States for defence and protection against foreign aggression.

Resolved further, That if new aggressions shall be made by the Government of the province of New Brunswick upon the territory of this State, and upon its citizens, and seasonable protection shall not be

given by the United States, the Governor be, and he hereby is, requested to use all proper and constitutional means in his power to protect and defend the citizens aforesaid in the enjoyment of their rights.

Resolved further, That in the opinion of this Legislature, the Executive of the United States ought, without delay, to demand of the British Government the immediate restoration of John Baker, a citizen of this State, who has been seized by the officers of the province of New Brunswick, within the territory of the State of Maine, and by them conveyed to Frederickton, in said province, where he is now confined in prison, and to take such measures as will effect his early release.

Resolved further, That the Governor be, and he hereby is, authorized and requested, with the advice and consent of council, from time to time, to extend to the family of the said John Baker such relief as shall be deemed necessary; and he is hereby authorized to draw his warrant on the Treasury for such sum or sums as shall be required for that purpose.

IN THE HOUSE OF REPRESENTATIVES, *February* 16, 1828.

Read and passed.

JOHN RUGGLES, *Speaker.*

Attest:
JAMES L. CHILD, *Clerk.*

IN SENATE, *February* 18, 1828.

Read and passed.

ROBERT P. DUNLAP, *President.*

Attest:
EBENEZER HUTCHINSON, *Secretary.*

Approved February 18, 1828.

ENOCH LINCOLN.

20TH CONGRESS.] No. 484. [1ST SESSION.

DISCRIMINATING DUTIES BY PRUSSIA ABOLISHED AS REGARDS THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES APRIL 16, 1828.

To the Senate and House of Representatives of the United States:

By a communication received from the Chargé d'Affaires of Prussia, a translation of which is herewith transmitted, it appears that in the ports of that Kingdom all discriminating duties, so far as they affected the vessels of the United States and their cargoes, have been abolished since the 15th of April, 1826. I recommend to the consideration of Congress a legislative provision, whereby the reciprocal application of the same principle may be extended to Prussian vessels and their cargoes which may have arrived in the ports of the United States from and after that day.

JOHN QUINCY ADAMS.

WASHINGTON, *May* 16, 1828.

Mr. Niederstetter to Mr. Clay.

[Translation.]

The undersigned takes the liberty of again submitting to the consideration of his excellency the Secretary of State a subject which, by order of his Government, he has before had the honor of introducing at the conferences which have just ended in the conclusion of a treaty of commerce, &c. It regards the abolition of discriminating duties which, as relates to vessels of the United States and their cargoes, has taken place in the ports of the Kingdom of Prussia from the 15th of April, 1826, and been made applicable even to vessels not coming directly from the ports of the United States, but from any other country. This measure has been ordered by the Government of Prussia in the well founded expectation that a project of a law framed for the same object, and at that time before the Congress of the United States, would be put into operation. Thus has Prussia unhesitatingly granted, beforehand, the advantages enjoyed in her ports by national vessels and their cargoes, to vessels of the United States and their cargoes, without, so far, being admitted to that just reciprocity which she had expected in issuing this ordinance.

In the course of the conferences above referred to, the undersigned has readily acceded to the wishes of his excellency, by renouncing the insertion in the said treaty of an article providing for the restitution of that part of the duties on tonnage, &c., which may have been levied in the ports of the United States on Prussian vessels and their cargoes since the 15th April, 1826, contrary to the principles of perfect reciprocity laid down in the said treaty, on condition that an arrangement to this effect would be made by a particular legislative act; and the undersigned has not hesitated to confide in the assurances given by his excellency that he would make to the President of the United States the necessary recommendations of that object.

To complete the evidence of the measure adopted in Prussia, the undersigned has the honor to enclose a translation of the order given to that effect on the 15th April, 1826, by the Minister of the Interior;

and, at the same time, avails himself of the occasion to offer to his excellency the Secretary of State the renewed assurances of his highest consideration.

NIEDERSTETTER.

GEORGETOWN, *May* 9, 1828.

Original with Mr. Niederstetter's note of the 9th May, 1828.

[Translation.]

In consequence of the official information just received, that the proposition of the President of the United States of America, "to treat all foreign vessels and their cargoes on the same footing as national vessels, even in case of indirect navigation, on condition of a perfect reciprocity," has been sanctioned, on the 26th of January of the present year, by the consent of the Senate, so that, at this time, Prussian vessels have, on condition of reciprocity in the ports of Prussia, acquired the right, even in case of indirect navigation, to be placed, together with their cargoes, in the ports of the United States, on the same footing as national vessels, it is necessary to inform the public interested in navigation and commerce that a perfect reciprocity, or a treatment precisely equal to that of Prussian vessels and their cargoes, has been granted to the vessels of the United States of America in Prussian ports, even in the case where such vessels should enter them in the course of an indirect navigation.

In the same manner, and by virtue of the reciprocity agreed upon, Prussian vessels shall have the right to enter into the ports of the United States of America precisely on the same footing as national vessels, even in the case of not proceeding directly from Prussian ports; as, for instance, having taken their cargoes in the ports of Russia, Great Britain, or France.

I request your excellency to cause the necessary information to be immediately published in all the ports of the province under your authority.

V. SCHUCKMANN,
Minister Secretary of State for Affairs of the Interior.

BERLIN, *April* 15, 1826.

A true copy.

DE BOISDESLANDES, [L. S.]
Counsellor of Court and Director, &c., Office of Foreign Affairs.

BERLIN, *April* 27, 1826.

A correct translation.

NIEDERSTETTER. [L. S.]

GEORGETOWN, *April* 10, 1828.

20TH CONGRESS.] No. 485. [1ST SESSION.

TREATY OF LIMITS WITH THE UNITED MEXICAN STATES.

COMMUNICATED TO THE SENATE, IN EXECUTIVE SESSION, APRIL 21, 1828.

To the Senate of the United States:

I transmit to the Senate, for their consideration and advice, a treaty of limits between the United States of America and the United Mexican States, concluded by the plenipotentiaries of the two Governments on the 12th of January last. A copy of the treaty and the protocols of the conferences between the plenipotentiaries during the negotiation are enclosed with it.

JOHN QUINCY ADAMS.

WASHINGTON, *April* 21, 1828.

TREATY OF LIMITS BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES.

IN THE SENATE OF THE UNITED STATES, *April* 21, 1828.

The following treaty was read, referred to the Committee on Foreign Relations, and ordered to be printed, in confidence, for the use of the Senate.

Treaty of Limits between the United States of America and the United Mexican States.

The limits of the United States of America, with the bordering territories of Mexico, having been fixed and designated by a solemn treaty, concluded and signed at Washington on the twenty-second day of February, in the year of our Lord one thousand eight hundred and nineteen, between the respective plenipotentiaries of the Government of the United States of America on the one part, and of that of Spain on the other. And whereas the said treaty having been sanctioned at a period when Mexico constituted a part of the Spanish monarchy, it is deemed necessary now to confirm the validity of the aforesaid treaty

of limits, regarding it as still in force and binding, between the United States of America and the United Mexican States.

With this intention the President of the United States of America has appointed Joel Roberts Poinsett their plenipotentiary, and the President of the United Mexican States their excellencies Sebastian Camacho and José Ignacio Esteva.

And the said plenipotentiaries having exchanged their full powers, have agreed upon and concluded the following articles:

ARTICLE FIRST. The dividing limits of the respective bordering territories of the United States of America and of the United Mexican States being the same as were agreed and fixed upon by the above mentioned treaty of Washington, concluded and signed on the twenty-second day of February, in the year one thousand eight hundred and nineteen, the two high contracting parties will proceed forthwith to carry into full effect the third and fourth articles of said treaty, which are herein recited, as follows:

ARTICLE SECOND. The boundary line between the two countries, west of the Mississippi, shall begin on the Gulf of Mexico, at the mouth of the river Sabine, in the sea, continuing north along the western bank of that river to the thirty-second degree of latitude; thence by a line due north to the degree of latitude where it strikes the Rio Roxo of Natchitoches or Red river; then following the course of the Rio Roxo westward to the degree of longitude one hundred west from London and twenty-three from Washington; then crossing the said Red river, and running thence by a line due north to the river Arkansas; thence following the course of the southern bank of the Arkansas to its source, in latitude forty-two north; and thence, by that parallel of latitude, to the South Sea; the whole being as laid down in Melish's map of the United States, published at Philadelphia, improved to the first of January, one thousand eight hundred and eighteen. But, if the source of the Arkansas river shall be found to fall north or south of latitude forty-two, then the line shall run from the said source due south or north, as the case may be, till it meets the said parallel of latitude forty-two, and thence along the said parallel to the South Sea. All the islands in the Sabine, and the said Red and Arkansas rivers, throughout the course thus described, to belong to the United States; but the use of the waters, and the navigation of the Sabine to the sea, and of the said rivers Roxo and Arkansas, throughout the extent of the said boundary, on their respective banks, shall be common to the respective inhabitants of both nations.

The two high contracting parties agree to cede and renounce all their rights, claims, and pretensions to the territories described by the said line, that is to say, the United States hereby cede to his Catholic Majesty, and renounce forever, all their rights, claims, and pretensions to the territories lying west and south of the above described line; and, in like manner, his Catholic Majesty cedes to the said United States all his rights, claims, and pretensions to any territories east and north of the said line; and, for himself, his heirs, and successors, renounces all claim to the said territories forever.

ARTICLE THIRD. To fix this line with more precision, and to place the landmarks which shall designate exactly the limits of both nations, each of the contracting parties shall appoint a Commissioner and a surveyor, who shall meet before the termination of one year from the date of the ratification of this treaty at Natchitoches, on the Red river, and proceed to run and mark the said line from the mouth of the Sabine to the Red river, and from the Red river to the river Arkansas, and to ascertain the latitude of the source of the said river Arkansas, in conformity to what is agreed upon and stipulated, and the line of latitude forty-two to the South Sea; they shall make out plans and keep journals of their proceedings; and the result agreed upon by them shall be considered as part of this treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree respecting the necessary articles to be furnished to those persons, and also as to their respective escorts, should such be deemed necessary.

ARTICLE FOURTH. The present treaty shall be ratified, and the ratifications shall be exchanged at Washington within the term of four months, or sooner, if possible.

In witness whereof, we, the respective plenipotentiaries, have signed the same, and have hereunto affixed our respective seals.

Done at Mexico this twelfth day of January, in the year of our Lord one thousand eight hundred and twenty-eight, in the fifty-second year of the Independence of the United States of America, and in the eighth of that of the United Mexican States.

J. R. POINSETT. [L. S.]
CAMACHO. [L. S.]
J. Y. ESTEVA. [L. S.]

Tratado de Limites entre los Estados Unidos de Megico y los Estados Unidos de America.

Habiendose fijado y designado los limites de los Estados Unidos de America con los territorios limitrofes de Megico, por un tratado solemne concluido y firmado en Washington, a veinte y dos de Febrero de mil ochocientos diez y nueve, entre los plenipotenciarios respectivos del gobierno de los Estados Unidos, por una parte, y de España, por la otra; portanto, y en consideracion à que dicho tratado recibió su sancion en una epoca en que Megico formaba una parte de la Monarquia Española, se ha creido necesario, al presente, declarar y confirmar la validez de dicho tratado, considerandolo vigente y obligatorio, entre los Estados Unidos de Megico, y los Estados Unidos de America:

En consecuencia han sido nombrados los respectivos plenipotenciarios, a saber, el Presidente de los Estados Unidos de Megico, a sus excelencias los Señores Sebastian Camacho, y José Ignacio Esteva, y el Presidente de los Estados Unidos de America, al Señor Joel Roberts Poinsett, su Enviado Extraordinario y Ministro Plenipotenciario, cerea del gobierno de los Estados Unidos de Megico; los que, despuès de haber cambiado sus plenos poderes, y hallados en buena y debida forma, han convenido y concluido los articulos siguientes.

ARTICULO PRIMERO. Siendo los limites divisorios de los Estados Unidos de Megico, y de los Estados Unidos de America, en los terrenos colindantes de ambas Republicas los mismos que se acordaron y fijaron en el dicho tratado de Washington, fhô a veinte y dos de Febrero de mil vehocientos diez y nueve, se procedera inmediatamente à poner en ejecucion entre las dos dichas partes contratantes los articulos percero y cuarto de dicho tratado, que, a continuacion se insertan.

ARTICULO SEGUNDO. La linea divisoria entre los dos paises, al occidente del Misisipi, arrancara del seno Megicano, en la embocadura del rio Sabina, en el mar, seguirá al norte por la orilla occidental de este rio hasta el grado 32 de latitud; desde allì, por una linea recta al norte, hasta el grado de latitud en que entra en el rio Rojo de Natchitoche, *Red river*, y continuará, por el curso del rio Rojo al oeste hasta el grado 100 de longitud occidental de Londres, y 23 de Washington, en que cortará este rio, y seguira, por una linea recta al norte, por el mismo grado, hasta el rio Arkansas, cuya orilla meridional seguirá hasta su nacimiento en el grado 42 de latitud septentrional, y desde dicho punto, se tirará una linea recta, por el mismo paralelo de latitud, hasta el mar del Sur: todo segun el mapa de los Estados Unidos de Melish, publicado en Filadelfiia y perfeccionado en 1818. Pero si el nacimiento del rio Arkansas se hallase al norte o sur de dicho grado 42 de latitud, seguirá la linea desde el origen de dicho rio recta al sur, ò norte, segun fuese necesario, hasta que encuentre el expresado grado 42 de latitud, y desde allì, por el mismo paralelo hasta el mar del Sur. Pertenecerán à los Estados Unidos todas las yslas de los rios Sabina, Rojo de Natchitoche, y Arkansas, en la extension de todo el curso descrito; pero el uso de las aguas, y la navegacion del Sabina, hasta el mar, y de los espresados rios Rojo y Arkansas, en toda la estension de sus mencionados limites en sus respespectivas orillas, será comun à los habitantes de las dos naciones.

Las dos altas partes contratantes, convienen en ceder y renunciar todos sus derechos, reclamaciones y pretensiones sobre los territorios que se describen en esta linea, a saber; los Estados Unidos de America ceden a S. M. C. y renuncian para siempre, todos sus derechos, reclamaciones y pretensiones, a cualesquiera territorios situados al oeste, y al sur de dicha linea, y S. M. C. en igual forma, renuncia y cede para siempre, por si, y a nombre de sus herederos, y sucesores, todos los derechos que tiene sobre los territorios al este y al norte de la misma linea arriba descrita.

ARTICULO PERCERO. Para fijur esta linea con mas precision, y estableur los mojones que señalen con ecsaititud los limites de ambas naciones, nombrará cada una de ellas un comisario, y un geometra, que se juntarán antès del termino de un año, contado desde la fecha de la ratificacion de este tratado, en Natchitoches, en las orillas del rio Rojo, y procederán á señalar, y demarcar dicha linea, desde la embocadura del Sabina, hasta el rio Rojo, y de este hasta el rio Arkansas, y averiguar con certidumbre el origen del espresado rio Arkansas, y fijar, segun queda estipulado, y convenido en este tratado, la linea que debe seguir desde el grado 42 de latitud, hasta el mar Pacifico. Llevaran diurios, y levantarán planos de sus operaciones, y el resultado convenido por ellos se tendra por parte de este tratado, y tendra la misma fuerza que si estuviese inserto en èl, debiendo convenir amistosamente los dos gobiernos en el arreglo de cuanto necessiten estos individuos y en la escolta respectiva que deban llevar, siempre que se crea necesario.

ARTICULO CUARTO. El presente tratado será ratificado, y las ratificaciones serán cambiadas en Washington en el termino de cuatro meses, ì antés, si posible fuere.

En fé de locual, los respectivos plenipotenciarios han firmado el presente, sellandolo con sus sellos respectivos.

Fecho en Megico, à los doce dias del mes de Enero, del año del Señor mil ochocientos veinte y ocho, octavo de la independencia de los Estados Unidos de Megico, y 52° de la de los Estados Unidos de America.

CAMACHO. [L. S.]
J. Y. ESTEVA. [L. S.]
J. R. POINSETT. [L. S.]

No. 117.] LEGATION OF THE UNITED STATES, *Mexico, February* 22, 1828.

SIR: I have the honor to transmit herewith, by Mr. Edward T. Tayloe, a treaty of limits between the United States of America and the United Mexican States, signed on the 12th day of January last, and a treaty of amity, commerce, and navigation, signed on the 14th day of this month.

You will perceive, in the latter, that all the alterations suggested by the Senate of the United States have been introduced, except that in relation to the duration of the treaty. I have already given you my reasons for not insisting upon that alteration, which I hope will prove satisfactory to the President. I thought it the less important because it is provided, by the thirty-fourth article, that at the end of six years, to be counted from the day on which the ratifications of this treaty are exchanged, such important points as may require revision and a special convention shall be taken into consideration by the parties; and the articles which may then be concluded shall be considered as making a part of this treaty.

I desired to fix the term of nine years for carrying into effect the fifth and sixth articles of the treaty; but the Mexican plenipotentiaries objected, that the term of ten years had been adopted in all their treaties, where the principle of perfect reciprocity had been introduced, and the alteration I proposed might occasion some difficulty and delay on the part of this Congress in the ratification of the treaty. They said, too, that it was unnecessary, as the instant the principle went into operation with one nation it would of course be extended to us. As this conversation was informal it was not extended upon the protocols; nor did I think it necessary to do so, as this consequence necessarily follows upon the principle of the most favored nation.

I have the honor to be, very respectfully, sir, your obedient servant,

J. R. POINSETT.

Hon. HENRY CLAY, *Secretary of State, Washington.*

[With Mr. Poinsett's No. 117.—Translation.]

FEBRUARY 6, 1828.

The undersigned have the honor to communicate to Mr. Poinsett that they have meditated with the greatest attention the reasons he advanced in the last conference in favor of the addition which the Senate of the United States wishes to see introduced into the sixteenth article of the treaty of amity, commerce, and navigation, signed the 10th day of July, 1826, and which has given rise to a renewal of the negotiations, as your excellency suggested in your note to the Government of the 27th May.

The undersigned have to observe that the reasons alleged are reduced simply to the same which were advanced by your excellency, with the same intention, in the conferences held on the 13th and 17th

of June, 1826, and which were extended with more exactness in your note of the last date; but as all those were refuted at that time by the arguments of the undersigned, and as your excellency, on that account, agreed to adopt the stipulation of the principle without any limitation, they do not perceive any reasonable motive at present which could justify their conduct if they were to change their opinion and accede to the exception proposed by your excellency, in conformity to the wishes of your Government.

It is true that the Mexican United States have not now the powerful obstacle which, at the period of the first negotiations, prevented them from admitting an exception in some manner odious, and which might, on that account, have retarded the conclusion of the pending treaties with a third Power. But it is likewise true that, after having celebrated those treaties, the good faith and honor of the Government are interested; that, on the part of Mexico, there should be no variation in the principle of conduct which it had proposed to follow invariably, and which probably had an influence on the minds of the other party in settling those conventions.

The undersigned, in virtue of these reasons, cannot persuade themselves that the Government of the United States of America should insist upon the insertion of the proposed addition to the sixteenth article as a *sine qua non*, as it is not absolutely necessary for the application of a principle which is not become general among nations, and as it was not introduced by the said States in their transactions with other nations until the year 1819.

The undersigned have the honor, on this occasion, to renew to your excellency the assurances of their distinguished consideration.

CAMACHO.
ESTEVA.

LEGATION OF THE UNITED STATES OF AMERICA, *Mexico, February* 8, 1828.

The undersigned has received their excellencies' note of the 6th instant, and has given to the arguments it contains the most serious consideration.

The undersigned did not consider the arguments he had used during the former conferences and in his note of the 17th June, 1826, as refuted by the Mexican plenipotentiaries.

He yielded the point in dispute at that time to his earnest desire not to embarrass the negotiations then pending between Mexico and Great Britain. Neither was he aware of the resolution of his Government not to admit any nation to a participation of the advantages offered by the principle of "free ships making free goods," unless accompanied with a provision that the flag of the neutral shall not cover the property of enemies whose Government does not acknowledge this principle.

This qualification is absolutely necessary in order to render the application of the principle just and fair towards all nations. Without it, supposing that Mexico did not admit the principle, the goods belonging to citizens of this Republic, on board vessels of the United States, would have been protected from being captured by Spanish cruisers, while the goods of Spanish subjects, in like situation, would be liable to capture by Mexican ships. So that the nation which did not admit the principle of free ships making free goods would have been the most favored. Whereas, by the qualification adopted in all the modern treaties formed by the United States and existing in that with Spain, the principle is applicable to those nations only which acknowledge it, and to none other. If, therefore, Mexico refuses to adopt the principle, the goods of her citizens found on board vessels of the United States are liable to seizure by Spanish cruisers, from which they will hereafter be free, if the Mexican plenipotentiaries agree to adopt the principle and the qualification, for the one will not be admitted by the undersigned without the other.

The undersigned will not take up your excellencies' time by urging the vast advantages that must accrue to an infant maritime State by the adoption and extension of this important principle, whether it is considered as advancing the interests of agriculture and trade, when one of the contracting parties is in a state of war, by enabling its citizens freely to export its produce through the medium of neutral vessels, or, when itself neutral, between two belligerent Powers, might enrich itself by carrying the produce of both of them without danger of violence from either.

These advantages are fully understood and have been acknowledged by your excellencies.

The rule is alike politic and humane; but to make it just the qualification proposed is absolutely essential. It has been adopted in this manner by all the new Republics of America with whom the United States have celebrated treaties, and it would be unjust towards them to form a convention with Mexico wherein the principle was admitted without the exception.

The only alternative the undersigned can offer is to omit the principle altogether. If it be inserted at all in the treaty, it must be accompanied by the proposed qualification.

With respect to the obligation which it is supposed that Mexico has contracted in her negotiations with Great Britain, the undersigned will merely observe that there exists the most positive proof that Mexico would have obtained the same terms from that nation even if the principle and proposed qualification had been introduced into the former treaty. Great Britain had no right to exact or to expect that Mexico should renounce an important rule, affecting her most vital interests, after having made a treaty with Colombia, subsequent to that concluded between the United States and that Republic, in which the principle of "free ships making free goods," together with the proposed qualification, had been introduced. It is not probable, therefore, that the circumstance of the omission of the proposed qualification in our former treaty had any influence on the negotiations between this country and Great Britain.

If the great maritime Powers, with only one exception, have deemed it politic to adopt this salutary rule, how much more important must it be to the rising but infant States of America.

To the undersigned it appears of the last importance to settle by treaty, in this hemisphere, a question which has occasioned so many acts of violence and so many wars in the other. The States of America ought to be governed in their intercourse with each other by the strictest rules of humanity and justice, and every means resorted to that human wisdom can suggest in order to avoid future cause of war, of which the converse of the principle here contended for has proved so fruitful a source.

The undersigned avails himself of this opportunity to reiterate to your excellencies the assurances of his most distinguished consideration.

J. R. POINSETT.

Their Excellencies Don SEBASTIAN CAMACHO and Don JOSÉ IGNACIO ESTEVA,
Plenipotentiaries of the United Mexican States.

No. 118.] MEXICO, *March* 8, 1828.

SIR: I have the honor to transmit herewith the protocol of a conference held with one of the Mexican plenipotentiaries, at his request, in order to explain some points which had appeared doubtful to this cabinet. I hope the President will be satisfied with my explanation.

With regard to the article relative to fugitive slaves, I used very strong language, because I thought it politic so to do. I do certainly consider that article as very important to the future good understanding between the two nations, and shall use every means in my power to have it ratified by this Congress.

I am, very respectfully, sir, your obedient servant,

J. R. POINSETT.

Hon. HENRY CLAY, *Secretary of State, Washington.*

20TH CONGRESS.] No. 486. [1ST SESSION.

OPINION OF THE ATTORNEY GENERAL ON THE AWARD OF THE EMPEROR OF RUSSIA UNDER THE TREATY OF GHENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES APRIL 22, 1828.

To the House of Representatives of the United States:

A copy of the opinion of the Attorney General, dated May 17, 1826, upon the construction of the award of the Emperor of Russia, under the treaty of Ghent, and upon certain questions propounded to him in relation thereto, subjoined to a report from the Secretary of State, are herewith communicated to the House, in compliance with their resolution of the 17th instant.

JOHN QUINCY ADAMS.

WASHINGTON, *April* 22, 1828.

DEPARTMENT OF STATE, *Washington, April* 21, 1828.

The Secretary of State, to whom has been referred a resolution of the House of Representatives, of the 17th of this month requesting the President of the United States to lay before that House, if it would not, in his opinion, be injurious to the public interest, a copy of the opinion given by the Attorney General, on the 17th of May, 1826, upon the construction of the award of the Emperor of Russia, under the treaty of Ghent, and upon certain questions propounded by the President in relation thereto, has the honor to submit to the President a copy of the opinion of the Attorney General required by the House.

Respectfully submitted.

H. CLAY.

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES, *May* 17, 1826.

SIR: I have considered carefully the questions which you have done me the honor to submit for my opinion, on the construction of the award of the Emperor of Russia and the convention of St. Petersburg, made in subservience to that award, and have examined with great attention the documents touching these questions, transmitted to me by your communication of the 8th instant. The questions are—

"1st. Is interest a part of the indemnity awarded by the Emperor?

"2d. Is the refusal of the British Commissioner to refer to the arbitration of the convention the disagreement between him and his American associate, on the point of interest, warranted by the convention?"

After the most deliberate consideration of all the arguments which have been urged, *pro* and *con*, I am clearly of the opinion that interest, *at least*, is a necessary part of the indemnity awarded by the Emperor; and that the refusal of the British Commissioner, stated in your second question, is not warranted by the convention.

The topics on both sides of these questions have been so fully and ably arrayed and exhausted that it would be a useless consumption of your time, and would load the files of your Department to no good purpose, for me to travel again over the whole of this extended discussion.

The questions seem to me to lie within a very narrow compass; and the error of the argument on the other side, as it regards the claim of interest, arises, I humbly conceive, from a mistake of the character of the convention of St. Petersburg. That convention is not an original treaty, arranging, for the first time, and by way of *compromise*, the matters of dispute between the British and American Governments. It is not an original treaty at all. It is a mere *subsidiary* instrument *to give effect to the Emperor's award.* Such is the avowal of its character upon its own face. It does not profess even to *explain* the award, much less to alter and narrow that award, or to control its construction in any respect whatever. On the contrary, by the express avowal of one sole purpose, it excludes the supposition of all others, and declares its character as explicitly as if words of negation and exclusion had been positively used. Thus the preamble, after reciting the Emperor's award *verbatim*, proceeds: "*Now, for the purpose of carrying into effect this award of his Imperial Majesty,*" &c.; not for the purpose of *modifying* or *explaining*, but for the simple purpose of *carrying that award into effect.* After this ascertainment of the mere subsidiary

character of this convention to regard it as the predominating instrument, and to seize upon any insulated expressions which may be found in it for the purpose of controlling the construction of the award itself, is wholly inadmissible in any fair consideration of the subject. On the contrary, the award is the principal, the overruling, nay, the sole authority in estimating the extent of the indemnity; and the convention, which was formed for the single purpose of giving effect to that award, not to explain or control it, is not to be resorted to for the purpose of explaining or controlling it. Suppose that there are expressions in the convention of an ambiguous character, susceptible of two constructions—the one consistent with the award, and the other inconsistent with it—can there be a rational doubt that that shall be preferred which is consistent with the award? Would it not be to unsettle and to reverse one of the best established rules of construction, as well of action, that require that the principal shall yield to its subsidiary? Now, the utmost that candor, and even liberality, can be required to admit, in this case, is, that some of the details of the convention, considered as standing alone, are sufficiently ambiguous to admit of two constructions: one of which stands consistently with the natural sense of the award; and the other of which is in opposition to the natural sense; which are we to prefer?

It seems to me that it requires only to bestow a thought on the relation between the award and the convention to answer that the award is to give the law. Let me even go further: let me suppose (for the purpose of argument merely) that the convention, *standing alone*, would furnish even a strong implication of a narrower meaning than the award itself would import; which is to give the law? If the convention had *professed to expound or explain the award*, such a hypothetic difficulty would deserve great consideration; but the convention proposes no such thing. On the contrary, acknowledging the final and conclusive supremacy of the award, it comes in only for the humble and ancillary purpose of giving it effect according to its own sense. His Britannic Majesty had already agreed, by the convention of London of the 20th October, 1818, that *the award* should be *final and conclusive*. It would, therefore, have been disingenuous in the extreme, and utterly inconsistent with the high character of the British Sovereign, under the guise of a subsequent convention, to *carry the award into effect*, to introduce expressions calculated to narrow its just operation, and then to stand upon these expressions as a construction of the award. It would be an evasion of the engagement that the *award itself should be final and conclusive*. And it would be no answer to the charge of such an evasion to say, "here is your own construction of the award *in the convention of St. Petersburg*," an instrument not professing to give any such construction, but professing, on the contrary, a totally different purpose—that of carrying the *award into effect according to its own sense*.

I forbear the re-examination of the provisions of the convention of St. Petersburg, and a comparison of them with the award of the Emperor, for the purpose of showing whether there is any conflict or ambiguity between them, or to what extent it exists, because this has been already fully and ably done by the British and American ministers. It is sufficient for my purpose to have shown that if there be any such conflict the award alone is to give law.

And then the only remaining inquiry is, what is the award? It is that the United States are entitled to *a just indemnification* for the slaves and other property carried away by the British forces in violation of the first article of the treaty of Ghent. What is *a just indemnification* for a wrong? Is it the reparation of the one-half or two-thirds of that wrong? Is it anything less than a reparation of the whole wrong? On these few simple ideas the whole question turns. If an injury is *justly redressed* which is only *half redressed*, then the British Commissioner is right; but if an injury is only redressed when the redress is commensurate with the whole extent of the injury, then he is wrong. Let us put aside the emphatic and striking word *just* and take the word *indemnification* alone. What does the word *indemnification* mean? The *saving harmless from damage* who is left to bear one-half of the damage himself? The question seems to me too plain for discussion.

The British Commissioner, Sir John Nicholl, who composed part of the board under the 7th article of the treaty of 1794, seems to have entertained a very different opinion on this subject from his countryman, who is now sitting to execute the Emperor's award. His words are: "To reimburse the claimants the original cost of their property, and *all the expenses they have actually incurred, together with interest on the whole amount*, would, I think, be *a just* and *adequate compensation*. This, I believe, is the measure of compensation *usually made* by all belligerent nations for losses, costs, and damages, occasioned by illegal captures." Now, at the time of the wrongs now under consideration, we were, as to Great Britain, neutrals and friends, and stood protected by the most sacred of all instruments—a treaty of peace.

In violation of this treaty, the slaves and other property of American citizens were carried away in the year 1815, and have been detained from them ever since. They have thus lost *the use* of this property *for eleven years*. Is the meagre return of the average value at the time the slaves and other property thus taken from them a *just indemnification of the whole wrong?* That the act of taking away the property *was a wrong* is no longer a question. Whatever disposition there may be to make it a question, it has been settled by the tribunal of the party's own choice, and can no longer be made a question. The first act of dispossession being thus established to be a wrong, is the continuance of that dispossession for eleven years no wrong at all? Is it consistent with that usage of nations which Sir John Nicholl recognizes to redress an act of wrongful violence by the return, at any distance of time, of the naked value of the article at the date of the injury? Such is certainly not the notion of the British courts sitting to administer the laws of nations, upon an intimate knowledge of whose cause of action Sir John Nicholl founded the concession which has been quoted; and the American Commissioner has, I observe, produced a striking example of the truth of this position in the decision of Sir William Scott in the case of the Acteon.

The British Commissioner objects to the application of the principle of the law of nations laid down by Sir William Scott in that case, because that was a suit, and this, he says, is a case of compromise. I am not able to discover in which of its features this is a case of compromise. The rights in question are founded on the award of the Emperor of Russia. Surely that award is no more a compromise than the decision of the Court of King's Bench can be said to be a compromise. It is the solemn and authoritative decision of a regularly constituted tribunal on the rights of the parties litigant before it, and disputing the question with no compromising spirit, not a result gained by the mutual concessions of the parties. The rights of the American citizen do not depend on any concession proceeding from the voluntary grace of Great Britain; they flow from the stern justice of the tribunal to which the decision was referred. Were it a gift which Great Britain was conferring, she might measure out her bounty as she pleased; but it is a right which the United States are exacting under the authority of the judge by whose decision Great Britain stipulated that she would be bound. Where, then, is the compromise to be found? Is it

in the convention of St. Petersburg? But there is no modification of the award by that convention, nor consequently of the rights growing out of the award. As we have already seen, that convention leaves the award to stand in full force and to rest upon its own construction.

The idea of a compromise seems to me, therefore, to be totally out of the question, and, consequently, to have no effect at all in withdrawing this case from the operation of the principle and usage of nations laid down by Sir John Nicholl and Sir William Scott.

Upon the whole, sir, I am of the opinion that the just indemnification awarded by the Emperor involves, not merely the return of the value of the specific property, but a compensation also for the subsequent and wrongful detention of it in the nature of damages. If the actual damages in each case could be ascertained, they ought, under the award, to be decreed; but since this, if not impracticable, would be a work of great labor and time, I am of the opinion that the interest, *according to the usage of nations*, is a necessary part of the just indemnification awarded by the Emperor of Russia.

The British and American Commissioners having disagreed in opinion on this point, that is, in the amount of the claim to be allowed, the American Commissioner has proposed to call in an arbitrator, according to the mode provided by the convention made to settle this difference, to which the British Commissioner objects, on the ground that this is not one of those disagreements in which the convention contemplated that an arbitrator should be called in.

Your second question, therefore, is, whether this refusal on the part of the British Commissioner is warranted by the convention?

The provision of the convention is, (article V,) in the event of the two Commissioners not agreeing in any particular case under examination, or their disagreement upon any question which may result from the stipulations of this convention, then, and in that case, they shall draw, by lot, the name of one of the two arbitrators, who, after having given due consideration, &c.

Now, the two Commissioners *have not agreed in a particular case under examination; they have not agreed in the amount to be awarded to the claimant.* The case, therefore, is a case for an arbitrator. Again: the stipulation of the convention is, that these Commissioners shall settle the amount of the indemnification; they have disagreed on a question growing out of this stipulation, to wit: on the question whether interest shall or shall not be allowed. Now, again, the convention calls for the interposition of an arbitrator. And, lastly, the same oath is prescribed by the convention, both to the Commissioners and arbitrators, clearly manifesting that the range of judicial duties was the same with regard to both; for the Commissioners are considered as acting upon oath at every judicial step; and, since the same oath is administered in the same terms to both, it would seem to indicate the clear purpose of the framers of the convention that, whenever the Commissioners, in the discharge of their judicial functions, might differ in opinion, an arbitrator might be called on to decide the difference.

Were it otherwise, one Commissioner would have the whole subject under his sole control; first, by disagreeing with his associate, and then by refusing to call in an arbitrator. This would certainly be executing the award of the Emperor in one of the senses of that word, but not in that, I presume, which the convention intended.

I am of the opinion that the refusal of the British Commissioner to call in an arbitrator is wholly unwarranted by the convention.

I have the honor to remain, very respectfully, your obedient servant,

WILLIAM WIRT.

Hon. HENRY CLAY, *State Department.*

20TH CONGRESS.] No. 487. [1ST SESSION.

TREATY OF AMITY, COMMERCE, AND NAVIGATION WITH THE UNITED MEXICAN STATES.

COMMUNICATED TO THE SENATE, IN EXECUTIVE SESSION, APRIL 25, 1828.

To the Senate of the United States:

I transmit to the Senate, for the exercise of their constitutional authority thereon, a treaty of amity, commerce, and navigation between the United States of America and the United Mexican States, signed by their respective plenipotentiaries on the 14th of February last, with a copy of the treaty, and the protocols of conferences during and subsequent to the negotiation.

JOHN QUINCY ADAMS.

WASHINGTON, *April* 24, 1828.

TREATY OF AMITY, COMMERCE, AND NAVIGATION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES.

The United States of America and the United Mexican States, desiring to establish, in an equitable and permanent manner, the rules which ought to govern the commercial intercourse and friendly relations that happily prevail between the two parties, and considering that this end can be obtained only by taking for the basis of their agreement the most perfect equality and reciprocity, and by avoiding all preferences to other nations, but reserving to each party the liberty of admitting them, at its pleasure, to a full participation of the same advantages, have resolved to conclude, on this basis, a treaty of amity, commerce, and navigation.

With this intention, the President of the United States of America has appointed for their plenipo-

tentiary, Joel Roberts Poinsett, a citizen of the United States of America, and their Envoy Extraordinary near the United Mexican States; and the President of the United Mexican States, his excellency Don Sebastian Camacho, Secretary of State and of Interior and Exterior Relations, and his excellency Don José Ignacio Esteva:

And the said plenipotentiaries, having exchanged their full powers, have concluded and agreed upon the following articles:

ARTICLE FIRST. There shall be a firm, inviolable, and universal peace, and a true and sincere friendship between the United States of America and the United Mexican States, in all the extent of their possessions and territories, and between their people and citizens, respectively, without distinction of persons or places.

ARTICLE SECOND. The United States of America and the United Mexican States, desiring to take for the basis of their agreement the most perfect equality and reciprocity, engage, mutually, not to grant any particular favor to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same freely if the concession was freely made or on allowing the same compensation if the concession was conditional.

ARTICLE THIRD. The citizens of the two countries, respectively, shall have liberty, freely and securely, to come with their vessels and cargoes to all such places, ports, and rivers in the territories of the United States of America and of the United Mexican States to which other foreigners are permitted to come, to enter into the same, and to remain and reside in any part of the said territories, respectively; also, to hire and occupy houses and warehouses for the purposes of their commerce, and to trade there in all sorts of produce, manufactures, and merchandise, and, generally, the merchants and traders of each nation shall enjoy the most complete protection and security for their commerce.

And they shall not pay other or higher duties, imposts, or fees, whatsoever, than those which the most favored nations are or may be obliged to pay, and shall enjoy all the rights, privileges, and exemptions, with respect to navigation and commerce, which the citizens of the most favored nations do or may enjoy; but subject always to the laws, usages, and statutes of the two countries, respectively.

The liberty to enter and discharge the vessels of both nations, of which this article treats, shall not be understood to authorize the coasting trade permitted to national vessels only.

ARTICLE FOURTH. No other or higher duties shall be imposed on the importation into the United Mexican States of any article the produce, growth, or manufacture of the United States of America than those which the same or like articles the produce, growth, or manufacture of any other foreign country do now or may hereafter pay; nor shall articles the produce, growth, or manufacture of the United Mexican States be subject, on their introduction into the United States of America, to other or higher duties than those which the same or like articles of any foreign country do now or may hereafter pay. Higher duties shall not be imposed in the respective States on the exportation of any article to the States of the other contracting party than those which are now or may hereafter be paid on the exportation of like articles to any other foreign country; nor shall any prohibition be established on the exportation or importation of any article the produce, growth, or manufacture of the United States of America or of the United Mexican States, respectively, in either of them, which shall not, in like manner, be established with respect to other foreign countries.

ARTICLE FIFTH. No other or higher duties or charges, on account of tonnage, light or harbor dues, pilotage, salvage, in case of damage or shipwreck, or any other local charges, shall be imposed in any of the ports of Mexico on American vessels than those payable in the same ports by Mexican vessels, nor in the ports of the United States of America on Mexican vessels than shall be payable in the same ports on American vessels.

ARTICLE SIXTH. The same duties shall be paid on the importation into the territories of Mexico of any article the growth, produce, or manufacture of the United States of America, whether such importation shall be in Mexican or American vessels; and the same duties shall be paid on the importation into the territories of the United States of America of any article the growth, produce, or manufacture of Mexico, whether such importation shall be in American or Mexican vessels. The same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation to Mexico of any articles the growth, produce, or manufacture of the United States of America, whether such exportation shall be in Mexican or in American vessels; and the same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation of any articles the growth, produce, or manufacture of Mexico, to the United States of America, whether such exportation shall be in American or in Mexican vessels.

ARTICLE SEVENTH. All merchants, captains, or commanders of vessels, and others, citizens of the United States of America, shall have full liberty, in the United Mexican States, to direct or manage themselves their own affairs, or to commit them to the management of whomsoever they may think proper, either as broker, factor, agent, or interpreter; nor shall they be obliged to employ, for the aforesaid purposes, any other persons than those employed by Mexicans, nor to pay them higher salaries or remunerations than such as are, in like cases, paid by Mexicans; and absolute freedom shall be allowed, in all cases, to the buyer and seller to bargain and fix the price of any goods, wares, or merchandise, imported into or exported from the United Mexican States, as they may think proper, observing the laws, usages, and customs of the country.

The citizens of Mexico shall enjoy the same privileges in the States and territories of the United States of America, being subject to the same conditions.

ARTICLE EIGHTH. The citizens of neither of the contracting parties shall be liable to any embargo, nor shall their vessels, cargoes, merchandise or effects be detained for any military expedition, nor for any public or private purpose whatsoever, without a corresponding compensation.

ARTICLE NINTH. The citizens of both countries, respectively, shall be exempt from compulsory service in the Army or Navy, nor shall any forced loan be imposed upon them, nor shall they be subjected to any other charges, or contributions, or taxes, than such as are paid by the citizens of the States in which they reside.

ARTICLE TENTH. Whenever the citizens of either of the contracting parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions of the other with their vessels, whether merchant or war, public or private, through stress of weather, pursuit of pirates or enemies, they shall be received and treated with humanity, with the precautions which may be deemed expedient on the part of the respective Governments in order to avoid fraud, giving to them all favor and protection for repairing their vessels, procuring provisions, and placing themselves in a situation to continue their voyage, without obstacle or hinderance of any kind.

ARTICLE ELEVENTH. All vessels, merchandise, and effects, belonging to the citizens of one of the contracting parties, which may be captured by pirates, whether within the limits of its jurisdiction or on the high seas, and may be carried into or found in the rivers, bays, ports, or dominions of the other, shall be delivered up to the owners, they proving, in due and proper form, their rights before the competent tribunals; it being well understood that the claim shall be made within the term of one year, counting from the capture of said vessels or merchandise, by the parties themselves, or their attorneys, or by agents of the respective Governments.

ARTICLE TWELFTH. When any vessel belonging to the citizens of either of the contracting parties shall be wrecked, foundered, or shall suffer any damage on the coasts, or within the dominions of the other, there shall be given to it all assistance and protection, in the same manner which is usual and customary with the vessels of the nation where the damage happens, permitting them to unload such vessel, if necessary, of its merchandise and effects, with the precautions which may be deemed expedient on the part of the respective Governments in order to avoid fraud, without exacting for it any duty, impost, or contribution whatever, until they be exported.

ARTICLE THIRTEENTH. In whatever relates to the succession of estates, either by will or *ab intestato*, disposal of such property, of whatever sort or denomination it may be, by sale, donation, exchange, or testament, or in any other manner whatsoever, the citizens of the two contracting parties shall enjoy, in their respective States and territories, the same privileges, exemptions, liberties, and rights as native citizens; and shall not be charged, in any of these respects, with other or higher duties or imposts than those which are now or may hereafter be paid by the citizens of the Power in whose territories they may reside.

ARTICLE FOURTEENTH. Both of the contracting parties promise and engage, formally, to give their special protection to the persons and property of the citizens of each other, of all occupations, who may be in the territories subject to the jurisdiction of the one or of the other, transient or dwelling therein, leaving open and free to them the tribunals of justice for their judicial recourse, on the same terms which are usual and customary with the natives or citizens of the country in which they may be, for which they may employ in defence of their rights such advocates, solicitors, notaries, agents, and factors, as they may judge proper, in all their trials at law; and said citizens, or their agents, shall enjoy, in every respect, the same rights in the prosecution or defence of their persons or property as the citizens of the country where the cause may be tried.

ARTICLE FIFTEENTH. The citizens of the United States of America, residing in the United Mexican States, shall enjoy, in their houses, persons, and properties, the protection of the Government; and continuing in the possession of what they now enjoy, they shall not be disturbed or molested, in any manner, on account of their religion; provided they respect that of the country where they reside, and its constitution, laws, usages, and customs; they shall likewise continue to enjoy the privilege of burying in places which now are or may hereafter be assigned for that purpose such citizens of the United States of America as may die within the aforesaid United Mexican States; nor shall the funerals or sepulchres of the dead be disturbed in any manner nor under any pretext.

The citizens of the United Mexican States shall enjoy, throughout all the States and territories of the United States of America, the same protection, and shall be allowed the free exercise of their religion, in public or in private, either within their own houses or in the chapels and places of worship set apart for that purpose.

ARTICLE SIXTEENTH. It shall be lawful for all and singular the people, citizens, and inhabitants of the United States of America and of the United Mexican States, respectively, to sail with their vessels with all manner of security and liberty, no distinction being made who are the proprietors of the merchandise laden thereon, from any port to the places of those who now are or may hereafter be at enmity with the United States of America or with the United Mexican States. It shall likewise be lawful for the aforesaid citizens, respectively, to sail with their vessels and merchandise before mentioned, and to trade with the same liberty and security, from the places, ports, and havens of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy before mentioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same Government or under several; and it is hereby stipulated that free ships shall also give freedom to goods, and that everything shall be deemed free and exempt which shall be found on board the vessels belonging to the citizens of either of the contracting parties, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted. It is also agreed that the same liberty be extended to persons who are on board a free vessel, so that, although they be enemies to either party, they shall not be made prisoners or taken out of that free vessel unless they are soldiers and in actual service of the enemy. By the stipulation that the flag shall cover the property, the two contracting parties agree that this shall be so understood with respect to those Powers who recognize this principle; but if either of the two contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose Governments acknowledge this principle, and not of others.

ARTICLE SEVENTEENTH. It is likewise agreed that, in the case where the neutral flag of one of the contracting parties shall protect the property of the enemies of the other by virtue of the above stipulation, it shall always be understood that the neutral property found on board such enemies' vessels shall be held and considered as enemies' property, and, as such, shall be liable to detention and confiscation, except such property as was put on board such vessels before the declaration of war, or even afterwards, if it were done without the knowledge of it; but the contracting parties agree that two months having elapsed after the declaration, their citizens shall not plead ignorance thereof. On the contrary, if the flag of the neutral does not protect the enemy's property in that case the goods and merchandises of the neutral embarked in such enemy's vessel shall be free.

ARTICLE EIGHTEENTH. This liberty of navigation and commerce shall extend to all kinds of merchandises, excepting those only which are distinguished by the name of contraband; and under this name of contraband or prohibited goods shall be comprehended, first, cannons, mortars, howitzers, swivels, blunderbusses, muskets, fusees, rifles, carabines, pistols, pikes, swords, sabres, lances, spears, halberts, and grenades, bombs, powder, matches, balls, and all other things belonging to the use of these arms; secondly, bucklers, helmets, breastplates, coats of mail, infantry belts, and clothes made up in the military form and for a military use; thirdly, cavalry belts, and horses with their furniture; fourthly,

and generally, all kinds of arms and instruments of iron, steel, brass, and copper, or of any other materials, manufactured, prepared, and formed expressly to make war by sea or land.

ARTICLE NINETEENTH. All other merchandise and things not comprehended in the articles of contraband explicitly enumerated and classified as above shall be held and considered as free, and subjects of free and lawful commerce, so that they may be carried and transported in the freest manner by both the contracting parties, even to places belonging to an enemy, excepting only those places which are at that time besieged or blockaded; and, to avoid all doubt in this particular, it is declared that those places only are besieged or blockaded which are actually besieged or blockaded by a belligerent force capable of preventing the entry of the neutral.

ARTICLE TWENTIETH. The articles of contraband before enumerated and classified which may be found in a vessel bound for an enemy's port shall be subject to detention and confiscation, leaving free the rest of the cargo and the vessel, that the owners may dispose of them as they see proper. No vessels of either of the two nations shall be detained on the high seas on account of having on board articles of contraband whenever the master, captain, or supercargo of said vessel will deliver up the articles of contraband to the captors, unless the quantity of such articles be so great and of so large a bulk that they cannot be received on board the capturing vessel without great inconvenience; but in this and all other cases of just detention the vessel detained shall be sent to the nearest convenient and safe port for trial and judgment according to law.

ARTICLE TWENTY-FIRST. And whereas it frequently happens that vessels sail for a port or place belonging to an enemy without knowing that the same is besieged, blockaded, or invested, it is agreed that every vessel so situated may be turned away from such port or place, but shall not be detained; nor shall any part of her cargo, if not contraband, be confiscated, unless, after warning of such blockade or investment from the commanding officer of the blockading forces, she shall again attempt to enter the aforesaid port, but she shall be permitted to go to any other port or place she may think proper. Nor shall any vessel of either of the contracting parties that may have entered into such port before the same was actually besieged, blockaded or invested by the other be restrained from quitting such place with her cargo; nor, if found therein after the surrender, shall such vessel or her cargo be liable to confiscation, but she shall be restored to the owner thereof.

ARTICLE TWENTY-SECOND. In order to prevent all kind of disorder in the visiting and examination of the vessels and cargoes of both the contracting parties on the high seas, they have agreed, mutually, that whenever a vessel of war, public or private, shall meet with a neutral vessel of the other contracting party, the first shall remain out of cannon shot, and may send its boat, with two or three men only, in order to execute the said examination of the papers concerning the ownership and cargo of the vessel, without causing the least extortion, violence, or ill-treatment, for which the commanders of the said armed ships shall be responsible with their persons and property; for which purpose the commanders of said private armed vessels shall, before receiving their commissions, give sufficient security to answer for all the damages they may commit. And it is expressly agreed that the neutral vessel shall, in no case, be required to go on board the examining vessel for the purpose of exhibiting her papers, or for any other purpose whatever.

ARTICLE TWENTY-THIRD. To avoid all kind of vexation and abuse in the examination of papers relating to the ownership of vessels belonging to the citizens of the two contending parties, they have agreed, and do agree, that in case one of them should be engaged in war, the vessels belonging to the citizens of the other must be furnished with sea-letters or passports, expressing the name, property, and bulk of the vessel, and also the name and place of habitation of the master or commander of said vessel, in order that it may thereby appear that the vessel really and truly belongs to the citizens of one of the contracting parties; they have likewise agreed that such vessels, being laden, besides the said sea-letters and passports, shall also be provided with certificates containing the several particulars of the cargo, and the place whence the vessel sailed, so that it may be known whether any forbidden or contraband goods be on board the same, which certificate shall be made out by the officers of the place whence the vessel sailed in the accustomed form; without which requisites the said vessel may be detained to be adjudged by the competent tribunal, and may be declared legal prize, unless the said defect shall be satisfied or supplied by testimony entirely equivalent, to the satisfaction of the competent tribunal.

ARTICLE TWENTY-FOURTH. It is further agreed that the stipulations above expressed, relative to the visiting and examination of vessels, shall apply only to those which sail without convoy; and when said vessels are under convoy the verbal declaration of the commander of the convoy, on his word of honor that the vessels under his protection belong to the nation whose flag he carries, and, when they are bound to an enemy's port, that they have no contraband goods on board, shall be sufficient.

ARTICLE TWENTY-FIFTH. It is further agreed that in all cases the established courts for prize causes in the country to which the prizes may be conducted shall alone take cognizance of them. And whenever such tribunal of either party shall pronounce judgment against any vessel, or goods, or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives on which the same shall have been founded; and an authenticated copy of the sentence or decree, in conformity with the laws and usages of the country, and of all the proceedings of the case, shall, if demanded, be delivered to the commander or agent of said vessel without any delay, he paying the legal fees for the same.

ARTICLE TWENTY-SIXTH. For the greater security of the intercourse between the citizens of the United States of America and of the United Mexican States, it is agreed, now, for them, that if there should be, at any time hereafter, an interruption of the friendly relations which now exist, or a war unhappily break out between the two contracting parties, there shall be allowed the term of six months to the merchants residing on the coast, and one year to those residing in the interior of each other's States and territories, respectively, to arrange their business, dispose of their effects, or transport them wheresoever they may please, giving them a safe conduct to protect them to the port they may designate. Those citizens who may be established in the States and territories aforesaid, exercising any other occupation or trade, shall be permitted to remain in the uninterrupted enjoyment of their liberty and property so long as they conduct themselves peaceably, and do not commit any offence against the laws; and their goods and effects, of whatever class and condition they may be, shall not be subject to any embargo or sequestration whatever, nor to any charge nor tax other than may be established upon similar goods and effects belonging to the citizens of the States in which they reside, respectively; nor shall the debts between individuals, nor moneys in the public funds, or in public or private banks, nor shares in companies, be confiscated, embargoed, or detained.

ARTICLE TWENTY-SEVENTH. Both the contracting parties, being desirous of avoiding all inequality in relation to their public communications and official intercourse, have agreed, and do agree, to grant to the envoys, ministers, and other public agents, the same favors, immunities, and exemptions which those of the most favored nation do or may enjoy; it being understood that whatever favor, immunities, or privileges the United States of America or the United Mexican States may find it proper to give to the ministers and public agents of any other Power shall, by the same act, be extended to those of each of the contracting parties.

ARTICLE TWENTY-EIGHTH. In order that the consuls and vice consuls of the two contracting parties may enjoy the rights, prerogatives, and immunities which belong to them by their character, they shall, before entering upon the exercise of their functions, exhibit their commission or patent in due form to the Government to which they are accredited; and having obtained their *exequatur*, they shall be held and considered as such by all the authorities, magistrates, and inhabitants of the consular district in which they reside. It is agreed, likewise, to receive and admit consuls and vice consuls in all the ports and places open to foreign commerce, who shall enjoy therein all the rights, prerogatives, and immunities of the consuls and vice consuls of the most favored nation, leaving, however, each of the contracting parties at liberty to except those ports and places in which the admission and residence of such consuls and vice consuls may not be expedient.

ARTICLE TWENTY-NINTH. It is likewise agreed that the consuls, their secretaries, officers, and persons attached to the service of consuls, they not being citizens of the country in which the consul resides, shall be exempt from all compulsory service, and also from all kinds of taxes, imposts, and contributions levied especially on them, except those which they shall be obliged to pay on account of commerce or their property, to which the citizens and inhabitants, native and foreign, of the country in which they reside are subject, being, in everything besides, subject to the laws of the respective States. The archives and papers of the consulates shall be respected inviolably, and under no pretext whatever shall any magistrate seize or in any way interfere with them.

ARTICLE THIRTIETH. The said consuls shall have power to require the assistance of the authorities of the country for the arrest, detention, and custody of deserters from the public and private vessels of their country, and, for that purpose, they shall address themselves to the courts, judges, and officers competent, and shall demand the said deserters in writing, proving, by an exhibition of the registers of the vessel's or ship's roll, or other public documents, that those men were parts of said crews; and on this demand so proved, (saving always where the contrary is proved,) the delivery shall not be refused. Such deserters, when arrested, shall be placed at the disposal of the said consuls, and may be put in the public prisons, at the request and expense of those who reclaim them, to be sent to the vessels to which they belong, or to others of the same nation; but if they be not sent back within two months, to be counted from the day of their arrest, they shall be set at liberty, and shall not be again arrested for the same cause.

ARTICLE THIRTY-FIRST. For the purpose of more effectually protecting their commerce and navigation, the two contracting parties do hereby agree, as soon hereafter as circumstances will permit, to form a consular convention, which shall declare, specially, the powers and immunities of the consuls and vice consuls of the respective parties.

ARTICLE THIRTY-SECOND. It is likewise agreed that the two contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the country adjacent to the lines and rivers which form the boundaries of the two countries; and, the better to attain this object, both parties bind themselves expressly to restrain by force all hostilities and incursions on the part of the Indian nations living within their respective boundaries; so that the United States of America will not suffer their Indians to attack the citizens of the United Mexican States, nor the Indians inhabiting their territory; nor will the United Mexican States permit the last mentioned Indians to commit hostilities against the citizens of the United States of America, nor their Indians, in any manner whatever. And in the event of any person or persons captured by the Indians who inhabit the territory of either of the contracting parties being, or having been, carried into the territories of the other, both Governments engage and bind themselves in the most solemn manner to return them to their country as soon as they know of their being within their respective territories, or to deliver them up to the agent or representative of the Government that claims them, giving to each other, reciprocally, timely notice, and the claimant paying the expenses incurred in the transmission and maintenance of such person or persons, who, in the meantime, shall be treated with the utmost hospitality by the local authorities of the place where they may be. Nor shall it be lawful, under any pretext whatsoever, for the citizens of either of the contracting parties to purchase or hold captive prisoners made by the Indians inhabiting the territories of the other.

ARTICLE THIRTY-THIRD. It is likewise agreed that, in the event of any slaves escaping from their owners residing in the States or territories of one of the contracting parties and passing over into the States or territories of the other, it shall be lawful for the owner or owners of such slaves, or their lawful agents, to require the assistance of the authorities of the country where they may be found for their arrest, detention, and custody; and for that purpose the proprietors or their agents shall address themselves to the nearest magistrate or competent officer. On such demand being made it shall be the duty of the magistrate or competent officer to cause the said slaves to be arrested and detained; and if it shall appear that such slaves be actually the property of the claimant, the magistrate or competent officer shall surrender them to the proprietors or their agents, to be conveyed back to the country from whence they had escaped, the claimants paying the expenses incurred by the arrest, detention, and custody of such slaves, and none others.

And it is further agreed by the contracting parties, that on mutual requisitions by them, respectively, or by their respective ministers, or officers authorized to make the same, they will deliver up to justice all persons who, being charged with murder or forgery committed within the jurisdiction of either, shall seek an asylum within any of the territories of the other; provided, that this shall be done only on such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension or commitment for trial, if the offence had been there committed. The expense of such apprehension or delivery shall be defrayed by those who make the requisition and receive the fugitive.

ARTICLE THIRTY-FOURTH. Whereas, from the intimate relations which are established between the territories and citizens of the United States of America and of the United Mexican States, there must necessarily result new and important points which will require a special convention, it is agreed that such points shall be taken into consideration at the termination of six years, to be counted from the day on which the ratifications of this treaty are exchanged; and the articles which may be then concluded and

agreed upon, with the constitutional sanction of both Governments, respectively, shall be considered as making a part of this treaty, and shall have the same force as those which are contained in it.

ARTICLE THIRTY-FIFTH. The United States of America and the United Mexican States, desiring to make as durable as circumstances will permit the relations which are to be established between the two parties, by virtue of this treaty or general convention of amity, commerce, and navigation, have declared solemnly, and do agree to the following points:

First. The present treaty shall remain in full force and virtue for the term of twelve years, to be counted from the day of the exchange of the ratifications, in all the parts relating to commerce and navigation; and in all those parts which relate to peace and friendship, it shall be perpetually and permanently binding on both Powers.

Second. If any one or more of the citizens of either party shall infringe any of the articles of this treaty, such citizens shall be held personally responsible for the same, and the harmony and good correspondence between the two nations shall not be interrupted thereby; each party engaging in no way to protect the offender or sanction such violation.

Third. If (what, indeed, cannot be expected) any of the articles contained in the present treaty shall be violated or infringed in any other way whatever, it is stipulated that neither of the contracting parties will order or authorize any acts of reprisal, nor declare war against the other, on complaint of injuries or damages, until the said party considering itself offended shall first have presented to the other a statement of such injuries or damages, verified by competent proof, and demanded justice and satisfaction, and the same shall have been either refused or unreasonably delayed.

Fourth. Nothing in this treaty contained shall, however, be construed or operate contrary to former and existing public treaties with other Sovereigns or States.

The present treaty of amity, commerce, and navigation shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the President of the United Mexican States, with the consent and approbation of the Congress of the same; and the ratifications shall be exchanged in the city of Washington within the term of six months, to be counted from the date of the signature hereof, or sooner, if possible.

In witness whereof, we, the plenipotentiaries of the United States of America and of the United Mexican States, have signed and sealed these presents.

Done in the city of Mexico, on the fourteenth day of February, in the year of our Lord one thousand eight hundred and twenty-eight, in the fifty-second year of the Independence of the United States of America, and in the eighth of that of the United Mexican States.

J. R. POINSETT. [L. S.]
S. CAMACHO. [L. S.]
J. Y. ESTEVA. [L. S.]

ADDITIONAL ARTICLES.

FIRST. Whereas, in the present state of the Mexican shipping, it would not be possible for Mexico to receive the full advantage of the reciprocity established in the fifth and sixth articles of the treaty signed this day, it is agreed that, for the term of ten years, the stipulations contained in the said articles shall be suspended, and, in lieu thereof, it is hereby agreed that, until the expiration of the said term of ten years, American vessels entering into the ports of Mexico, and all articles the growth, produce, or manufacture of the United States of America imported in such vessels, shall pay no higher or other duties than are or may hereafter be payable in the said ports by the vessels, and the like articles the growth, produce, or manufacture of the most favored nation. And, reciprocally, it is agreed that Mexican vessels entering into the ports of the United States of America, and all articles the growth, produce, or manufacture of the United Mexican States imported in such vessels, shall pay no other or higher duties than are or may hereafter be payable in the said ports by the vessels, and the like articles the growth, produce, or manufacture of the most favored nation; and that no higher duties shall be paid, or bounties or drawbacks be allowed, on the exportation of any article the growth, produce, or manufacture of either country, in the vessels of the other, than upon the exportation of the like articles in the vessels of any other foreign country.

ARTICLE SECOND. Although, by the thirty-fifth article of the treaty signed this day, it is declared that all the parts thereof relating to commerce and navigation shall remain in full force and virtue for the term of twelve years, to be counted from the exchange of ratifications, it is hereby agreed that such parts shall be in force even after the expiration of that term, until one of the parties shall have declared its intention to renounce it, which declaration shall be made at least six months beforehand.

The present additional articles shall have the same force and value as if they had been inserted, word for word, in the treaty signed this day. They shall be ratified, and the ratifications shall be exchanged at the same time.

In witness whereof, we, the respective plenipotentiaries, have signed and sealed the same.

Done at Mexico, on the fourteenth day of February, one thousand eight hundred and twenty-eight.

(Signed)
J. R. POINSETT. [L. S.]
S. CAMACHO. [L. S.]
J. Y. ESTEVA. [L. S.]

[Original.]

Los Estados Unidos de Mexico y los Estados Unidos de America, deseando estableur de un modo justo y permanente las reglas que deben gobernar las comunicaciones comerciales y las relaciones amistosas que felizmente existen entre ambas partes, y considerando que este objeto solo puede obtenerse por un convenio fundado en la mas perfecta igualdad y reciprocidad, y evitando toda preferencia à otras naciones, reservandose cada parte la libertad de admitirlas à su arbitrio, à una plena participacion de las mismas ventajas, hun resuelto concluir bajo estas bases, un tratado de amistad, comercio y navegacion.

Con este intento el Presidente de los Estados Unidos Mexicanos ha nombrado de plenipotenciarios à S. E. Sebastian Camacho, Secretario de Estado y del Despacho de Relaciones Interiores y Exteriores, y à

S. E. José Ignacio Esteva; y el Presidente de los Estados Unidos de America, à Joel Roberts Poinsett, ciudadano de los Estados Unidos de America, y su Enviado cerea de los Estados Unidos Mexicanos:

Los que despuès de haber cambiado sus plenos poderes, han convenido en los articulos siguientes:

ARTICULO PRIMERO. Habrá una firme, involable y general paz, y sincera amistad entre los Estados Unidos de Mexico, y los Estados Unidos de America, en toda la extension de susposesiones y territorios, y entre sus pueblos y ciudadanos respectivos sin distincion de personas y lugares.

ARTICULO SEGUNDO. Los Estados Unidos Mexicanos, y los Estados Unidos de America, deseando tomar por base de su convenio la mas perfecta igualdad y reciprocidad, se comprometen mutualmente à no conceder privilegio alguno particular à otras naciones, respecto a su comercio y navegacion, que no se haga inmediatamente comun à la otra parte, libremente, si la concesion hubiese sido libre, ò prestando la misma compensacion, si la concesion hubiese sido condicional.

ARTICULO PERCERO. Los ciudadanos de ambos paises, respectivamente, tendràn franca y segura libertad de ir, con sus buques y cargamentos à todos los luyares, puertos y rios del territoria do los Estados Unidos Mexicanos, y de los Estados Unidos de America, en que le espermitido à los demas estrangeros entrar y permanecer y residir en cualquier parte de los mismos territorios respectivamente; asi como alquilar ò arrendar y ocupar casas ò almacenes, para su comercio, y traficar en toda clase de productos, manufacturas y mercancias; y, generalmente, los comerciantes y mercaderes, de dichas naciones gozarán la mas completa proteccion y seguridad en su comercio. Y no puyaràn otros ni mayores derechos, impuestos ó emolumentos cualquiera que los que las naciones mas faborecidas estan ó estubieren obligados à payar, y gozarán de todos los derechos, privilegios y ecsenciones que gozan ò gozaren los de la nacion mas faborecida, con respecto à navegacion y comercio; pero siempre con sugecion à las leyes, usos y reglamentos de ambos paises.

La libertad de entrar y de descargar los buques de ambas naciones en los puertos y rios de que hubla este articulo, no se entenderá à autorizar el comercio de escala y cabotage solo permetido à buques nacionales.

ARTICULO CUARTO. No se impondrán otros, ni mayores derechos à la introduccion en los Estados Unidos Mexicanos de articulo alguno de producto, fruto, ò manufactura de los Estados Unidos de America, que los que pagan, ò en adelante pagaren los mismos é iguales articulos de producto, fruto, ò manufactura de otro pais estrangero; los articulos de producto, fruto, ò manufactura de los Estados Unidos Mexicanos, no estarán tampoco sugetos, en su introduccion, en los Estados Unidos de America, à otros ni mayores derechos que los que paguen, ò en adelante pagaren los mismos é iguales articulos de otro pais estrangero. No se impondrán mayores derechos, en los Estados respectivos, à la esportacion de articulo alguno, à los Estados de la otra parte contratante, que losque se pagan, ò en adelante se pagaren à la exportacion de iguales articulos de otro pais estrangero. Tampoco se establecerá prohibicion alguna à la estraccion ó introduccion de articulos algunos de producto, fruto, ò manufactura de los Estados Unidos Mexicanos, ni de los Estados Unidos de America respectivamente, en unos y otros, que no se establesca igualmente con respecto à otras naciones estrangeras.

ARTICULO QUINTO. No se impondrán otros ni mas altos derechos ni cargos, por razon de toneladas, fanal, emolumentos de puerto, practico derecho de salvamento, en caso de perdida ò naufragio, ni algunas otras cargas locales, en ninguno de los puertos de Mexico à los buques Americanos, sino los que unicamente pagan, en los mismos, los Mexicanos; ni en los puertos de los Estados Unidos de America, se impondrán à los buques Mexicanos otras cargas que las que, en los mismos, pagan los Americanos.

ARTICULO SEXTO. Se pagaran los mismos derechos de importacion; en los territorios de Mexico, por los articulos de productos naturales, producciones y manufacturas de los Estados Unidos de America, bien sean importados en buques Mexicanos ò de los Estados Unidos de America; y los mismos derechos se pagarán, por la importacion en los territorios de los Estados Unidos de America, de las manufacturas, efectos y producciones de Mexico, aunque su importacion sea en buque Americano ò Mexicano—los mismos derechos pagarán, y gozarán las mismas franquicias y descuentos concedidos à la esportacion de cualquiera articulos de los productos naturales producciones ò manufacturas de los Estados Unidos de America, ya sea que la esportacion se haga en buques Mexicanos, ò en Americanos, y se pagarán las mismas derechos, y se concederán las mismos franquicias y descuentos à la esportacion de cualesquiera articulos, de los productos naturales, producciones ò manufacturas de Mexico en los Estados Unidos de America, sea que esta esportacion se haga en buques Americanos ò Mexicanos.

ARTICULO SEPTIMO. Todo comerciante, comandante de buque y otros, ciudadanos de los Estados Unidos de America, tendrá plena libertad, en los Estados Unidos Mexicanos, para derigir, ò girar, por si, sus propios negocios, ò para encargar su direccion à quienes mejor les paresca, como corredor, factor, agente ò interprete, y no estarán obligados à emplear para dichos objetos otras personas, ni à pagarles mas salarios ó remuneraciones que las que, en iguales operaciones, emplean y pagan los Mexicanos, y en todos los casos, gozarán de absoluta libertad el comprador y el vendedor para tratar y fijar segun mejor les convenga el precio de cualquiera articulo, efecto ò mercancia introducida ò esportada en los Estados Unidos Mexicanos, observando las leyes, usos y costumbres del pais. Las mismas franquicias gozarán los ciudadanos Mexicanos en los Estados y territorios de los Estados Unidos de America, sujetandose à las mismas condiciones.

ARTICULO OCTAVO. Los ciudadanos de las partes contratantes no estarán sugetos à embargo, ni sus buques, cargamentos, mercancias ò efectos serán detenidos para espediciones militares, ni para ningun otro objeto publico ó privado cualquiera que sea, sin la indemnizacion correspondiente.

ARTICULO NOVENO. Los ciudadanos de ambos paises, respectivamente, estarán exêntos de ser compelidos à server en el ejercito ò armada; no se les podra imponer especialmente à ellos ningun imprestito forzoso ni estarán sugetos à otras contribuciones, cargas ni impuestos que aquellos que sean pagados por los ciudadanos de los Estados en que residan.

ARTICULO DECIMO. Siempre que los ciudadanos de una de las partes contratantes se vean precisados à buscar refugio ò asilo en los rios, bahias, puertos, ò dominios de la otra, con sus buques ya sean mercantes ò de guerra, ò armados en corso, por mal tiempo, persecucion de piratas ò enemigos, seran recibidos y tratados con humanidad, con las precauciones que se estimen convenientes por parte de los Gobiernos respectivos, para evitar el fraude, concediendoseles todo fabor y proteccion para reparar sus buques y procurar viveres, y provisiones y ponerse en estado de continuor su viage sin obstaculo ni impedimento alguno.

ARTICULO UNDECIMO. Todos los buques, mercancias y efectos, pertenecientes à ciudadanos de una de las partes contratantes, que sean apresados por piratas, ya sea dentro de los limites de su jurisdiccion, ò en alta mar, y que fueren llevados ò hallados, en los rios, bahias, puertos ò dominios de la otra, serán entregados á sus dueños, probando estos en debida y propia forma, sus derechos ante los tribunales com-

petentes; debiendo entenderse claramente que el reclamo deberá hacerse en el termino de un año contado desde el apresamiento del buque ò mercancia por las mismas partes, sus apoderados, ò agentes de sus Gobiernos respectivos.

ARTICULO DUODECIMO. Cuando algun buque perteneciente à ciudadanos de una de las partes contratantes, naufrague, vaga á pique, ó sufra alguna averia en las costas ò dominios de la otra, se dará toda asistencia y proteccion en los mismos terminos que se usa y acostumbra con los buques de la nacion en donde acaezca el daño; permitiendosele descargar las mercancias y efectos del referido buque si fuere necesario, con las precauciones que se estimen convenientes por parte de los Gobiernos respectivos para evitar el fraude, y sin que, por esto, se les imponga derecho alguno, imposicion ni contribucion de ningana clase, hasta que sean esportados.

ARTICULO DECIMO TERCIO. Por lo que toca á la succesion de las propiedades personales, por testamento, ò ad intestato, y al derecho de disponer de la propiedad personal de cualquiera clase ò denominacion, por venta, donacion, permuta ò testamento, ò de otro modo cualquiera, los ciudadanos de las dos partes contratantes gozarán en sus respectivos estados y territorios los mismos privilegios ecsenciones y libertades y derechos, que si fueran ciudadanos nativos; y no se les cargará, en ninguno de estos puntos ò casos, mayores impuestos ò derechos que los pagan ò en adelante pagaren, los ciudadanos nativos de la potencia en cuyo territorio residan.

ARTICULO DECIMO CUARTO. Ambas partes contratantes prometen, y formalmente se comprometen à conceder su especial proteccion à las personas, y propiedades de los ciudadanos de cada una de ellas de todas clases, que se hallaren transeuntes ò establecidos en los territorios sugetos à la jurisdiccion respectiva, dejandoles abiertos y libres los tribunales de justicia para sus recursos judiciales, en los mismos terminos que se usa y acostumbra con los naturales ò ciudadanos del pais en que residan, á cuyo efecto podran emplear en defensa de sus derechos los abogados, procuradores, escribanos, agentes y factores que juzquen convenientes, para que puedan representar por ellos en juicio, y dichos ciudadanos ò sus agentes, gozarán, en todo, los mismos derechos en la prosecucion ò defensa de sus personas ò propiedades que los ciudadanos del pais donde la causa se juzgue.

ARTICULO DECIMO QUINTO. Los ciudadanos de los Estados Unidos de America, residentes en los Estados Unidos Mexicanos, gozarán en sus casas, personas y propiedades, de la proteccion del Gobierno, y, continuando en la posesion en que están, no serán alterados, inquietados ni molestados, de ninguna manera, por motivo de su religion, con tal que respeten la de la nacion en que residan, y la constitucion, leyes, usos y costumbres de esta; asi mismo, continuarán en la facultad de que gozan, para enterrar en los luyares señalados, ò que, en adelante, se señalaren à este objeto, à los ciudadanos de los Estados Unidos de America que mueran en los Estados Unidos Mexicanos, y los funerales y sepulcros de los muertos no serán turbados de modo alguno, ni por ningun pretexto.

Los ciudadanos de los Estados Unidos Mexicanos gozaràn en todos los Estados y territorios de los Estados Unidos de America la misma proteccion, y podrán ejercer libremente su religion en publico ó en privado dentro de sus casas, ò en los templos y lugares destinados al culto.

ARTICULO DECIMO SEXTO. Será permitido à todos y cada uno de los ciudadanos de los Estados Unidos Mexicanos, y de los Estados Unidos de America, poder navegar libre y seguramente con sus embarcaciones, sin que haya la menor escepcion por este respecto, aunque los proprietarios de las mercaderias cargadas en dichas embarcaciones procedan de cualquiera puerto, y sean destinadas à cualquira plaza de una potencia actualmente enemiga, ò que lo sea despuès, asi de los Estados Unidos Mexicanos, como de los Estados Unidos de America. Sepermitirá igualmente à los ciudadanos respectivamente, navegar con sus buques y mercaderias, y frecuentar con igual libertad y seguridad, las plazas y puertos de las potenciàs enemigas de las partes contratantes, ò de una de ellas, sin oposicion à obstaculo, y de comerciar, no solo desde los puertos de dicho enemigo à un puerto neutro, directamente, sino tambien desde uno enemigo, à otro tal, bien se encuentre bajo su jurisdiccion, ò baso la de muchos; y se estipula tambien que los buques libres aseguran igualmente la libertad de las mercancias, y que se juzgarán libres todos los efectos que se hallasen à bordo de los buques que perteneciesen à ciudadanos de una de las partes contratantes, aun cuando el cargamento, por entero ò parte de èl fuese de los enemigos de una de las dos; bien entendido, sin embargo, que el contrabando se ecseptua siempre. Se ha convenido asi mismo que la propia libertad gozarán los sugetos que puedan encontrarse à bordo del buque libre, aun cuando fuese enemigos de una de las partes contratentes; y por lo tanto no se podrá hacerlos prisionieros, ni separarlos de dichos buques, à menos que sean militares, y esten à la sazon empleados en el servicio del enemigo. Por la estipulacion de que la bandera cubre la propiedad, han convenido las dos partes contratantes en que esto se entienda asi con respeto à aquellas potencias que reconozean este principio; pero que si una de las dos partes contratantes estubiere en guerra con una tercera, y la otra neutral, la bandera de esta neutral cubrirá la propiedad de los enemigos cuyo Gobierno reconozea este principio, y no de otros.

ARTICULO DECIMO SEPTIMO. Se conviene tambien que en caso de que el pavillon neutral de una de las partes contratantes proteja la propiedad de los enemigos de la otra, en virtud de la referida estipulacion, se entenderá siempre que la propiedad neutral encontrada à bordo de los referidos buques enemigos se tendrá y considerará como propiedad enemiga, y, como tal estará sugeta à detencion y confiscacion escepta aquella propiedad que haya sido embarcada en tal buque antès de declaracion de guerra, y aun despuès, si se ha hecho sin noticia de tal declaracion; pero las partes contratentes convienen en que dos meses despuès de la declaracion, sus ciudadanos no alegarán ignorancia, al contrario, si el pavellon del buque neutral no protege la propiedad enemiga, en este case, los efectos y mercancias del neutral, embarcados en tal buque enemigo serán libres.

ARTICULO DECIMO OCTAVO. Esta libertad de navegacion y comercio será estensiva à todos genero de mercancias, esceptuando solamente las que se distinguen con el nombre de contrabando, y bajo clasificacion, ò la de efectos prohibidos, se comprenderán, primero: cañones, morteros, obuses, pedreros, trabucos, fusiles, escopetas, carabines comunes y rayadas, pistolas, picas, espados, sables, lanzas, arpones, alabardas, y granadas, bombas, polvora, mechas, balas y otras cosas que pertenecen al uso de armas. Secundo, escudos, yelmos, petos, cotas de maya, cinturones de infanteria, y uniformes ò bestidos propios para la tropa. Tercero, cinturones de caballeria, y caballaos con sus arneses. Cuerto, y generalmente toda clase de armas è instrumentos de fierro, acero, bronce y cobre, ù otros materiales, manufacturados, preparados y formados à proposito para hacer la guerra por mar ò por tierra.

ARTICULO DECIMO NONO. Cualesquiera otras mercancias y cosas no comprendidas en los articulos de contrabando, enumerados y clasificados esplicitamente, como queda dicho, se tendrán y considerarán libres, y de libre y legal comercio, de modo que podrán llevarse y trasportarse de la manera mas libre por ambas partes contratantes, aun a parages pertenecientes à enemigos, esceptuando solo aquellos que, à la

sazon, estubiesen sitiados ò bloqueados, y para evitar toda duda en este particular, se declara que solo se considerarán bloqueados ò sitiados, aquellos puntos que se hallen sitiados ò bloqueados por una fuerza beligerante, capaz de impedir la entrada à los neutrales.

Articulo vigesimo. Los articulos de contrabando enumerados y clasificados arriba, que se encuentren en un buque que navega para un puerto enemigo, estarán sugetos a detencion y confiscacion, dejando libre el vesto del cargamento y el buque, para que los dueños dispongan lo que les parezca. Ningun buque de ambas nacionés será detenido en alta mar, por conducir à bordo articulos de contrabando, siempre que el dueño, capitan ò sobrecargo del referido buque los entregne al apresador, à menos que la cantidad de estos articulos sea tan grande y abulte tanto que no pueda recibirlos el buque apresador sin grande inconveniente; pero en este y en todos los demas casos de justa detencion el buque detenido se enviará al puerte mas cercano, conveniente y seguro, para ser jusgado con arreglo á las leyes.

Articulo vigesimo-primero. Como sucede muy frecuentemente que los buques salen para un puerto ò plaza perteneciente al enemigo, sin saber que se halla sitiado, bloqueado ò atacado, se conviene en que à ningun buque que se halle en estas circunstancias, se le permitirá entrar en él; pero no será detenido, ni será confiscada parte alguna de sa cargamento, si no hubiese en èl alguno de los efectos de contrabanda; à menos que despuès de ser prevenido del sitio ó bloqueo por el oficial comandante de las fuerzas bloqueadoras, emprendiese de nuevo entrar en dicho puerto; pero se le permitirá ir a cualquiera otro puerto ò lugar que crea conveniente; ni à buque alguno de las partes contratantes que hubiere entrado en tat puerto, antès de ser bloqueado, sitiado ò atacado, por alguna de ellas, se le impedirá salir del puerto con su cargamento, y si se hallase en èl despuès de la rendicion, ni el buque, ni el cargamento serán confiscado, sino devueltos á sus dueños.

Articulo vigesimo-segundo. Para impedit toda clase de desorden en la visita y examen de los buques y cargamentos de ambas partes contratantes en alta mar, convienen mutuamente en que siempre que un buque de guerra nacional, ò armado en corso, se encontrase con un buque neutral de la otra parte contratante, el primero se mantendrá fuera del tiro de cañon, y enviará su bote con solo dos òtres hombres para verificar el referido exâmen de los papeles relativos al dueño y cargamento del buque, sin causar la menor violencia, vejacion, ò mal trato: para lo que los comandantes de los expresados buques armados serán responsables con sus personas y propiedades, à cuyo fin los comandantes de dichos buques armados en corso, por cuenta de particulares, durán, antès de recibir sus patentes, fianzas suficientes para responder de los daños que puedan causar, y se estipula expresamente que à buque neutral, en ningun caso, se le obligará ir à bordo del que registra á manifestar sus papeles, ni algun otro objeto, sea el que fuere.

Articulo vigesimo-tercero. Para evitar toda rejacion y abuso en el exâmen de los papeles relativamente à los dueños de los buques que pertenescan à ciudadanos de las dos partes contratante, han convenido y convienen que en caso de hallarse una de ellas en guerra, los buques y navios que pertenezcan à ciudadanos de la otra, deberán ser provistos con patentes de mar ò pasaportes que espresen el nombre, propiedad y dimensiones del buque asi como el nombre del lugar en que habita el capitan ò comandante del buque, para que aparesca real y verdaderamente que pertenece à ciudadanos de una de las partes contratantes; y han convenido igualmente en que à los referidos buques, si condujesen cargamento, ademas de las patentes de mar ò pasaportes, serán provistos de certificaciones con expresion de cada uno de los articulos que comprenda el cargamento, y el lugar de su procedencia, para saber si à su bordo se hallan efectos de contrabando, cuya certificacion se dará por las autoridades del lugar de donde salió el buque, en la forma acostumbrada, sin cuyo requisito el referido buque podrá ser detenido para ser juzgado por tribunal competente, y podrá ser declarado buena presa, à menos que esta falta se satisfaya ò supla con testimonio equivalente, a satisfaccion del tribunal competente.

Articulo vigesimo-cuarto. Convienen ademas que las estipulaciones arriba expresadas, relativamente al examen y visita de buques, tendrán lugar solamente respecto de aquellos que naveyan sui convoy, y que cuando los dichos buques estubieren bajo de convoy, será bastante la declaracion verbal del comandante del convoy, bajo su palabra de honor, de que los buques que estan bajo su proteccion pertenecen à la nacion del pubellon que enarbola, y cuando van con destino à puerto enemigo, de que no llevan contrabando à bordo.

Articulo vigesimo-quinto. Le conviene ademas, que, en todos los casos, los tribunales establecidos para juzgar las presas en el pais adonde estas sean conducidas, tendran ellos solos el conveniento de estas causas, y cuando estos tribunales de alguna de las partes pronunciasen sentencia contra algun buque, efectos, ò propiedad que sea reclamada por ciudadanos de la otra, en la sentencia se hará mencion de las razones ò motivos en que la haya fundado, y se dará, si la pidese, una copia autentica de ella en conformidad con los usos y leyes del pais, y de todos los procederes del caso, al comandante ò agente del buque interesado, sin demora alguna, pagando este las costas establecidas por la ley.

Articulo vigesimo-sexto. Para mayor seguridad en la comunicacion entre los ciudadanos de los Estados Unidos de Mexico, y los de los de America, se conviene, desde ahora para entoncès, que si acaeciere en lo sucesivo alguna interrupcion en las relaciones amistosas que hoy existen, ò si, desgraciadamente hubiese ud rompimiento hostil entre ambas partes contratantes, se les concederá el termino de seis meses à los comerciantes que residan en las costas, y un año à los que esten en el interior de cada uno de los estados y territorios respectivos, para arreglar sus negocios, disponer de sus bienes, ò transportarlos donde gusten, dandoles un salvo conducto que los proteja hasta et puerto que ellos designen: à los ciudadanos que se hallaren establecidos en los referidos estados y territorios, ocupados en cualquier otro trafico si ejercicio, se les permitirá permanecer sin interrupcion en al goce de su libertad y propiedades, mientras se comporten pacificamente, y no cometan ofensa alguna contra las leyes, y sus bienes y efectos, de cualquiera clase y condicion que sean, no estarán sujetos à embargo ò secuestro alguno, ni a otro impuesto ni contribucion que à los establecidos sobre efectos y bienes semejantes pertenecientes á los ciudadanos de los Estados en que respectivamente residan; ni las deudas particulares, ni las cantidades en los fondos publicos, ò en los bancos, publicos or particulares, ni las acciones de las compañias, podrán ser confiscadas, embargadas ni detenidas.

Articulo vigesimo-septimo. Ambas partes contratantes deseando evitar toda designaldad relativa à las comunicaciones publicas y oficiales, se han convenido y convienen en conceder à los Enviados, Ministros, y otros Agentes publicos, los mismos privilegios, exênciones è inmunidades que hoy goza, y en lo sucesivo pueda gozar, la nacion mas faborecida: debiendo entenderse que cualquier fabor, inmunidad, ò privilegio que los Estados Unidos de Mexico, ò los de America tengan por conveniente conceder à los ministros ò agentes publicos de cualquiera otra potencia, será ipsofacto extensiva à los de cada una de las respectivas partes contratantes.

Articulo vigesimo-octavo. Para que los consules y vice consules de las dos partes contratantes puedan

gozar de los derechos, prerogativas è inmunidades que, por su caracter les corresponden, presentarán al Gobierno cerca del cual esten destinados su patente ò despacho en debida forma, antès de entrar en el ejercicio de sus funciones; y habiendo obtenido su exêquatur, seran tenidos y considerados como tales, por todas las autoridades, magistrados y habitantes del distrito consular donde residan. Se convienen tambien en recibir y admitir consules y vice consules en todos los puertos y lugares abiertos al comercio estrangero, guienes gozarán en ellos todos los derechos, prerogativos é inmunidades de los consules y vice consules de la nacion mas favorecida, quedando, no obstante en libertad cada parte contratante para esceptuar aquellos puertos y lugares en que la admision y residencia de semejantes consules y vice consules no parezca conveniente.

ARTICULO VIGESIMO-NONO. Ingualmente se conviene que los cónsules, sus secretarios, los oficiales y personas agregados al servicio de los consules, no siendo estos ciudadanos del pais en que el consul resida, estarán exêntos del servicio publico compulsivo, y tambien de toda clase de impuestos y contribuciones señaladas especialmente à ellos; esceptuando las que respecto à su comercio ò propiedad, esturán obligados à satisfacer del mismo modo que los ciudadanos y habitantes naturales y estrangeros del pais en que residan pagaren, estando en todo lo demas sugetos à las leyes de los Estados respectivos: los archivos y papeles oficiales de los consulados seran respetados inviolablemente, y por ningun pretexto, sea cual fuere, podran los magistrados embargarlos, ni, de ningun modo, tomar conocimiento de ellos.

ARTICULO TRIGESIMO. Los referidos consules podrán pedir el auxilio de las autoridades del pais para arrestar, detener y custodiar los desertores de los buques nacionales y particulares del suyo; y à este efecto podrán ellos mismos pedir à los tribunales, jueces y autoridades competentes, reclamando, por escrito, à los tales desertores, probando, con el roll de los mismos buques, ù otros documentos publicos, que aquellos formaban parte de sus tripulaciones; mas no asi cuando se probare lo contrario, no se reusará su entrega; estos desertores, despuès de arrestados, se pondrán à disposicion de los consules, y podrán embiarse à las carceles à pedimento y costo de los que los reclamasen, y de allì conducirlos à los buques à que pertenecieren, ò à otros de la misma nacion—Pero, si en termino de dos meses contados desde el dia de su arresto, no se habiesen devuelto, seran puestos en libertad, y por este mismo motivo no podrán volver à ser arrestados.

ARTICULO TRIGESIMO-PRIMERO. Con objeto de protejer mas eficazmente su comercio y navegacion, las dos partes contratantes convienen: que tan luego como lo parmitan las circunstancias, formaran un convenio consular que declarará especialmente las facultades y prerogativas de los consules y vice consules de las partes contratantes.

ARTICULO TRIGESIMO-SEGUNDO. Se ha convenido igualmente que las dos partes contratantes procurarán, por todos los medios posibles, mantener la paz y buena armonia entre las diversas tribus de Indios que habitan los terreños adyacentes à las lineas y rios que forman los limites de los dos paises; y para conseguir mejor este fin, se obligan espresamente ambas partes à reprimir, con la fuerza, todo genero de hostilidades ò incursiones de parte de las tribus Indias que habitan dentro de sus respectivos limites: de modo que los Estados Unidos de America no permitierán que sus Indios ataquen à los ciudadanos de los Estados Unidos Mexicanos, ni à los Indios que habitan sus territorios; y los Estados Unidos Mexicanos no permitierán tampoco, que sus Indios hostilizen à los ciudadanos de los Estados Unidos de America ò à sus Indios, de manera alguna.

Y en el caso de que alguna ò algunas personas cogidas por los Indios que habitan los territorios de cada una de las partes contratantes fuere, ò hubiere sido llevada à los territorios de la otra, ambas Gobiernos se comprometen y obligan, del modo mas solemne, à devolverlas à su pais tan luego como sepan que se hallan en sus respectivos territorios, ò entregarlas al agente ò encargado del mismo Gobierno que las reclame, dandose aviso oportuno reciprocamente, y abonandose por èl que las reclame los gastos erogados en la conduccion y manutencion de la tal persona ò personas à quienes, entretanto, se dispensará, por las autoridades locales del punto en que se encuentren la mas generosa hospitalidad. Ni será legitimo, por ningun pretexto que los ciudadanos de cualquiera de las partes contratantes compre ò retenga prisioneros cautibos hechos por los Indios que habitan el territorio de la otra.

ARTICULO TRIGESIMO-TERCERO. Tambien se pacta que en caso de que algunos esclavos se huyan de sus señores residentes en los Estados ò territorios de una de las partes contratantes, y pasen à los Estados ò territorios de la otra, puedan el amo ò amos de tales esclavos ò sus agentes legitimos, requerir la ayuda de las autoridades del pais en que se encuentren, para su arresto, detencion y custodia; y para esto, los amos, ò sus agentes se dirigirán al magistrado ù oficial competente mas inmediato. Cuando se haga tal solicitud, será el deber del magistrado ù oficial competente hacer arrestar y detener à dichos esclavos, y si apareciére que los tales esclavos son actualmente una propiedad del reclamente, el magistrado ù oficial competente los entregará à los propietarios ò sus agentes para que vuelvan à llevarlos al pais de que se hugeron, payando los reclamantes los gastos del arresto, detencion, y custodia de los tales esclavos, y ningun otro.

Y estipulan ademas lus partes contratantes que por los requerimentos mutuos que hagan respectivamente ellas, ò sus respectivos ministros ù oficialos autorizados al efecto, entregarán à la justicia à todos las personas que acusadas de asesinato ò falsificacion cometida en la jurisdiccion de cualquiera de ellas, busquen un asilo en cualquier pais de la otra; con tal que esto solo se haga por tal evidencia de criminalidad que, segun las leyes del lugar donde se encuentre el fugitivo, ò la persona asì acusada, pueda justificar su aprension y juicio en caso de que el delito se hubiese cometido allì. El gasto de esta aprension y entrega será de cuenta de los que hagan el reclamo y reciban el fugitivo.

ARTICULO TRIGESIMO-CUARTO. Como naturalmente deben resultar de las relaciones intimas que se establecen entre los territorios y ciudadanos de los Estados Unidos de Mexico y los Estados Unidos de America, muchos puntos nuevos é importantes que ecsijen un convenio especial, queda acordado que estos puntos se tomarán en consideracion à los seis años contados desde el dia en que se cambien las ratificaciones de este tratado, y que los articulos que puedan entoncès concluirse, previa la sancion constitucional de ambos Gobiernos, se considerarán como parte de este tratado, y tendrán la misma fuerza que los que en este se contienen.

ARTICULO TRIGESIMO-QUINTO. Los Estados Unidos Mexicanos y los Estados Unidos de America, deseosos de hacer tan permanentes como lo permitan circunstancias, las relaciones que van à establecerse entre las dos partes en virtad de este tratado ò convenio general de amistad, comerciò y navegacion, han declarado solemnemente, y convienen en los punto siguientes.

Primero: El presente tratado subsistirá en toda su fuerza y vigor por el termino de doce años que deberán contarse desde el dia del cange de sa ratificacion por lo que respecta à navegacion y comercio;

y en todo lo demas que contiene, relativo à paz y amistad, será obligatorio perpetua y permanentemente à ambas potencias.

Segunda: Si uno, ò mas ciudadanos de alguna de las partes infringiere algun articulo de este tratado, será personalmente responsable de ello; pero no por esto se interrumpirá la armonia y buena correspondencia entre las dos naciones, à cuyo fin ambas partes respectivamente se comprometen à no protejer al agresor, ni menos sancionar semejante infraccion.

Tercero: Si (lo que no es de esperar) alguno de los articulos del presente tratado desgraciadamente fuese violado ò infrigido de cualquiero otro modo, se estipula que ninguna de las partes contratantes dispondrá, ò autorizará ninguna clase de represalia, ni declarará guerra à la otra, por queja de injuria ò daño, hasta que la misma parte que se considere agraviada no haya presentado á la otra, una relacion de las injurias y daños competentemente comprobada, y sobre ello hubiese perdido justiciá y satisfaccion, y esta hubiese sido negada ò sin razon demorada.

Cuarto: Nada de lo contenido en este tratado podrá, de manera alguna interpretarse, ni obrará en contra de los tratados publicos verificados anteriormente, y existentes con otros soberanos y Estados.

El presente tratado de amistad, comercio y navegacion será aprobado y ratificado por el Presidente de los Estados Unidos Mexicanos, previo el consentimiento y aprobacion de su Congreso; y por el Presidente de los Estados Unidos de America con la anuencia y consentimiento de su Senado; y las ratificaciones serán cangeadas, en la ciudad de Washington, en el termino de seis meses, contados desde la fecha en que fueren firmados ò antès, si fuere posible.

En fé de lo cual, los plenipotenciarios respectivos lo hemos firmado y sellado con nuestros sellos.

Fecho en la capital de Mexico, à catorce dias Febrero, del año del Señor de mil ochocientos veinte y ocho, octavo de la independencia de los Estados Unidos Mexicanos, y quincuagesimo segundo de la de los Estados Unidos de America.

S. CAMACHO. [L. S.]
J. Y. ESTEVA [L. S.]
J. R. POINSETT. [L. S.]

ARTICULOS ADICIONALES.

PRIMERO. Por cuanto en el presente estado de la marina Mexicano, no serio posible que Mexico gozase las ventajas que deberia producir la reciprocidad establecida por los articulos 5° y 6° del tratado firmado en este dia, se estipula que durante el espacio de diez años se suspendrá lo convenido en dichos articulos; y, en su lugar, se estipula que hasta la conclusion del termino mencionado de diez años, los buques Americanos que entren en los puertos de Mexico, y todos los articulos de producto, fruto, ò manufactura de los Estados Unidos de America, importados en tates buques, no pagarán otros ni mayores derechos que los que se paguen, ò, en adelante, se pagaren en los referidos puertos, por los buques, é iguales articulos de fruto, producto, ò manufactura de la nacion mas favorecida; y reciprocamente, se estipula que los buques Mexicanos que entren en los puertos de los Estados Unidos de America, y todos los articulos de fruto, producto, ò manufactura de los Estados Unidos Mexicanos, importados en tates buques, no pagaran otros ni mayores derechos, que los que se pagan, ò en adelante se pagaren, en los mencionados puertos, por los buques y semejantes articulos de producto, fruto ò manufactura de la nacion mas favorecida; y que no se pagarán mayores derechos, ni se concederán otras franquicias y des cuentos à la esportacion de cualquiera articulo de producto, fruto, ò manufactura de cada uno de los paises, en los buques del otro, mas que à la esportacion de dichos articulos en buques de cualquiera otro pais estrangero.

ARTICULO SEGUNDO. Aunque por el articulo 35° del tratado firmado en este dia, se declara que todo lo relativo à navegacion y comercio subsistirá en todo su fuerza y vigor por el termino de doce años contados desde el dia del cange de los ratificaciones, se estipula que estos puntos estarán en fuerza, aun despuès de haber espirado este termino, hasta que uno de las partes haya declarado su intencion de renunciarlos; cuya declaracion se hará con la anticipacion de seis meses (a) lo menos.

Los presentes articulos adicionales tendrán la misma fuerzo y valor que si se hubieran insertodo palabra por palabra en el tratado de este dia. Serán ratificados, y las ratificaciones serán cambiadas al mismo tiempo.

En fé de lo cual los respectivos plenipotenciarios lo hemos firmado y sellado con nuestros sellos respectivos.

Fecho en Mexico, à catorce dias de Febrero de mil ochocientos veinte y ocho.

S. CAMACHO. [L. S.]
J. Y. ESTEVA. [L. S.]
J. R. POINSETT. [L. S.]

20TH CONGRESS.] No. 488. [1ST SESSION.

DURATION OF THE BOARD OF COMMISSIONERS UNDER THE TREATY OF GHENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES APRIL 25, 1828.

OFFICE OF THE COMMISSIONERS UNDER THE TREATY OF GHENT, *April* 25, 1828.

SIR: The board having understood that many of the members of the House of Representatives desire a more explicit expression of the opinions of the board as to the proposed extension of its duration, have thought it may be proper to give that expression of their opinions through you, if it shall be thought respectful to the House; a question which they submit to your good judgment, and according to which you will be pleased to submit this letter to the House or suppress it at your pleasure.

Two members of the board (Messrs. Pleasants and Seawell) are of opinion that no extension of time for the purpose of obtaining testimony by those whose claims have been allowed should be granted.

The other member of the board (Mr. Cheves) is of a contrary opinion, but they are unanimously of the opinion that (partly from the suspension of the business of the board while the bill from the Senate has been under consideration) some extension of the duration of the board beyond the probable sitting of Congress will be necessary to enable it to close in a correct and deliberate manner the business of the commission, and they are of opinion that a period earlier than the middle of August will not enable them to do this.

We are, very respectfully, your obedient servants,

LANGDON CHEVES.
JAMES PLEASANTS.
HENRY SEAWELL.

Hon. CHARLES A. WICKLIFFE, *House of Representatives, Washington City.*

20TH CONGRESS.] No. 489. [1ST SESSION.

TRADE BETWEEN THE UNITED STATES AND THE BRITISH COLONIAL POSSESSIONS IN THE WEST INDIES AND NORTH AMERICA

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES APRIL 28, 1828.

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives of the the 9th instant, requesting a communication of the correspondence between this Government and that of Great Britain on the subject of the trade between the United States and the British colonial possessions in the West Indies and North America, not heretofore communicated, I transmit to the House a report from the Secretary of State, with the correspondence desired.

JOHN QUINCY ADAMS.

WASHINGTON, *April* 28, 1828.

DEPARTMENT OF STATE, *April* 28, 1828.

The Secretary of State, to whom has been referred a resolution of the House of Representatives of the 9th instant, requesting the President of the United States "to communicate to the House, if the public interest will permit, the correspondence between this Government and Great Britain on the subject of the trade between the United States and the British colonial possessions in the West Indies and North America, as far as the same has not been heretofore communicated to Congress," has the honor of submitting to the President the papers required by that resolution.

H. CLAY.

List of papers.

Mr. Canning to Mr. Gallatin, November 13, 1826.
Mr. Gallatin to Mr. Canning, December 28, 1826.
Mr. Canning to Mr. Gallatin, January 27, 1827.
Mr. Clay to Mr. Gallatin, April 11, 1827.
Mr. Gallatin to Lord Dudley, June 4, 1827.
Same to same, August 17, 1827.
Same to same, August 30, 1827.
Same to Mr. Clay, September 14, 1827.
Lord Dudley to Mr. Gallatin, October 1, 1827.
Mr. Gallatin to Lord Dudley, October 3, 1827.
Mr. Clay to Mr. Vaughan, March 17, 1827.
Mr. Vaughan to Mr. Clay, March 18, 1827.

Mr. Canning to Mr. Gallatin.

FOREIGN OFFICE, *November* 13, 1826.

The undersigned, his Majesty's Principal Secretary of State for Foreign Affairs, would willingly have abstained from offering any observations on the note addressed to him by Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary of the United States, on the 22d of September, in reply to the answer which had been returned by the undersigned to Mr. Gallatin's note of the 26th of August; the facts of the question agitated between Mr. Gallatin and the undersigned admitting of no dispute, and their previous

correspondence having exhausted all the arguments, on each side, of which the matter in discussion is susceptible.

But upon the reperusal of Mr. Gallatin's note, after an interval of a few weeks, there appear to the undersigned to be two or three points, much relied on by Mr. Gallatin, which it would be improper to leave unnoticed.

The first of these points, and that which affects more or less the whole of Mr. Gallatin's reasoning, is the question of *right*—the right of a mother country to monopolize the trade of its colonies.

Mr. Gallatin discusses this question much at length, and attaches himself, in that discussion, rather perhaps to the terms than to the substance of the proposition intended to be put forward by the undersigned.

The proposition of the undersigned is, simply, that there is a right in a mother country, universally admitted among nations, to interdict to foreign nations a trade with her colonies.

It may be true (as stated by Mr. Gallatin) that every country has the same "right" to interdict to foreign nations a trade with itself. But be the abstract "right" what it may, this, at least, cannot be denied, that the exercise of that "right" has been so usual in one case, and so unusual in the other, that the difference of usage (if it be no more) amounts almost to a difference of principle.

Foreign nations might justly complain of the one interdiction—that of trade with the mother country—as an innovation; but they have no just ground of complaint (and no other nation than the United States has ever complained) of the interdiction of trade to the colonies; because, in all ages, all nations having colonies have maintained such an interdiction.

Mr. Gallatin, after having objected, in the beginning of his note, to the use of the word "right," as applied by the undersigned to the colonial trade of Great Britain, applies the same word himself, (inadvertently perhaps,) in a subsequent part of his note, to the interdiction by the United States of a trade in British ships between the United States and the British West India colonies.

That trade Mr. Gallatin describes as a trade which had been carried on merely by "permission;" "a permission which (says Mr. Gallatin) the United States had a *right* to grant, or to withhold."

Now, as, according to Mr. Gallatin's doctrine, the United States have, in strictness, a *right* to exclude British trade altogether from their ports, the undersigned cannot presume to contend that they have not the same "*right*" to prohibit a trade between those ports and the British colonies. But the undersigned ventures to affirm that the right which they have exercised in the latter prohibition has no peculiar and separate character, growing out of long and general usage, to distinguish it in principle from a prohibition of all trade whatever with the United States.

Up to the year 1818, Mr. Gallatin admits that the trade since prohibited by the United States was enjoyed by British vessels in common with those of all other countries. The interdiction, therefore, is not of ancient usage; and so far is it from being *generally* applied by the United States to foreign vessels that it operates against Great Britain alone.

Is it not at least singular that Mr. Gallatin should reserve for a practice thus novel and thus partial the character of "right," which he denies to a usage as old as the establishment of colonies, and universal among all nations to which colonies have belonged? Is it not singular, also, that, while Mr. Gallatin denies any claim on the part of Great Britain to the continued enjoyment of a trade in the United States, which she is admitted by Mr. Gallatin to have enjoyed uninterruptedly up to the year 1818, Mr. Gallatin puts forward a claim, on the part of the United States, to trade with the West India colonies of Great Britain on the ground of usage and practice?

The United States, says Mr. Gallatin, found their "reclamation to participate in that commerce" (the trade with the British West India colonies) on this ground: "*That* trade has been allowed by Great Britain, it may be said, from the beginning and at all times; and has become thereby so far assimilated to that with the European dominions of Great Britain that the United States did think that *they had the same claim to a participation in both.*" "As early as the year 1783, the Government of Great Britain, deviating from that principle of the colonial system according to which the colonies were prohibited from trading directly with any other country, allowed her West India colonies to trade directly with the United States of America in *British vessels.*"

It may be observed, as to these facts, as stated by Mr. Gallatin himself, that no two things can be much more different than a permission (on the one hand) given by Great Britain to *British* vessels, to trade directly between a British colony and another country, (the vessels of that other country remaining by law, and in fact, excluded from the ports of the colony,) and that "participation" (on the other hand) which implies a trade between the United States and the West India colonies *in vessels of the United States.*

The relaxation to which Mr. Gallatin refers in fact did nothing more than permit British vessels to bring certain articles into colonial ports *directly* from the place of their production, instead of bringing the like articles *circuitously* through the United Kingdom. The question whether these articles should be imported circuitously through the United Kingdom, or directly from the place of their growth, was a mere municipal concern, which did not vary the exclusive character of the colonial system, so long as that importation was confined to *British* ships.

Undoubtedly the United States might then, if they thought proper, have interdicted the trade to British vessels between their ports and the British West India colonies, unless American vessels were allowed to participate in it. But they did not.

The history of the usage, therefore, is, that up to a certain period a trade between the ports of the United States and the British West India colonies, in *British* ships, went on unquestioned; while, as Mr. Gallatin is aware, no *American* vessel could enter the ports of the British West India colonies, except under occasional and temporary suspensions of the colonial law. And yet it is upon *this usage* that Mr. Gallatin founds—

1. A right in the United States to prohibit British vessels from clearing out from the ports of the United States to the British West India colonies.

2. A claim on the part of the United States to participate in the colonial trade of Great Britain.

The things may be right or wrong in themselves, but *usage* surely points exactly the contrary way to that in which Mr. Gallatin applies it.

Mr. Gallatin has yet another ground on which to rest this claim of the United States to a participation in the colonial trade of Great Britain.

"During the European war Great Britain found it convenient *occasionally*, but repeatedly, to open her West India ports to American vessels, at the same time that she was asserting *the principle uniformly*

denied by the United States, that a neutral was not authorized by the law of nations to carry on, in time of war, a trade with a colony in which she was not permitted to participate in time of peace."

First. If the ports were occasionally opened, the very terms of the proposition show that they were *generally* shut. It would be difficult to imagine either a more complete proof of the acknowledged right to admit or exclude foreign trade from the colonies, as the governing authority might think fit, or a more perfect refutation of the plea of usage in favor of a permanently open trade.

Secondly. The rule of 1756 appears to have had little application to the point in dispute. It might, to be sure, be in all cases a question with the neutral whether he would be tempted by the open ports of one belligerent to run the risk of capture by the other. But the point in dispute is, whether, by *occasionally* opening her colonial ports, Great Britain virtually abandoned the right of closing them again when she thought proper; and on this point the merits of the rule of 1756 have not, so far as the undersigned can make out, the most distant bearing.

Thirdly. As it is intended to prove that the United States have a claim to participate in the colonial trade forever, because the ports of the colonies were *occasionally* opened during the war, Mr. Gallatin describes the ports as having been opened to *American* vessels: true, but not to *American* vessels *only*, or *specifically*. The ports were opened to the vessels *of all friendly Powers*. The argument, therefore, as to the *special* claim of the United States falls to the ground.

The truth, however, is, that under the words "*right*" and "*claim*," so frequently recurring in this discussion, lies the real and fundamental difference of opinion between Great Britain and the United States, which has frustrated all attempts to settle the disputed question of colonial intercourse upon common principles by conventional arrangement. When it is contended that the "*right*" by which Great Britain prohibits foreign nations from trading with her colonies is the *same* "*right*" with that by which she might (if she thought fit) prohibit them from trading with herself, this argument (which is employed by the United States alone) implies that the special prohibition is a grievance to the United States, if not of the same *amount*, of the same *kind* as the general prohibition would be.

This is a doctrine which Great Britain explicitly denies.

It seems to be admitted, indeed, that there was a time when the distinction between colonial trade and the trade of the mother country was tenable. But it has been assumed, in no obscure terms, on the part of the United States, that the colonial system is now virtually at an end.

Great Britain denies this assumption. Whatever relaxation Great Britain may think fit to introduce for her own sake, and for that of her colonies themselves, into her colonial system, she holds her "right" to maintain that system, as with respect to foreign nations, to be unaltered and entire.

Great Britain, therefore, cannot consent to any diplomatic arrangement by which such "right" may appear to be relinquished, or by which the assertion of it can be understood to be, in any degree, qualified or controlled.

Hence the impracticability (already so repeatedly proved) of any treaty upon this subject between Great Britain and the United States.

Hence the necessity for Great Britain of doing whatever she means to do, in the way of relaxation of her colonial monopoly, by acts of her own Legislature.

This deduction brings the undersigned to the last point in Mr. Gallatin's note, and that on which he is most anxious that there should be no misconception between them.

Mr. Gallatin speaks of a "permanent exclusion of the United States by Great Britain from a trade open to the rest of the world" as a measure different in character from a general exclusion of all foreign nations.

But is this a just description of the effect of the act of 1825?

Considerations (of which Great Britain alone is the judge) have induced her to open her colonial trade to other nations. She opened it to them, not as matter of special favor, or of special "claim," to every one, but on specified conditions, common to all nations who might think fit to subscribe to them, and to the United States among the rest.

If some of the nations of the world have taken advantage of the opening thus offered to them by accepting the conditions annexed to it, and others have omitted to do so, and if the United States are (by their own choice) in the latter class, surely it is not a correct description of the consequence of this, their own voluntary omission, to say that the United States are "excluded" by Great Britain from a trade which, on the contrary, Great Britain invited them to share.

Exclusion of foreigners from the colonial trade is the principle of colonial policy; admission to that trade is the exception—an exception which, in this instance, Great Britain was willing to grant to all those who were ready to purchase it, on terms tendered equally to all.

The United States cannot mean to put forward the pretension that what is granted to others on terms should be granted to them unconditionally.

If not, it seems difficult to imagine how they can feel it to be unjust or unkind (it certainly is not so felt, or intended, on the part of this country,) that the United States, having, upon a free and (as is known from the public proceedings of their Legislature) deliberate consideration, declined to subscribe to the terms on which exception from colonial prohibition was tendered impartially to all nations, should find themselves, in common with such of those nations as have decided like themselves, liable to that exclusion which is and always has been the general principle of colonial trade.

The undersigned has the honor to renew to Mr. Gallatin the assurance of his high consideration.

GEORGE CANNING.

ALBERT GALLATIN, Esq., *&c., &c.*

Mr. Gallatin to Mr. Canning.

UPPER SEYMOUR STREET, *December* 28, 1826.

The undersigned, minister of the United States, did not fail to transmit to his Government the note which Mr. Canning, his Majesty's Principal Secretary of State for Foreign Affairs, did him the honor to address to him on the 13th of November, in reply to the answer which had been returned by the undersigned to Mr. Canning's note of the 11th of September. But unwilling to continue a discussion which did not seem likely to lead to any practical result, he abstained from making any further observations on

the subject until he should have received special instructions from his Government in reference to a state of things which was altogether unexpected at Washington at the time of his departure.

Having now received a despatch from the Secretary of State of the United States, the substance of which he is instructed to communicate to Mr. Canning, the undersigned, in performing that duty, will, on those points to which he had already alluded in his former note, have but some explanatory remarks to add.

The right of Great Britain, which is that of every nation, to prohibit or allow foreign commerce with any part of her dominions, is unquestionable. That right, in reference to her colonies, has never been denied by the United States any more than with respect to any other part of her possessions. And it is also admitted that she may, within her own jurisdiction, prescribe the conditions on which such commerce shall be tolerated, and, at her will, again interdict altogether the intercourse thus permitted.

On the other hand, the United States, unless restricted by treaty, which in this case they are not, have precisely the same right to prohibit, to allow, and, within their own jurisdiction, to regulate foreign commerce with their own dominions, whether the commerce be with the foreign country itself or with its colonies or possessions abroad. It was not inadvertently that the undersigned used the word "right," as applied to the United States; he did not object to the *use* of the *word* as applied to Great Britain. What he attempted to show was, that this right, which was admitted, and although it might at any time be exercised, had no bearing on the questions which had been the subject of discussion between the two countries.

What has been contended for is, that, since to any commerce there must always be two parties, the mutual consent of both is always necessary in order that such commerce may at all exist; that whatever its nature may be, whether of ancient or modern date, whether with colonies or with possessions of a different description, from the moment it does exist, it becomes a fit subject for negotiation; and that there is no reason why an agreement should not on that as on any other species of trade, be founded on terms of just reciprocity, though relating to colonies, from an intercourse with which foreigners had formerly been and might again be excluded.

The various relaxations of the colonial system of Great Britain, as they never were or could have been intended for the benefit of the United States, and as they were always accompanied with restrictions exclusively favorable to her, could not be viewed as a *boon* to them, and never were accepted as such. The extent to which the commerce, when not laid under too severe restrictions, was carried on between the United States and the British colonies, is an irrefragible proof that it was equally advantageous to both parties. If equally advantageous, there had been no favor conferred on either side; there was no ground for a pretension by either party that the intercourse should be regulated by unequal conditions.

No such pretension had in fact been advanced. The proposals made by both parties during the negotiations of the year 1824 were avowedly founded in a fair reciprocity, and brought the parties very near together. Unable still to agree on some points, it was concluded to suspend the negotiation, with a distinct understanding that it should be again renewed at some convenient day.

Mr. King was, in 1825, empowered to treat on all the subjects of the previous negotiation. He was instructed, in the first instance, as being a subject of more pressing urgency, to call on the British Government to remove the impediments which prevented the execution of the St. Petersburg convention. If his instructions on other subjects were not forwarded to him, it was because he was engaged in discussions respecting that convention; and it was believed that the state of his health did not admit of his entering, at that time, upon the more arduous duty of resuming the suspended negotiation. Of this his Majesty's Government appears to have been fully aware. On the 22d of March, 1826, Mr. Vaughan addressed an official note to the Secretary of State of the United States, in which he says: "I have received instructions from his Majesty's Government to acquaint you that it is preparing to proceed in the important negotiations between that country and the United States, now placed in the hands of the American minister in London. Mr. Huskisson has been already introduced to Mr. R. King as his Majesty's plenipotentiary, and the Minister of State having the Department of Foreign Affairs has received his Majesty's commands to associate Mr. Addington, late his Majesty's Chargé d'Affaires in America, with Mr. Huskisson as joint plenipotentiary on the part of Great Britain. *The negotiations will therefore be forthwith resumed;* and it will be for the Government of the United States to judge whether, considering the *state of health of Mr. Rufus King, which, Mr. Canning laments to say, has been, since his arrival in England, far from satisfactory,* will join any other negotiator in the commission with him."

The President did deliberate on that friendly suggestion; and the nomination of a person to be associated with Mr. King was contemplated, when a letter from him, dated the 21st of March, desiring permission to return, was received; upon which the duty of renewing those important negotiations devolved, to his great regret, on the undersigned alone.

His instructions were of a character authorizing the hope that their result would be satisfactory; his departure was hastened. On his arrival in England, the order in Council of July last had already been enacted. Indeed, it appears that the determination not to renew the negotiations on the colonial intercourse, and to regulate it exclusively by acts of Parliament, had been taken before July, 1825, when the acts to that effect were passed. Had Mr. King been provided with the same instructions which the undersigned received, they would have been equally unavailing. Of that determination the Government of the United States had not the least notice. On the contrary, although Mr. Vaughan's communication offered the opportunity of making known the intentions of his Majesty's Government, positive assurance was given of its being prepared to proceed in the important *negotiations*, and that *the negotiations would be forthwith resumed*, without any suggestion that the colonial intercourse would form an exception. The acts of Parliament of the year 1825, in which that intention was to be discovered, never were officially communicated. That of the 27th of June passed only a few days before that of 5th July, and not specially repealed by it, was not calculated to elucidate the object in view; and several causes concurred to induce a belief that this last act was not intended to affect the trade between the British colonies and the United States, as carried on under the act of June, 1822. This belief, and the reasons for it, were distinctly expressed in a letter from the Department of State to a member of Congress of the 25th of December, 1825, copy of which is enclosed. That letter was published in the American newspapers; a copy was furnished to Mr. Vaughan, and he is understood to have transmitted it to his Government.

That opinion was corroborated by the construction ultimately put on the act by the British authorities. It was thereby provided that certain privileges granted to foreign ships should be limited to the ships of those countries which should comply with the conditions therein stated, unless his Majesty, by his order in Council, should in any case grant such privileges, although the conditions had not been performed; and the act was declared to come in full force and operation from the 5th of January, 1826.

It had, at first, been determined at Halifax that the port should accordingly be shut against American vessels after that day. This decision was afterwards revoked, although the condition had not been performed, and although no order in council had granted the privileges in question.

It now appears that the act of July 5, 1825, (6 Geo. IV, ch. 114,) which contains no repealing clause of former acts, refers, under the name of "The law of navigation," to another act of the same date, (6 Geo. IV, ch. 109;) that this, although it contains also no repealing clause, is understood and construed as having superseded all former acts on the same subject; and that the actual repeal of the act of 1822 is to be found in another act, also of the 5th July, 1825, (6 Geo. IV, ch. 105,) entitled "An act to repeal the several laws relating to the customs."

The intricacy of those several acts, and the difficulty of understanding their precise meaning, of ascertaining what parts of former acts were actually repealed, and what still in force—a difficulty which, in the case of the "Jubilee," seems to have led into error even one of the highest tribunals of Great Britain—may well account for the construction put upon those acts in the United States; affording, at the same time, a sufficient reason for having preferred a renewal of the negotiations to a pure acceptance of the conditions contemplated by the act of July 5, 1825, (6 Geo. IV, ch. 114,) had it been only for the purpose of ascertaining the true intent and meaning of the act.

Even so late as October last Mr. Vaughan, as appears by his correspondence with Mr. Clay, was not provided with instructions that enabled him to give a satisfactory answer to the inquiries, whether, according to the British interpretation, American vessels might trade between the British colonies and foreign countries, and whether discriminating duties of every species had been abolished.

The proposition made during the last session of Congress, and to which Mr. Canning has alluded, affords an additional proof of the imperfect understanding, owing to the complexness of the several acts of Parliament which at that time prevailed, respecting their true object and intention. That proposition was only for a repeal of the discriminating duties, and, if adopted, would have been unavailing, since, not embracing a repeal of the restrictions of the circuitous intercourse, it is now understood that it would not have been accepted by the British Government as a compliance with the condition required by the act of July 5, 1825.

It is not intended by these facts and observations to convey any reproaches against his Majesty's Government on account of the unexpected resolution which it has taken. But they satisfactorily show that the United States could have entertained no doubt of the continued disposition of Great Britain to settle the colonial intercourse by an amicable arrangement, and that there were peremptory reasons for preferring that mode rather than to legislate on the subject.

Supposing, even, that the determination of the British Government not to renew the negotiation on that point had been communicated or known, the specific condition on which American vessels might be allowed to participate in the intercourse between the United States and the British colonies was so expressed in the act of Parliament as to have required explanations before it could be complied with.

The condition required from countries having colonies was both distinct and reciprocal. Nothing more was asked than that they should grant to British ships the like privileges of trading with their colonial possessions which were granted to their ships of trading with the British possessions abroad. No regard was paid to the importance of such colonial possessions. Sweden, by permitting British vessels to trade with the island of St. Bartholomew, was allowed privileges which were offered to the United States on very different terms; and, with the exception of some of the German States, those terms applied to no other maritime Power than the United States. All this Great Britain had a right to do; no complaint is preferred on that account; it was the condition required from them which they had to consider.

That condition was, that the United States should place the commerce and navigation of this country, (Great Britain,) and of its possessions abroad, upon the footing of the most favored nation.

Had the condition been limited to the commerce and navigation of the British colonies; had it been so intended and expressed as that the United States might have satisfied it by placing the intercourse between their dominions and the British colonies on the same footing, in every respect, as the intercourse between the United States and the colonies of the most favored nation, the condition, though not altogether free of objection, would at least have been apparently reciprocal. To require, besides, that it should be extended to the commerce and navigation of Great Britain generally; that it should embrace that intercourse between her and the United States, which is regulated by a special convention; that they should grant any privilege in that intercourse to British vessels, not stipulated by that convention, as the price for the permission of trading with the British colonies, was a total departure from the principles of a just reciprocity.

But it appeared also extremely difficult, if at all possible, to understand what was meant by placing that commerce and navigation on the footing of the most favored nation.

If Great Britain only asked to be placed on that footing, on giving the same equivalent which any other foreign nation may have given to the United States, in order to have privileges which she does not enjoy, the navigation law of the United States has already made provision in that respect. There is no privilege enjoyed in the United States by the commerce and navigation of any foreign nation which Great Britain may not obtain, by allowing to them the same reciprocal advantages which they enjoy in the ports of such foreign nation, and on which such privilege depends. To comply with the condition thus understood, the United States would have had no new act to perform. This could hardly be presumed to have been the intention of the act of Parliament.

But if, by that act, it was intended to require, as the condition for allowing to American vessels the privilege of trading with the British colonies, that the commerce and navigation of Great Britain and of her possessions abroad should, without any other equivalent, be generally placed on the same footing with the commerce and navigation of any other foreign nation, which, by reason of reciprocal advantages allowed to American vessels, may now or hereafter be entitled to greater privileges than Great Britain now enjoys, the condition was inadmissible.

British vessels and those of several other nations may now by virtue of treaty stipulations, or of other reciprocal regulations, import into the United States articles of the produce or manufacture of the countries to which such vessels respectively belong, on the same terms, and on the payment of the same duties of tonnage and on the cargo, as if imported in American vessels. In every instance the privilege is reciprocal, and will cease with respect to any of those countries whenever vessels of the United States, laden with produce of the United States, may cease to be admitted into the ports of such country on the same terms as its own vessels.

In conformity with the navigation law of the United States, the prohibition to import in foreign

vessels merchandise not the produce of the country to which such vessels respectively belong, extends only to the vessels of such nations as have adopted a similar regulation. Great Britain is, accordingly, one of the few nations to which the prohibition applies.

In pursuance of the treaty concluded in December, 1825, between the United States and Central America, whatever may be imported into or exported from either country in its own vessels, to or from any foreign place whatever, may in like manner, and on payment of the same duties, be imported or exported in the vessels of the other country.

If, therefore, it was meant by the condition required that the commerce and navigation of Great Britain and of her possessions abroad should be gratuitously and generally placed on the same footing with those of the most favored nation, the United States, in order to comply with it, and as the price for the permission to trade with the British colonies, would have been obliged—1st, to admit the importation of British merchandise in British vessels on the same terms, and on payment of the same duties as if imported in American vessels, although the convention of 1815 should have expired, and the corresponding privilege was no longer allowed to American vessels in British ports; 2d, to admit the importation in British vessels of the produce of every foreign country, although the importation into British ports of the like produce in American vessels should still be prohibited; 3d, if the condition was intended to apply to privileges granted subsequent to the date of the act of Parliament, to admit the importation of such foreign produce in British vessels, even without being charged with any discriminating duties, and generally to allow to British vessels without reciprocity all the reciprocal advantages to which the vessels of Central America are entitled.

If this was not the intention of the act of Parliament; if the words "commerce and navigation of this country" were meant only to include the circuitous intercourse, the expressions used to convey that meaning must be admitted to have been much too general. This last interpretation has been suggested only by the observations that have occurred in the course of Mr. Canning's correspondence with the undersigned If such or any other admissible construction was intended, the most obvious way of preventing both an erroneous interpretation of the condition, and any unfounded expectations in reference to a renewal of the negotiations, would have been an official communication of the act of Parliament, accompanied with a full and free explanation of the condition required, and of the intentions of his Majesty's Government on the whole subject.

The Government of the United States is animated by the most sincere desire to maintain with that of Great Britain, not merely the forms of courtesy and amity, but to cultivate a cordial and lasting friendship; to settle every controverted question between them upon principles of justice and reciprocity; and, by an enlarged liberality in their mutual intercourse, to advance the real prosperity of both.

Entertaining this desire, it has learnt with regret the resolution of his Majesty's Government to close the door against those friendly explanations, and that free and mutual exposition of the wishes and views of the parties, so essential between two nations whose interests and happiness are so interwoven as those of Great Britain and the United States, and which can be but partially and imperfectly interchanged, if mutual legislation is substituted to negotiation and to the ordinary mode of treating.

As the only alternative which this course has left, it was the President's intention to lay the whole correspondence which has passed between the two Governments on that subject, including the instructions given to the several American ministers near his Britannic Majesty, before Congress at their present session. It will remain with that body to decide whether the colonial intercourse shall be altogether closed, whether that portion of it left open by the order in Council shall continue so, or on what conditions, compatible with the interests of the United States, that trade may be placed.

The undersigned has been further instructed to give at the same time to his Majesty's Government the assurance that, notwithstanding its late decision, that of the United States will be ready, at Washington or London, to treat of the colonial intercourse whenever it may be the desire or inclination of Great Britain to negotiate on that subject.

The undersigned requests Mr. Canning to accept the assurances of his high consideration.

ALBERT GALLATIN.

Right Hon. GEORGE CANNING, *&c., &c.*

Mr. Canning to Mr. Gallatin.

FOREIGN OFFICE, *January* 27, 1827.

The undersigned, his Majesty's Principal Secretary of State for Foreign Affairs, has the honor to acknowledge the note addressed to him on the 28th ultimo by Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary of the United States; in replying to which the undersigned will, as far as possible, conform to the example of Mr. Gallatin, in putting aside those points of the question in agitation between them which have been already exhausted in argument, and the further discussion of which would not tend to any practical advantage.

The parts of Mr. Gallatin's last note which appear to the undersigned to require any observation relate to matters rather of fact than of reasoning.

Mr. Gallatin complains that the act of Parliament of 1825 was not officially communicated to the United States.

It is perfectly true that it was not; nor has it been the habit of the two Governments to communicate reciprocally to each other acts of their respective Legislatures.

The act of Congress of 1823, an act the provisions of which especially affected Great Britain, was not officially communicated either to the King's minister at Washington, or to his Majesty's Government, by the American minister resident at this Court. So far from any such communication being made, or any voluntary explanation of the bearing of that act being offered, it was not till after repeated and pressing inquiries that his Majesty's minister at Washington succeeded in obtaining from the American Secretary of State the true construction of the most important clause of that act—the clause in which the United States claimed that their trade to the British West India colonies should be put on the same footing with the trade to the same colonies from "elsewhere"—and learnt, to his great astonishment, that under that word "elsewhere" was intended to be signified not only the other dependencies of Great Britain, but "the mother country itself."

The undersigned at the same time begs that it may not be supposed that the British Government withheld from the Government of the United States communication of the act of Parliament of 1825 from any notion of retaliation for the omission of the Government of the United States to communicate to that of his Majesty the act of Congress of 1823.

He refers to that instance of omission on the part of the American Government only in proof—

First. That the ordinary and natural course between States is not to make diplomatic communications of the acts of their respective Legislatures; and, secondly, that no inference could be drawn from such an omission on the one side any more than on the other, of (what the undersigned disclaims for his Government) an intentional want of courtesy or respect.

But the act of 1825 did not relate specially to the United States. It held out to all nations of the world certain benefits, (or what were believed by the British Government to be so,) on certain conditions.

If a communication of the act had been made to one nation, it must have been made alike to all. Such communication would have been liable to different misinterpretations. Some Governments might have considered it as a solicitation to which they were bound, in courtesy, to give some answer, explaining their reasons for declining (if they did decline) to avail themselves of the provisions of the act. Others might, perhaps, have taken umbrage at it as an authoritative pretension to impose the legislation of this country upon other nations.

The simplest course was to allow the provisions of the act to find their way to general knowledge through the usual channels of commercial information. The undersigned has no reason to apprehend that this course has proved less effectual on the present than on former occasions.

The conditions of the act of 1825 have been accepted and carried into effect by some Governments. That of the United States has not thought it expedient to take advantage of them. But the undersigned cannot but be still of opinion that the resolution proposed in the House of Representatives at Washington, at the beginning of the last session of Congress, for the express purpose of urging the Executive Government of the United States to come into the terms of the act of 1825; the debates which took place upon that proposition; and the final rejection of it by a majority of only two votes, show that it was not for want of a sufficient understanding of the intent of the act of Parliament that the conditions of it were not accepted by the United States.

To one piece of evidence, which proves the perfect understanding in America, not only of the purport and provisions of the act of Parliament of 1825, but of the conditions which it would be requisite for the American Legislature to perform in order to entitle the United States to the benefit of that act, the undersigned might have scrupled to refer (as not being of the nature of a diplomatic document) if Mr. Gallatin had not encouraged him to bring forward any document tending to throw light on the matter in dispute by citing, in support of his own view of that matter, a private letter from Mr. Clay to a member of Congress.

Early in the session of Congress of 1825–'26 a petition from Baltimore was presented to both Houses of the American Legislature, in which petition it was distinctly pointed out that the British act of Parliament of July, 1825, had not only manifested the readiness of this country to remove all discriminating duties, but also to permit American ships to clear out from British colonies, not, as heretofore, to the ports of the United States only, but to all parts of the world—the United Kingdom and its dependencies alone excepted.

The petition, with equal distinctness, invited the attention of the American Legislature to the conditions on which these advantages might be secured to the United States, and prayed for the removal of the several restrictions imposed by the American act of 1823, not of the "discriminating duties only," but of the prohibition of what is called by Mr. Gallatin "the circuitous intercourse in British ships," the petitioners expressly submitting to Congress the "propriety of admitting British vessels, *from whatever ports*, on the same terms as vessels of the most favored nations."

It appears from the reports of the proceedings of Congress that it was against the prayer of this petition (but without impeachment of any of its allegations) that the decision of the American Legislature, at the close of the session, was taken. It cannot be doubted, therefore, that the American Legislature had the whole purport and bearing of the act of 1825 full before their eyes.

The fact that some of the British authorities abroad took upon themselves to suspend the execution of the act of 1825 towards the United States is undenied.

But the only effect of this suspension was the continuance of the benefits of the then existing state of things to the United States for nearly a twelve month longer than they would otherwise have enjoyed it.

That continuance was permitted by the British Government mainly in consideration of the then pendency in the Legislature of the United States of the resolution, hereinbefore mentioned, for conforming to the conditions of the act of 1825.

Immediately upon the receipt of authentic intelligence of these proceedings at Washington, an instruction was sent out to Mr. Vaughan, grounded on the belief of the British Government that Congress would not separate without adopting the resolution then under their consideration. In that case, and upon receiving an assurance from the American Government that the restrictions and charges on British shipping and British colonial produce would be withdrawn by the United States, Mr. Vaughan was authorized to deliver a note to the American Secretary of State declaring that the discriminating duties imposed upon American ships and their cargoes in the West Indies should immediately cease. Mr. Vaughan was actually in possession of this instruction when the resolution, on the assumed adoption of which the instruction to Mr. Vaughan had been founded, was rejected. It was no part of Mr. Vaughan's duty to make any communication upon the subject to the American Government before the result of the discussion was ascertained. After that result (wholly unexpected in this country) any such communication would have been not only useless, but might, perhaps, have been considered as an improper appeal against the formal decision of the American Legislature.

That Mr. Vaughan should not afterwards have been authorized to enter into any discussion of the provisions of the act of 1825 "so late as October last," is not surprising when it is considered that Mr. Vaughan, immediately upon the close of the session of Congress, was instructed to announce the intention of his Majesty's Government to pass the order in Council of July, consequent upon the decision of the American Legislature, by which the terms of the act of 1825 were virtually declined.

Mr. Gallatin accounts for the loss of the resolution proposed to the American Legislature by the persuasion which, he says, the Government of the United States entertained that the negotiation on the subject of the commercial intercourse between the United States and the British West India colonies would be renewed.

The undersigned is at a loss to understand on what ground it was assumed at Washington that there would be, at all times, an unabated disposition on the part of the British Government to make the trade of its West India colonies the subject of diplomatic arrangement.

The circumstances of the case were entirely changed.

Repeated negotiation had failed to produce any material approximation of opinions upon that subject.

The last attempt at an adjustment had been made with an evident conviction on both sides that there existed between them an unconquerable difference of principle, and that it was by that difference, rather than by any decided irreconcileableness of interests, that a satisfactory arrangement was rendered hopeless.

The nature of that difference has been sufficiently discussed. It lies in the determination of the United States to dispute, and in that of Great Britain to maintain, the established distinction between general and colonial trade.

Great Britain had, therefore, an obvious motive for doing, thenceforward, whatever she might think it right to do in relaxation of her colonial system, rather by the instrumentality of her own Legislature than by compact with a State with which she disagreed in opinion as to the principles of colonial trade so widely that it would have been impossible to construct a preamble to a treaty on that subject, in the enunciations of which the two contracting parties should have concurred.

But there was yet another reason for avoiding further negotiation upon the subject.

Hitherto, when the trade with the British West India colonies had been opened at all, it had been opened chiefly, though not exclusively, to the United States.

To no other country had it been opened by specific and positive convention.

But a time had now arrived when, from motives of general policy, Great Britain thought it advisable to allow access to her colonies to all foreign Powers, without exception, on conditions tendered alike to all.

Such indiscriminate opening could only be effected by some process common to all those who were permitted or invited to take advantage of it. Impartiality was thus maintained towards all parties, and the power of control over her own colonies was, at the same time, retained in the hands of the mother country.

The undersigned believes that he has now touched on every topic in the last note addressed to him by Mr. Gallatin to which he has not had occasion to advert in former stages of their correspondence.

He will not allow himself to be drawn again into a discussion of topics already more than sufficiently debated.

The undersigned trusts that it is unnecessary for him, in concluding this note, to return to Mr. Gallatin's assurances of the friendly disposition of the United States of America, assurances equally sincere, that there is the most cordial desire on the part of Great Britain to cultivate the friendship of the United States.

The ties of common origin, laws, and language must always form strong bonds of national alliance between them. Their respective interests, well understood, harmonize together as much as their feelings.

But it has never yet been held a duty of international amity (any more than of friendship in private life) to submit to unequal compacts. Nor has it ever been held an offence against such duty that a nation (any more than an individual) should decline to make uncompensated sacrifices.

Between two nations, as between two individuals most friendly to each other, there may sometimes happen unfortunately to exist some known subject of incurable difference of opinion. In any such case it is, perhaps, most advisable to keep that subject as much as possible out of sight, and to take care that it shall not interfere with the tenor of their general intercourse and of their habitual relations.

The refusal to regulate the trade of our colonies by a commercial treaty which the British Government may think (even if erroneously) disadvantageous to its interests cannot give just cause of offence to any Power whatever.

In the present instance, the undersigned is most happy to be able to qualify such refusal with the declaration that it is not, in any degree, dictated by sentiments either unfriendly or disrespectful to the United States, or by any indifference to the amicable settlement of all other questions at present pending between them and Great Britain.

Of these questions, one has been already happily arranged since Mr. Gallatin's arrival in this country.

The undersigned looks forward with confidence, no less than with anxiety, to such an arrangement of the remainder as, effacing all traces of past discussions, and satisfying all fair and reasonable pretensions on both sides, may secure, for a long period of years to come, reciprocal good understanding and good will between two kindred nations.

The undersigned has the honor to renew to Mr. Gallatin the assurance of his high consideration.

GEORGE CANNING.

ALBERT GALLATIN, Esq., *&c.*, *&c.*

Mr. Clay to Mr. Gallatin.

No. 26.] DEPARTMENT OF STATE, *Washington, April* 11, 1827.

SIR: In the letter which I addressed to you on the 20th ultimo I stated that it was my intention, in a few days, to prepare and transmit to you some instructions on the subject of the colonial trade. I shall now execute that intention, but, before I proceed to the specific directions required by the present state of it, some few observations appear to be called for on the two notes of Mr. Canning, under date the 13th November of the last and 27th January of the present year. In submitting these, it is not desired to subdue the repugnance which Mr. Canning expresses against being "drawn into a discussion of topics already more than sufficiently debated." But whilst the diplomatic relations between the two countries remain open and sentiments of amity are professed on both sides, it would seem more consistent with that profession, and more in that spirit of candor as well as courtesy which ought to animate the councils of friendly nations, to be willing both to give and to receive the correction of any misapprehension under which either may be laboring, than to permit such misapprehension to continue, perhaps to the prejudice of both. The United States, at least, whose whole course on this subject has ever been sincere, direct, and open, who have never sought to arrogate to themselves any right or claim to question the power of Great Britain to give the law to her own colonies, nor advanced any other claim on their part

than the right to regulate their own commerce with foreign nations on fair and equal terms, owe it to themselves to disavow those peculiar and exorbitant pretensions which are intimated, in no very obscure terms, in the two notes of Mr. Canning, and to deny, in the most explicit manner, the rejection of any friendly overture from Great Britain, founded on equality with regard to this trade, which has ever been distinctly and intelligibly offered to their choice. To impute a contrary course of action to the Government of the United States, and to express, in the same paper, a determination not to be drawn again into the further discussion of these topics, would seem to be closing the door studiously against all explanation, and not to harmonize very happily, either with professions of friendship, or with that natural respect and forbearance which have usually characterized the intercourse of equal nations in modern times. The United States, however, disposed rather to heal than to inflict wounds, and taking more pleasure in removing than in creating causes of dissatisfaction and complaint, are desirous that the Court of Great Britain shall be set right as to certain matters of fact and certain principles of policy maintained on our part, with regard to which that Court is manifestly yet in error, and which seem to have had a material influence on their own decisions. Until those errors shall have been removed by a full and candid explanation we shall not be satisfied that we have done all we ought to do to extirpate this germ of misunderstanding, and to restore those commercial relations between the two countries which we are not less convinced than Mr. Canning that it is equally the interest of both to maintain.

The general proposition laid down by Mr. Canning, that there is a right in a mother country (universally admitted among nations) to interdict to foreign nations a trade with her colonies, never has been controverted by this Government. But that is a very different proposition from the question which has been under discussion between the two Governments; which is, whether, when the parent country, relaxing its colonial monopoly, chooses to open the trade of its colonies to foreign nations, these nations have not a right to examine for themselves the terms on which it is so opened, and to treat of such modifications of them as will secure reciprocity in the mutual intercourse? To contend that the parent country, in the case of such open trade, may exclusively prescribe the conditions on which it shall be carried on with foreign Powers, to which conditions, without regard for their interests, they must submit, would be, in effect, to assume a right of legislation not for the colonies only but for such foreign Powers. It is alleged by Mr. Canning that "no other nation than the United States has ever complained of the interdiction of the trade to the colonies; because, in all ages, all nations having colonies have maintained such an interdiction." If Great Britain had maintained the most rigorous prohibition of all intercourse between her colonies and this country, we should have had no right to complain, and we never should have complained. Our rights begin at that precise point when she chooses to allow a trade between her colonies and the United States. At that moment she departs from the principle of her colonial monopoly. At that moment a new party (the United States) is brought forward, and what before was under the exclusive control of one becomes now a matter of consideration and arrangement between two. It is not at all extraordinary that if, as is alleged by Mr. Canning prior to the passage of the act of Parliament of July, 1825, no other foreign nation than the United States had any trade with the British colonies, there should have been no complaints in regard to the terms of intercourse permitted by the British Government put forward by other foreign nations. Where there is no commerce, in fact, there can be no cause of objection as to the abstract conditions on which it is proposed. Besides, most of the commercial nations of Europe are at the same time colonial Powers; and it may be quite as convenient to them as to Great Britain to assume the right to prescribe exclusively the terms on which the intercourse between their colonies and foreign States shall be allowed. We have seen, too, in the act of 1825, more favorable conditions offered by Great Britain to the colonial Powers than to other nations. It would have been very remarkable if any of those Powers had refused to accept such conditions. But the fact of acceptance implies the right of deliberation and the consequent power of rejection.

So far as Mr. Canning places the right to trade between the United States and the British colonies, in British vessels alone, on the ground of usage, neither the principle nor the fact can be admitted to be with him. As to the first, a nation may find its interest in tolerating, even for a long time, a trade which is prosecuted on unequal or unjust terms. It may not be its policy to foster its navigation. It may find compensation in some branch of its foreign trade with other nations. But from whatever cause it may choose to submit to the injustice, no length of time can so far sanction it as to confer a right on the Power which puts forth unequal regulations to insist upon their uninterrupted continuance; and it indisputably belongs to the party suffering under such injustice to put an end to the unequal state of things whenever he thinks proper. As to the fact of this alleged usage, neither Power can fairly go back to any period beyond the 4th of July, 1776. The usage on which Mr. Canning rests the British monopoly of the colonial trade, as it existed anterior to that epoch, would tend as much to sustain our side of the argument as the British. But as Great Britain then gave law to the thirteen colonies, afterwards forming the United States, as well as to the British West India colonies, no argument can be rightfully drawn from the state of the usage prior to that period. During the war which succeeded all commerce between the United States and the West India colonies was interrupted. Peace was restored on the 30th day of November, 1782. Now, if the usage contended for had existed without disturbance from that day down to 1818, the duration of time would have hardly been sufficient, in the affairs of nations, to create any right by prescription.

But how stands the fact? From the date of the peace up to that of the formation, in 1789, of the present Constitution of the United States, the history of the two countries presents frequent struggles on the subject of this very colonial trade. Several of the States sought, by their own separate legislation, to secure for themselves a participation in it. The powers of the old Congress, under the Articles of Confederation, were incompetent to the adoption and enforcement of a system of regulations for the trade which should countervail those of Great Britain; and this incompetency was one of the most operative inducements which led to the establishment of our present Constitution. From that time down to the close of the European war the trade had been generally open to the navigation of the United States by repeated acts of British authority. Since the establishment of our present Constitution—further, since the peace of 1782, the trade has been open to us a longer period of time than it has been shut; and if the right were to be decided by the mere fact of the greater duration of the usage, one way or other, the right would be with us.

Mr. Canning states that these relaxations did nothing more than permit British vessels to bring certain articles into the colonial ports directly from the place of their production instead of circuitously through the United Kingdom; and that it was a mere municipal concern, which did not vary the exclusive character of the colonial system. But they did something more. Whilst the supplies from the colonies

and their exports were drawn through the mother country, the commerce of that mother country being open to the United States, their navigation could fairly participate in the trade. But when British vessels were allowed a direct trade between the colonies and the United States, to the exclusion of American shipping, it put an end to the circuitous trade; and the navigation of the United States, if they submitted to the British monopoly of this direct trade, would be deprived of their fair proportion of the transportation of the subjects of colonial commerce which they would have enjoyed through the parent country.

Whatever may be the abstract rights of Great Britain and the United States in respect to the regulation of an intercourse between the British West India colonies and the United States, Great Britain did, in fact, consent to negotiate on that subject. She might have taken and adhered to the ground that she would not treat; but she did not. By consenting to treat, and by inviting the American Government to renew the negotiation as late as March, 1826, more than eight months after the date of the act of Parliament, in July, 1825, we were forbidden to anticipate that, without any sort of intimation, the door of negotiation was to be suddenly closed. If we had no right to assume "that there would be, at all times, an unabated disposition, on the part of the British Government, to make the trade of the West India colonies the subject of diplomatic arrangement," it must be admitted that our surprise was quite natural that you, who were sent to England, among other reasons, in consequence of that very intimation in March, should, upon your arrival there in the succeeding July, and before the presentation of your credentials, be unexpectedly met by the annunciation of a measure arresting, at the threshold, all negotiation on the colonial trade.

When two nations undertake to arrange a matter of common interest between them in a given mode, if one of them, not only without, but in opposition to, notice to the other, should itself proceed, exclusively, to regulate, by a different and less friendly mode, that interest, it cannot be denied that there is just ground of complaint. Undoubtedly, it is within the competence of a nation to refuse, after agreeing to negotiate, or to break a negotiation in any stage of its progress, without ascertaining the practicability of an amicable adjustment; but this is not according to prevailing usage among friendly States.

We must think that the frankness of friendly correspondence required of the British Government to communicate the change of its resolution as to the manner of regulating the colonial trade, and, at the same time, an official communication of the act of Parliament of July, 1825. Had such communications been made, the American Government would have been prepared to consider, during the succeeding session of Congress, the conditions offered in that act; and, upon receiving from the British Government those explanations which the ambiguity of the act rendered necessary, Congress could have passed an act which might have proved satisfactory to both parties. By the forbearance to make those communications, we remained in entire ignorance of the altered purposes of the British Government, and in full confidence that it was their desire, as it was our expectation, to arrange the intercourse by convention.

Although, as is alleged by Mr. Canning, it is not the habit of the two Governments reciprocally to communicate to each other *all* the acts of their respective Legislatures, when a particular act is passed which is intended to put aside a negotiation contemplated by both parties, there is an evident fitness, if not obligation, in point of frankness, to communicate it; and there is believed to be no example in which, under such circumstances, any Government has failed to communicate its act.

But, if it has not been the practice of the two Governments to interchange the whole body of their respective statutes, it has been usual, at least on the part of this Government, to communicate those which are the objects of negotiation. Repeated instances of such communications of acts of Congress, imposing commercial restrictions, occurred during the late European war; and the convention of 1815, with Great Britain, was made in pursuance of an act of Congress, which was officially communicated to the British Government.

So far from being accurate is the statement that the act of Congress of March, 1823, was not communicated to the British minister at Washington, that the bill during its progress in Congress and in the form in which it passed, was communicated to him by the Secretary of State, and it became the topic of official conference and correspondence while on its passage, and of official correspondence between them in less than a month after its enactment.

We do not mean, now, to allege that the omission to communicate the British act was an intentional discourtesy towards the American Government; but we do mean to aver that that omission, and the neglect to inform us that the act was to supersede all negotiation, combined with the explicit invitation of Mr. Vaughan to renew the negotiation, given as late as March, 1826, had the effect of misleading us in regard to the views of the British Government. It was to this end only that reference was made in your instructions of the 11th of November last to the letter which had been addressed from the Department of State to a member of Congress. That letter, which was never private, acquired, by being published in the gazettes of the day, and a copy of it having been, at the time, furnished to Mr. Vaughan, and transmitted by him to his Government, a public, if not diplomatic character, which fairly entitled it to be cited as evidencing the known views taken at Washington of the British act. The opinion expressed in that letter, that negotiation, and not legislation, was the instrument, in the contemplation of both Governments, by which they intended to regulate the colonial intercourse, was subsequently confirmed by the forbearance of the British Government to enforce the act of Parliament towards the United States. And yet that very forbearance, which had the effect of deceiving us, though certainly not so intended, is now brought forward as a reason for declining to treat and for closing the colonial ports. It is alleged by Mr. Canning to have been in consideration of the pendency of the proposition before Congress for conforming to the conditions of the act of 1825. If that had been stated at the time we should not have been deceived.

Although that act did not relate specially to the United States, but addressed itself to all the foreign Powers, the United States were the only Power with which Great Britain was negotiating on its subject-matter. And, as it now appears that it was intended to be a substitute for the negotiation, it is difficult to resist a conviction of the obvious propriety of its being communicated to the American Government, even admitting such a communication to have been unnecessary to other Powers.

Whilst the Government of the United States must ever insist that, so long as there is an intercourse between them and the British colonies, they have a clear right to participate in the regulation of that intercourse, their attachment to any specific mode of regulation has never been so strong as to exclude the accomplishment of that object in any other mode. They have preferred that it should be effected by convention, because, in that way, it would be more certain, binding, and durable; and, moreover, conformable to what they had just reason to suppose were the wishes of the British Government. Had they been apprised that it was the choice of that Government to regulate the trade by mutual acts of separate

legislation, they could have had no difficulty in adapting their measures, in that respect, to those of the British Government.

Mr. Canning states "that the act of 1825 offered like terms to all nations who were willing to purchase the right to trade with the colonies. Some have acceded to the terms. The United States *would not*. They cannot feel it unkind or unjust that having, upon a free and (as is known from the public proceedings of their Legislature) deliberate consideration, *declined* to subscribe to the terms on which exception from colonial prohibition was impartially tendered to all nations, they should find themselves, in common with such of those nations as have decided like themselves, liable to that exclusion which is, and always has been, the general principle of colonial trade."

No exception need now be taken to the regularity of a foreign Government in referring to the proceedings of the Legislature of another nation which have terminated in no affirmative act; although the practice of a foreign Government, looking anywhere but to the established organ of international intercourse for the acts and resolutions of Government, might have a most mischievous tendency.

Independent of all other considerations, the danger is if a foreign Government undertakes to enter the halls of domestic legislation, in order to comprehend the votes and resolutions on measures which have not been matured into the form of any legislative act, that such foreign Government may misconceive the motives and bearing of those votes and resolutions. Native citizens often find it dfficult clearly to comprehend all the causes, in numerous assemblies, which may have occasioned the failure or passage of any given measure, or to assign, with certainty, the specific reason which may have led to either of those results.

We are quite sure that Mr. Canning had no wish to misconceive the proceedings which took place in Congress, in the sessions of 1825–'26, in relation to the colonial question; and yet he has greatly misconceived them. He is even mistaken as to the branch of Congress in which those proceedings were had. There was no resolution proposed in the House of Representatives, and, consequently, no debate and decision upon it, such as he describes. For the purpose of correcting the errors into which he has been unintentionally drawn I will now take some notice of those proceedings.

It is perfectly true, that, although the British Government made no official communication of the act of Parliament of July, 1825, the American Government, nevertheless, obtained possession of a copy of it.

It is also true that such a petition from Baltimore as Mr. Canning describes was presented to Congress.

But it should be remarked, that the petitioners were uninformed of the negotiations of 1824, or of the correspondence which subsequently passed between the two Governments on the colonial subject. And it is not, therefore, improbable that if they had been aware that the American Government expected and were desirous to arrange the intercourse by treaty they would have abstained from petitioning Congress.

The petition was referred, in both Houses, to the regular committees. That of the House of Representatives made no report. The Senate's committee reported (a copy of their report is now transmitted to you) that, "from this view of the subject, and a cursory reference to the numerous acts which have been passed in relation to it during the last ten years, both by the United States and by Great Britain, evidence will at once be furnished of the complexity of the interests connected with it, of the difficulty satisfactorily to arrange them, and especially of the inefficacy of isolated legislation for the attainment of this international object; and also affording, as the committee cannot but believe, a strong ground of preference for an arrangement being effected, if practicable, by a convention between the two Governments, on a just and liberal basis, which, when agreed to, would be permanent and unalterable for the term of its duration." Again, "from the committee having reason to believe that an adjustment of the commercial intercourse between the United States and the British colonial possessions forms one of the special and prominent objects which have been committed to the minister of the United States at the Court of London; that a corresponding desire to arrange it on a satisfactory footing appears to exist on the part of the British Government; and that the negotiations respecting it are expected to come to a definitive issue before the next session of Congress, the committee, although fully agreeing with the memorialists in the wish to cultivate and extend the trade in question, which they trust may be done to the mutual advantage of the parties concerned in it, are still unanimously of opinion that it is not expedient at this time to legislate on the subject, and therefore ask to be discharged from the further consideration of the memorial."

This report, it should be borne in mind, was made to the Senate on the 31st day of March, 1826, only nine days after Mr. Vaughan had invited the American Government to renew the negotiation.

This report was recommitted with an understanding on the part of the Senate that the Committee on Finance should report a bill repealing the discriminating duties. A bill was accordingly reported on a subsequent day (a copy of which is herewith transmitted) containing a repeal, and nothing but a simple repeal of those duties.

This bill was reported near the close of the session, and, amidst the pressure of other business, was laid upon the table—a parliamentary disposal of it, which, far from implying its rejection, admitted of its being again taken into consideration during any hour of any remaining day of the session. There was, then, no decision on the merits of the bill, and there was no refusal in either branch of Congress to accede to the terms of the British act of 1825.

That there was no direct and final decision on it has been alleged by the member of the Senate who was most zealous in its support to have been owing to the want of time. It is probable that that consideration had some influence; but it is most likely that the chief cause which prevented its passage was the belief, generally entertained, that the colonial subject was in a course of negotiation, and would be satisfactorily arranged by treaty.

Had the bill passed, it would not have been in conformity with the expectations of the British Government as they have been since communicated.

The first official information to this Government of the instructions transmitted to Mr. Vaughan, by which he was authorized, in the contingency of the passage of an act of Congress, to deliver a note declaring that the discriminating duties imposed upon American ships and their cargoes in the West Indies should immediately cease, is contained in Mr. Canning's note of the 27th January, 1827. No such information was communicated by Mr. Vaughan during the session of Congress of 1825–'26. If the bill which was before the Senate had passed into a law, it would not have been such a measure as was contemplated by the British Government; because it did not contain a repeal of the restrictions on British shipping as to the circuitous voyage, which is now understood to be an indispensable requisite. We are

altogether unable to comprehend why he was not instructed to communicate the offer of the British Government during the session of Congress; or for what purpose an allusion is now made to instructions which were not disclosed to the American Government, and which, having been locked up in the porte-feuille of the Minister, might, for all practical purposes, as well have never been given.

It cannot, therefore, be alleged, with any sort of propriety, that the American Government refused to accede to the terms of the act of Parliament of 1825, nor that, upon a free and deliberate consideration, they have declined to subscribe to terms on which exception to colonial prohibition was impartially tendered to all nations. The American Congress has never had fairly before it, and, therefore, has never freely and deliberately considered the conditions of the act of 1825; and, consequently, it could not have, and has not, pronounced any decision on those conditions. Up to this day we are far from being sure that we understand the terms on which that act tenders to foreign nations a participation in the colonial intercourse. Although Mr. Vaughan might not have been authorized to enter into any discussion of the provisions of the act after the termination of the session of Congress, it was not unreasonable to expect that he was, at all times, prepared by instructions to explain the purport of its provisions.

The preceding review has been taken, not for the purpose of conveying reproach, but with the hope of satisfying the Government of his Britannic Majesty that the Government of the United States, ever animated by an anxious desire to preserve, extend, and strengthen amicable relations between the two countries, and always frank and open in its correspondence and intercourse with foreign nations, has not, in regard to the colonial trade, deviated from its established character for good faith and fair dealing. From a careful and dispassionate consideration of all that has passed between the two Governments on that subject, supposing, which cannot be doubted, that each has been actuated by a sincere wish to effect a satisfactory arrangement of the terms of the intercourse, it is manifest that there has been a misconception of each other's views as to the mode of accomplishing that desirable object. Whether the American Government ought or ought not to have confided in their belief that it was the intention of the British Government, in the contemplated negotiation, to concur in the adjustment, by convention, of the conditions of the trade, the American Government did, in point of fact, so confide. Whether the British Government ought or ought not to have expected the passage of an act of Congress, acceding to the conditions of an act of Parliament of 1825, it did, in point of fact, so expect it. We have been disappointed in the negotiation which was anticipated: the British Government has been disappointed in the legislation which it anticipated. Both travelling to the same place, we have each failed to reach the point of destination by misconception of the course of the other. It is now useless and unavailing to dwell upon the past, which cannot be recalled. It will be more profitable and consistent with a friendly understanding between the two countries to survey our present mutual position, and to ascertain if it be now practicable, in any mode, to reconcile their respective interests in regard to the colonial trade. It would not be very creditable to the councils of two great and enlightened nations, if they are substantially agreed as to the terms of that intercourse, and willing that it should be opened on these terms, that they should, nevertheless, put an entire stop to it, because they had differed on the point whether those terms should be inserted in the form of a convention, or in that of reciprocal acts of legislation; or because they may not be able to agree on the abstract questions of *right*, *claim*, and *usage*, which Mr. Canning has discussed. To persist in closing the trade on those grounds, might create doubts whether they were ever sincere in their mutual professions that it should be open.

It has been already stated that we preferred, for reasons which appear to us to be solid, an arrangement by convention rather than one by law; but that, at the same time, we were not so wedded to that mode of effectuating the object as to prevent our surrender of it, in a spirit of compromise and conciliation, to the preference of Great Britain for a regulation of the intercourse by respective acts of legislative authority. We should have promptly yielded our preference, if we had been made acquainted with that of the British Government. There is one advantage in a legislative regulation which an arrangement by treaty does not possess, and that is, that if the amount of concession made in the law to a foreign nation is found, upon experiment, to be injurious to the domestic interests, the law can be at any time repealed; whereas the treaty must be allowed to have its operation, whatever that may be, during the whole term to which it is limited. From this difference in the effect of the two modes of regulation, a Government may be induced to grant commercial privileges by law which it would not consent to throw into the more permanent and obligatory shape of conventional stipulations. On the point, for example, of the circuitous trade between the United States and the United Kingdom, through the British colonies, the President would consent, with much reluctance, to a stipulation in a treaty by which British navigation should be allowed the enjoyment of that trade to the exclusion of the shipping of the United States, whilst he would be willing that the experiment should be made, under reciprocal acts of the two Governments, revocable at the pleasure of either.

Under the influences of these considerations, the Government of the United States acquiesces in the decision which has been taken by the British Government, that the colonial trade shall be regulated only by law.

You will avail yourself of some fit occasion to communicate to the British Government the substance of this despatch, and the President's acquiescence in that decision; and you will, at the same or some other more suitable time, ascertain the disposition of that Government to open the trade by separate acts of the two Governments.

The President is willing to recommend to Congress, at its next session—first, to suspend, as to the British Government, the alien duties on vessel and cargo, and to allow the entry into our ports of British vessels, laden with the same kinds of British produce, or British colonial produce, as American vessels can lawfully import, the British vessel paying no higher charges of any kind than American vessels are, under the same circumstances, bound to pay; and, secondly, to abolish the restriction contained in the act of the 1st March, 1823, confining the trade to a direct intercourse between the colonies and the United States; the effect of which will be to leave Great Britain in the exclusive possession of the circuitous trade between the United Kingdom and the United States through the British colonies. You will inquire whether, if Congress should pass a law to the above effect, the order in Council of July last will be revoked, the discriminating duties operating to the disadvantage of our vessels in the British colonial ports will be abolished, and our vessels suffered to enjoy the privileges of trade and intercourse according to the enactments of the act of Parliament of the 5th July, 1825?

Should the intercourse be opened on the above conditions, the American Government will have waived the demand heretofore made, that our produce should be received into the British colonial ports, paying no higher duties than similar produce pays in those ports when imported from other parts of the

British possessions. We should have regarded the above inquiry altogether unnecessary, and that, as a matter of course, the privileges of the act of Parliament would be extended to our navigation upon the passage of such an act of Congress as the President now offers to recommend, but for the declaration contained in Mr. Canning's note of the 11th September last. According to that declaration, the British Government announced that, "after having been *compelled* to apply to any country the interdict prescribed by the act of 1825, it cannot hold itself bound to remove the interdict, as a matter of course, whenever it may happen to suit the convenience of the foreign Government to reconsider the measure by which the application of that interdict was occasioned."

If this Government had, upon full consideration, with a clear knowledge of the intention of Great Britain to regulate the colonial trade by law, and not by treaty, rejected the terms of the act of Parliament, after fully comprehending the import of those terms, and thereby *compelled* Great Britain to apply to the navigation of the United States the interdict of the act of Parliament, the determination of the British Government, communicated in that declaration, would not furnish any just occasion of complaint. But the Government of the United States has never decided to reject those terms; and, from a candid and impartial consideration of all that has passed on the subject between the two Governments, it is manifest that we have all along been looking to a different mode of arrangement from that which now appears to have been in the contemplation of the British Government. We think that we were authorized so to look by the official correspondence which passed between them; but whether that justified us or not, we did, in point of *fact*, depend exclusively upon an arrangement by convention.

We can hardly suppose, under these circumstances, that the British Government, after the passage of such an act of Congress as you are now authorized to state that the President is willing to recommend, would refuse to remove the interdict which has been applied only to the navigation of the United States. A denial to them alone of the privileges of the act of Parliament of 1825, offered to all nations, would not be easily reconcileable with those friendly relations which it is the interest of both nations, as it is the anxious endeavor of the Government of the United States, to cultivate and maintain.

The time and manner of executing the instructions contained in this despatch are confided to your judgment and discretion. You may have the advantage of local lights, which, at this distance, do not reach us. Judging with the aid of such as we possess, it would probably be best for you, in the first instance, to deliver an official note, limited to a presentation of such of the preceding observations as are intended to refute some of the arguments and facts brought forward by Mr. Canning in his two notes of November and January last, and there leave the subject, without making the inquiry as to the practicability of an arrangement by mutual acts of legislation. In the correspondence to which that note may possibly lead, the British Government may disclose their purposes and intentions without formally making that inquiry, which it would be better to avoid if those purposes can be otherwise ascertained. The powers of the President are incompetent to open the trade now without the concurrence of Congress. It will, therefore, be sufficient to obtain a knowledge of the disposition of the British Government, in the event of the passage of such an act of Congress as has been intimated, in season for the next session. If the British Government should not itself spontaneously manifest that disposition, you will then make the inquiry herein directed. Some time in the approaching autumn, when, if there shall have been any feeling of dissatisfaction produced in the British Government by the late proclamation, that feeling will have abated, may prove to be a suitable time to present the inquiry. But, I repeat, you will exercise on this matter your own judgment.

I am, with great respect, sir, your obedient servant,

H. CLAY.

ALBERT GALLATIN, Esq., *&c., &c.*

Mr. Gallatin to Lord Dudley.

UPPER SEYMOUR STREET, *June* 4, 1827.

The undersigned, minister of the United States of America, has the honor, in compliance with instructions received from his Government, to present to the consideration of Lord Viscount Dudley, his Majesty's Principal Secretary of State for Foreign Affairs, some further explanatory observations on the subject of the colonial intercourse, which have been suggested by the note of Lord Dudley's predecessor in office of the 27th of January last.

It is not intended thereby to renew the discussion of abstract questions already sufficiently debated, but to remove such misapprehensions as may still be entertained of the views and proceedings of the Government of the United States on that subject.

The undersigned is instructed explicitly to state, 1. That during the whole time which elapsed between the negotiations of the year 1824 and the order in Council of July, 1826, the Government of the United States had entertained no doubt of the disposition of his Majesty's Government to renew the negotiations on that point, and to settle it by a conventional arrangement; 2. That the conditions on which it was intended, by the act of Parliament of July, 1825, to open the trade to American vessels, have never been explained or distinctly understood; that they had not, therefore, been deliberately considered by the American Congress; and that that body had not pronounced any decision on those conditions prior to the order in Council of July, 1826.

The reasons which had induced the belief that his Majesty's Government was still disposed to negotiate on that subject have already been stated.

Whatever might be the abstract rights of Great Britain, and her opinion of those rights in respect to the regulations of an intercourse between her colonies and the United States, she had, in fact, consented to negotiate on that subject. She had, as late as March, 1826, eight months after the date of the act of Parliament of July, 1825, announced to the Government of the United States her disposition to renew the negotiations generally, and without making an exception as to that point which had been one of the subjects of the negotiations intended to be renewed. The act of Parliament had not been officially communicated, nor any intimation given that it was meant as a substitute to negotiations.

It has not been unusual, at least on the part of the United States, to communicate such acts as may affect, or are connected with, negotiations. The convention of 1815 was made in pursuance of an act of Congress, which was officially communicated to the Government of Great Britain.

With respect to that of March, 1823, the bill was, during its progress in Congress, communicated by the Secretary of State to his Majesty's minister at Washington, and it became a topic of official conference between them while on its passage, and of official correspondence in less than a month after its enactment.

But it was because the act of Parliament of July, 1825, was intended by the British Government to supersede all negotiation that the communication of such a change of its resolution, as to the manner of regulating the colonial trade, was necessary to the only Power with whom Great Britain was negotiating on that subject. It is not alleged that the omission was an intentional discourtesy towards the American Government. But it is, nevertheless, true that, combined with the invitation of Mr. Vaughan to renew the negotiations generally, it had the effect of misleading the United States in regard to the views of the British Government.

It was to this end only that reference was made to the letter addressed from the Department of State to a member of Congress. That letter, which was of a public nature, and had acquired, by a copy of it being furnished to Mr. Vaughan, an official character, might, with great propriety, be appealed to as a conclusive evidence of the views taken, at that time, by the Government of the United States of the act of Parliament.

The opinion expressed in that letter was corroborated by the subsequent forbearance of the Government of Great Britain to enforce that act towards the United States. This suspension, which has since been declared to have been in consideration of the pendency before Congress of propositions arising out of the act, had, for want of any explanation, the effect of confirming the United States in their belief that negotiation, and not legislation, was the instrument still in the contemplation of both Governments for regulating the colonial intercourse.

It is much to be regretted that the instructions transmitted to Mr. Vaughan, and referred to in the note of Lord Dudley's predecessor in office of the 27th January last, did not authorize him to make any communication on the subject during the session of Congress. Had any explanation been given, at that time, of the true meaning of the conditions offered by the act of Parliament and of the ultimate views of his Majesty's Government, Congress would have been enabled and induced to deliberate and decide on those conditions.

It has, however, been inferred, from the public proceedings of the Legislature of the United States, that they had, on a free and deliberate consideration, declined to subscribe to the terms on which exemption from colonial prohibition was impartially tendered to all nations.

It may often happen, when referring to the proceedings of the Legislature of another nation which have terminated in no affirmative act, that the votes and resolutions on measures which have not been thus matured may not be fully comprehended; that the motives and bearings of those votes and resolutions may be misconceived. Some notice will be taken of the proceedings alluded to, for the purpose of correcting the erroneous impression which they seem to have made.

A petition from Baltimore, such as has been described by his Majesty's Secretary of State for Foreign Affairs, was presented to Congress. The petitioners were uninformed of the negotiations of 1824, and of the subsequent correspondence between the two Governments. The petition was referred, in both Houses, to the regular committees. A separate motion for the repeal of the discriminating duties had been previously made in the House of Representatives, and had been referred in the same manner.

The committee of the House of Representatives, whether knowing that the subject had been taken up in the Senate, or from any other cause, made no report. There was no resolution discussed in that House, and, consequently, no deliberation or decision upon it.

The committee of the Senate understood a compliance with the request of the petitioners to be tantamount to an admission "of British vessels, indiscrimately, into the ports of the United States, with their cargoes, from whencesoever arriving, or of whatsoever composed, on the same terms as American vessels, or those of the most favored nations—which is the same thing;" and they reported, in substance, that there was a strong ground of preference for an arrangement being effected, if practicable, by a convention between the two Governments rather than to rely on independent acts of legislation, sometimes ambiguous, and at all times subject to revocation; that a corresponding desire to arrange that intercourse appeared to exist on the part of the British Government; that the negotiations respecting it were expected to come to a definitive issue before the next session of Congress, and that it was not, therefore, expedient, at that time, to legislate on the subject.

This report was made to the Senate on the 31st of March, 1826, nine days after Mr. Vaughan's communication on the renewal of the negotiations.

It was recommitted, with an understanding that a bill should be brought in repealing the discriminating duties. Such a bill was accordingly reported, a copy of which the undersigned has the honor to enclose, containing a repeal, and nothing but a simple repeal, of those duties.

The bill was, on motion, ordered to lie on the table by a majority of two votes. This vote, the only one taken upon it, had no other effect but to prevent the bill being acted upon on that day. It might have been called up on any other day; but it had been brought in near the close of the session, and, whether from want of time, or, what is more probable, from reliance on the successful issue of negotiations, it was not acted upon. Had it been taken up, and passed into a law, it would not have been such a compliance with the terms of the act of Parliament of July, 1825, as was contemplated by Great Britain, since it did not repeal the restrictions laid, by a former act of Congress, on the circuitous or indirect intercourse.

It appears, from the course of the proceedings and from the result, that the subject was not taken up in one of the Houses; and that, in the other, the precise purport of the terms offered by the act of Parliament was not, at that time, more distinctly understood than by the Executive, whilst the same reliance seems to have been placed in the result of the expected negotiations. It is certain that the conditions of the act of Parliament, such as they are therein expressed, were not taken into deliberate consideration by the American Congress, and that that body has never rejected nor pronounced any decisions on those conditions.

Up to this day it is still uncertain whether the real meaning of those terms is distinctly understood by the United States. The doubts entertained in that respect were stated at large in the note of the undersigned of the 28th of December last; and no explanation has since, any more than at any former time, been given by his Majesty's Government.

The preceding review has been taken, not for the purpose of complaining of the conduct of Great Britain, but with the hope of satisfying the Government of his Britannic Majesty, by this exposition of

the acts of the Government of the United States, and of the impressions under which it acted, that it has not, in regard to the colonial trade, deviated from its uniform course, and relaxed its constant endeavors to preserve and strengthen the amicable relations between the two countries.

No doubt is entertained, on the other hand, of the dispositions of his Majesty's Government at the time when the act of Parliament was enacted; that, considering the intercourse between the United States and the British West Indies as beneficial, it was their intention that it should continue open on certain terms; and that, although these differed from those offered to most other commercial nations, and may also have been misunderstood, they would not have been found, when properly explained, to be altogether inadmissible. Had it been otherwise, the interdict laid on the American navigation by the order of Council of July, 1826, would at once have been embodied in the act of Parliament of July, 1825.

Both Governments, actuated by a sincere wish to effect a satisfactory arrangement, have failed to attain that object, from a misconception of each other's views as to the mode of accomplishing it. Whilst the British Government expected the passage of an act of Congress acceding to the conditions of the act of Parliament, the Government of the United States confided in the belief that it was still the intention of Great Britain to arrange the subject by a convention.

It is now unavailing to dwell upon the past, and to inquire whether either or both Governments had sufficient reasons for their expectations. The fact is, that they entertained such expectations, and have both been disappointed; and it will be more profitable and consistent with the friendly understanding between the two countries to attend only to the relative situation in which they are now placed.

The United States, though preferring a conventional arrangement as more permanent, and perhaps more easily effected than one founded on mutual legislation, are not exclusively attached to any particular mode.

There is, indeed, this advantage in legislative regulation over conventional arrangement, in respect to subjects not fully tested by experience, that what may be deemed concession by either party may, at any time, be modified, if found actually injurious.

Thus, for instance, the President of the United States would not, without reluctance, have consented to a treaty stipulation allowing that circuitous trade between the United Kingdom and the British colonies through the United States, which, if permitted, must be enjoyed exclusively by the British navigation; whilst he is willing that the experiment should be made by virtue of reciprocal laws, revocable at the pleasure of either Government.

The undersigned is accordingly authorized to say that, under the influence of these considerations, the Government of the United States acquiesces in the decision which has been taken by the Government of Great Britain, that the intercourse between the United States and the British colonies shall be regulated by the laws of the two countries; and the President is disposed to promote a restoration of that intercourse founded on such respective laws.

The undersigned prays Lord Dudley to accept the assurances of his high consideration.

ALBERT GALLATIN.

The Right Hon. Lord Viscount DUDLEY, *&c., &c.*

Mr. Gallatin to Lord Dudley.

UPPER SEYMOUR STREET, *August* 17, 1827.

The undersigned, minister of the United States of America, had the honor to address, on the 4th of June last, a note on the subject of the colonial intercourse to Lord Viscount Dudley, his Majesty's Principal Secretary of State for Foreign Affairs.

The principal object of that note was to remove such misapprehensions as might still be entertained of the views and proceedings of the Government of the United States on that subject, and at the same time to express the disposition of the President to promote a restoration of that intercourse founded on the respective laws of the two countries.

This overture has been founded on the belief that the present state of things has not arisen from any intentional act of either Government, but from misconceptions of each other's views, which must now be removed. It was the avowed intention of that of Great Britain, at the time when the act of Parliament of July, 1825, was enacted, that the intercourse should continue open on certain terms. For this there could be no motive but a conviction that the commerce which had, almost without interruption, been carried on from their first settlement, between the British West Indies and the United States, was mutually beneficial. It is, therefore, presumed to be the wish of both parties that an interdict, which has been the result of fortuitous circumstances, may, if practicable, be removed.

Under that impression, the President of the United States is willing to recommend to Congress at its next session—1st. To open again the ports of the United States to British vessels coming from the British colonies; allowing the entry, into the said ports, of British vessels laden with such British produce, or produce of the British colonies as American vessels can lawfully import, without paying any alien or discriminating duties, and on payment only of the same and no higher duties or charges of any kind, on either vessels or cargoes, than are, under the same circumstances, payable by American vessels or cargoes. 2d. To abolish the restriction contained in the act of Congress of March, 1823, which confines the trade to a direct intercourse between the British colonies and the United States.

The effect of this measure will be to leave Great Britain in the exclusive possession of the circuitous trade between the United Kingdom and the United States through the British colonies. All the provisions in former acts of the American Government which had been deemed objectionable by that of his Majesty will thereby be repealed. The condition contemplated by the act of Parliament, as it is now understood, will be fulfilled. Every obstacle which had heretofore prevented an arrangement would, if this were still a subject of negotiation, be removed.

The Government of the United States would have had no doubt that, upon the passage of an act of Congress of that tenor, the interdict laid on American shipping under the act of Parliament of 1825 would be removed as a matter of course, had it not been for the declaration contained in the note of his Majesty's Principal Secretary of State for Foreign Affairs to the undersigned, dated September 11, 1826.

It was there announced that, "after having been compelled to apply to any country the interdict prescribed by the act of 1825, the British Government cannot hold itself bound to remove that interdict

as a matter of course whenever it may happen to suit the convenience of the foreign Government to reconsider the measures by which the application of that interdict was occasioned."

A subsequent act of Parliament contains provisions of a general nature corresponding with that declaration, but continues in force the discretionary powers vested in his Majesty on the subject.

Under those circumstances the President cannot; it would, indeed, be useless for him to make the intended recommendation to Congress, and to agitate the question anew, without having previously ascertained the intentions of his Majesty's Government. Though not bound to remove the interdict as a matter of course, the question is, whether they are disposed, under certain contingencies, to do it at this time.

The undersigned has, therefore, been instructed to inquire whether, if Congress should, during its next session, pass a law to the effect above stated, the order in Council of July 27, 1826, will be revoked; the discriminating duties on American vessels in the British colonies be abolished; and those vessels be allowed to enjoy the privileges of trade and intercourse with those colonies, according to the act of Parliament of July 5, 1825?

He prays Lord Dudley to favor him with an answer to that inquiry, the object of which is only to ascertain the intentions of his Majesty's Government in reference to an act of the tenor aforesaid that should be passed by Congress *at its next session.*

It would be distinctly understood that those mutual acts would not have the character of a compact, and that their only effect would be to open the trade for the time, without at all binding the parties, each remaining in the complete possession of its rights with respect to that intercourse, in conformity with the terms of the commercial convention between the two countries.

The undersigned prays Lord Dudley to accept the assurance of his high consideration.

ALBERT GALLATIN.

The Right Hon. Viscount DUDLEY, *&c.*

Mr. Gallatin to Lord Dudley.

62 UPPER SEYMOUR STREET, *August* 30, 1827.

Mr. Gallatin presents his compliments to Lord Dudley, and begs leave to remind him that the object of the interview he had the honor to ask is to give some additional explanations on the subject-matter of his official note of the 17th instant *previous* to its being taken into consideration by his Majesty's Government.

The Right Hon. Lord Viscount DUDLEY, *&c., &c., &c.*

Mr. Gallatin to the Secretary of State.

No. 115.] LONDON, *September* 14, 1827.

SIR: We resumed our conferences on the 12th, made some progress, and are to meet again to-day.

I had yesterday an interview with Lord Dudley and Mr. Huskisson on the subject of the colonial intercourse. Mr. Huskisson said that it was the intention of the British Government to consider the intercourse of the British colonies as being exclusively under its control, and any relaxation from the colonial system as an indulgence, to be granted on such terms as might suit the policy of Great Britain at the time when it might be granted; that he was not prepared to say whether, or on what terms, it might be found expedient to open again the intercourse to American vessels, in case it was open on the part of the United States, and their laws laying restrictions or imposing extra duties on British vessels should be repealed; and that an answer to that effect would be given to my note of the 17th of August last, if his colleagues agreed with him in opinion.

I said that every question of right had, on this occasion, been waived on the part of the United States; the only object of the present inquiry being to ascertain whether, as a matter of mutual convenience, the intercourse might not be opened in a manner satisfactory to both countries. This being a pure question of policy, although Great Britain was the only judge of her own, it would be gratifying to be satisfied that she acted only from that motive, and that, in opening the trade to other countries that had not complied with her terms, and declining to open it to the United States even in the event of such compliance, it was not her object to inflict a wanton injury, or, at least, to evince an unfriendly disposition towards them. I then entered into various details, intended to show why I was unable to discover any reason, founded on her own interest, for persisting in foreclosing the intercourse.

Mr. Huskisson explicitly disclaimed any unfriendly feeling towards the United States, and, with respect to other nations, said that Russia was the only Power to whom the trade in question had been opened, though she had not, in every respect, complied with the terms of Great Britain; but that, on other points, the British trade had been particularly favored in that country. He did not give any explanation of the advantages derived to Great Britain from the present interdict, but dwelt strongly on the manner in which the advances made by the act of Parliament of the year 1822 had been met on the part of the Government of the United States. He said that it had appeared as if America had entertained the opinion that the British West Indies could not exist without her supplies, and that she might, therefore, compel Great Britain to open the intercourse on any terms she pleased.

I disclaimed any such belief or intention on the part of the United States. But it appeared to me, and I intimated it, indeed, to Mr. Huskisson, that he was acting rather under the influence of irritated feelings on account of past events than with a view to the mutual interests of the two countries. This was, of course, denied; but he remained immovable in the position he had assumed; and Lord Dudley, without taking a share in the conversation, which lasted near two hours, acquiesced in the opinion of his colleague.

I avoided, as far as possible, to renew the discussion on anything that had heretofore taken place, and adduced, without producing any effect, every argument derived from mutual advantage which the occasion suggested. These I omit as familiar to yourself, and it would be but repetition to state at large

the complaints made of the conduct of the United States from the year 1822 to 1825. But I must not forget to say that Mr. Huskisson explicitly declared that neither of the two bills which were under the consideration of Congress during its last session would, if passed into laws, have induced this Government to remove the interdict on American vessels.

I may add some further observations on that subject when the answer which I presume is intended to be given to my note of the 17th August shall have been received.

I have the honor, &c.,

ALBERT GALLATIN.

Hon. HENRY CLAY, *Secretary of State, Washington.*

Lord Dudley to Mr. Gallatin.

FOREIGN OFFICE, *October* 1, 1827.

The undersigned, his Majesty's Principal Secretary of State for Foreign Affairs, has the honor of acknowledging the two official notes of the 4th of last June and the 17th of last August, addressed to him by Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary of the United States, on the subject of the intercourse between the United States and the colonial possessions of Great Britain.

The note of the 4th June, although it closed with a profession of the acquiescence of the American Government in the decision of Great Britain that the intercourse in question should be regulated by mutual laws rather than by treaty, was yet directed chiefly to an explanation of certain circumstances in the conduct of the United States, and did not appear to the undersigned to call for any reply on his part.

In the succeeding note, however, of the 17th of August, the statements and reasonings of the former are followed out by Mr. Gallatin into a definite proposition, undoubtedly requiring from the British Government a direct answer. In this note it is stated that the President of the United States is willing to recommend to Congress the adoption of certain measures tending to relax the restrictions imposed by the American Legislature on the intercourse of the United States with the British colonies through the medium of British ships, which measures Mr. Gallatin shortly specifies; and it is asked whether, if Congress should, during its next session, pass a law to that effect, "the order in Council of the 27th of July, 1826, will be revoked, the discriminating duties on American vessels in the British colonies be abolished, and these vessels be allowed to enjoy the privileges of trade and intercourse with those colonies, according to the act of Parliament of the 5th of July, 1825?"

It is, at the same time, observed by Mr. Gallatin that the Government of the United States would have had no doubt that, on the enactment of such a law by Congress, the interdict laid on American shipping under the act of Parliament of 1825, would be removed as a matter of course, had not Mr. Canning, in his letter to Mr. Gallatin of the 11th of September, 1826, declared that, after having been compelled to apply the interdict to any country, the British Government cannot hold itself bound to remove that interdict as a matter of course whenever it may happen to suit the convenience of the foreign Government to reconsider the measures by which the application of that interdict was occasioned.

Mr. Gallatin truly adds that an act of Parliament was afterwards passed containing provisions corresponding with the declaration so made by Mr. Canning.

The undersigned takes pleasure in recognizing in both these letters of Mr. Gallatin, and especially in the inquiry which closes the second of them, the same spirit of good will and conciliation which, in the midst of discussions involving no small difference of opinion, has characterized Mr. Gallatin's correspondence with the British Government. The undersigned hopes it is unnecessary to observe that his Majesty's Government is influenced by the same sentiments; and that, although he thinks himself bound to offer some observations on topics of debate and conflicting interest, he presents them with no feelings but such as ought to pervade discussions between two nations allied in origin, and, he trusts he may add, allied also in desire to improve and strengthen the relations of ancient kindred by mutual offices of kindness and amity.

Connecting the two notes of Mr. Gallatin, the topics which they suggest for present consideration seem to be three:

First. It may be expedient to observe on the declaration which Mr. Gallatin has quoted from Mr. Canning, and which appears to be regarded by the Government of the United States as a deviation from what might have been anticipated as the natural course of proceeding.

Second. Some comment may be offered on the explanation into which Mr. Gallatin has entered of the conduct of the Government and the Legislature of the United States in relation to the intercourse with the British colonies, under the operation of the act of Parliament of July, 1825.

And this course of observation will naturally introduce into view, in the

Third place, the proposition which forms the more immediate subject of the note of the 17th of August.

1. With regard to the declaration of Mr. Canning, the undersigned thinks it not unimportant to remark that the sentiment which in that declaration Mr. Canning so pointedly expresses, is, in fact exactly consistent with the general principles always professed by the British Government on the subject of colonial intercourse; which principles are expounded in the argument of Mr. Canning.

The leading position contended for by Mr. Canning is this: that the exclusion of foreigners from a direct intercourse with the British colonies is altogether agreeable to the received and ordinary doctrines of the colonial policy of modern times. The established usage of nations possessing colonies interdicts that intercourse to all but their own subjects. If such interdicts be in any case relaxed, the case is one of exception; and if, having once been relaxed, it is reinforced, this is but a restoration of the received rule. The necessary consequence is, that, in any instance not governed by special regulation, it would be the continuance and not the suspension of the interdict that would alone be contemplated as a matter of course.

In reasserting these principles, and in immediately connecting them with the declaration cited from Mr. Canning, it is by no means the object of the undersigned to revive a discussion which is already exhausted. He is desirous only of showing that the reservation which Mr. Canning, for his Government, makes of a discretionary continuance of the interdict in question, in every case in which it has been once imposed, is in entire harmony with the general maxims of colonial policy, and, consequently, that the

application of the rule, in any given instance, ought not to be regarded as a proceeding of a singular and, still less, of an unfriendly character.

By this connexion, however, the question may seem to arise whether the proceedings of the United States were such as fairly to incur the application of the interdict in the first instance. The question is, in fact, involved in the explanations into which Mr. Gallatin has, at some length, entered respecting the conduct of the United States during the time that elapsed between the passing of the act of Parliament of July, 1825, and the issuing of the order in Council of July, 1826. To those explanations the undersigned will next briefly advert.

The effect of Mr. Gallatin's argument may, perhaps, be thus exhibited. Admitting that, after the British statute of July, 1825, was passed, the United States ought to have done certain acts to bring themselves within the benefit of that statute, yet the omission by the United States to do those acts was not (as the British Government supposed when it issued the order in Council of 1826) an advised and deliberate proceeding, but was the result of an erroneous impression respecting the views and intentions of the British Government; and hence there may appear some ground for a revision of the British order in Council, that measure having, in truth, been resorted to under the influence of a reciprocal mistake.

In commenting on this argument, it is not necessary to inquire whether, on the supposition that the error or inadvertence of the United States had been occasioned by some default on the part of the British Government, that Government would have been under an equitable obligation to reconsider the steps it has taken in ignorance of such error or inadvertence. There is no room for any such supposition.

Deeply as Great Britain must regret the misapprehensions, whatever they might be, under which the United States acted, she cannot, in justice, charge herself with having occasioned them. She cannot but think that a fair opportunity was afforded to the American Government and people to avail themselves, if they thought fit, of the provisions of the act of July, 1825; and the term of that option having expired, she cannot conceive herself called upon to retract, as a matter of course, the measures which, under the actual circumstances in which she found herself placed, she was led to adopt on a matter so peculiarly within her exclusive control as the trade of her own colonies.

It may be proper, however, to examine this subject a little more particularly. From the statement of Mr. Gallatin, it appears that the omission of the United States to comply with the conditions prescribed by the act of July, 1825, is resolvable into two causes: first, neither the Government nor the Congress rightly understood those conditions, the interpretation of which, indeed, is represented to be a matter of much difficulty. Secondly, the Government, and probably the Congress also, entertained an opinion that Great Britain did not mean to affect the United States by the act of July, 1825; but intended to arrange the intercourse of that county with the British colonies by negotiation.

Mr. Gallatin is also at pains, on this part of the subject, to explain the proceedings in the American House of Representatives respecting the bill for the repeal of the discriminating duties on goods imported in British vessels from the British colonies. The bill, he observes, was not, as Mr. Canning had supposed, *rejected;* it was, by a majority of two votes, ordered to lie on the table, which would not have the effect of preventing the House from proceeding with it on any future day; though, either on account of the lateness of the session or (what is more probable) from reliance on the successful issue of negotiations, the consideration of it was not in fact resumed.

To begin with the point last mentioned, Mr. Gallatin, on the nature and effect of the proceedings in the House of Representatives, is, of course, an authority beyond exception. Even on that authority, however, it appears that the bill in question was dropped deliberately; for it was disposed of after a keen contest, and was never revived—a mode of treating it which, judging from analogous proceedings in the legislative assemblies of this country, can hardly be regarded otherwise than as an effectual, though an indirect rejection.

But whatever construction may be put on the fate of that abortive measure, this, at least, may be asserted, that the Congress having, during a whole session, had the subject under consideration, designedly omitted to legislate in reference to the British act of July, 1825. The reasons assigned for that omission are next to be considered.

Mr. Gallatin very clearly states that the conditions on which it was intended by the act of July, 1825, to open the colonial trade to American vessels, were not distinctly understood in the United States; but what was the precise nature of the difficulty experienced in construing those conditions the undersigned has not been able to collect; for, with regard to the specific doubts which Mr. Gallatin mentions as attaching to the meaning of the act, these he seems to state rather as suggesting themselves to his own mind, on a view of the provisions of the act, than as the recorded grounds of the perplexity felt by the American Government or Legislature.

A full exposition of those doubts was in fact given by Mr. Gallatin in his note to Mr. Canning of the 28th of December, 1826, and that exposition is, by reference, embodied in the note now under consideration, of the 4th of June; in which last note Mr. Gallatin observes that no explanation in respect of those doubts has ever been given by his Majesty's Government.

The portion of the act to which the remarks of Mr. Gallatin apply is the condition on which the intercourse with the British colonies is opened to other countries possessing no colonies of their own, namely, that they shall place the commerce and navigation of this country and of its possessions abroad upon the footing of the most favored nations.

Without meaning to admit or to deny the justice of Mr. Gallatin's criticism on that clause, the undersigned bears a willing tribute to its force and ability; but the question after all is, whether the clause referred to threw such a practical difficulty in the way of American legislation on the subject as to account for the total inaction of the Congress of the United States? And to this question the last note of Mr. Gallatin (that is, the note of the 17th of August) presents a conclusive answer. It there appears that, notwithstanding those unexplained doubts, the American Government has found no difficulty in tendering to the British Government the passing of certain specific enactments by Congress as the condition contemplated by the act of July, 1825; that is, as the very condition which appeared so inexplicable.

Not only so, but it is observed in that note, as has already been mentioned, that, had it not been for Mr. Canning's declaration to the contrary effect, "the Government of the United States would have had no doubt that, upon the passage of an act of Congress of that tenor, the interdict laid on American shipping, under the act of Parliament of 1825, would be removed as a matter of course." It is unnecessary to remark that the conditions on which, under that act of Parliament, the interdict on American shipping would be revocable are the very conditions on which the act makes foreign shipping admissible to the British colonies; the passage, consequently, just cited from Mr. Gallatin, shows that, whatever doubts

might attach to those conditions, on the principles of severe construction, they seemed to the Government of the United States so perfectly clear for all practical purposes as to be susceptible only of one interpretation.

Even admitting, however, up to any required extent, the difficulty of construing the act, still it seems not easy to account for the inaction of the American Legislature, and still less for that of the American Government. The Legislature might be unable to determine what was precisely meant by the condition of placing the shipping of Great Britain and her possessions abroad on the footing of the most favored nation; but there could be no doubt that the condition, in any construction of it, could never be fulfilled, so long as the discriminating duties remained unrepealed; that the abolition of those duties was, therefore, an essential term in the condition; and that this term could be applied only by an act of Congress. If, however, the Legislature could not thus proceed, at least the Government, which must have felt with it, had an effectual remedy for every difficulty—that of reference to Great Britain for explanation; and the undersigned is really at a loss to conceive why the whole session of 1825–'26 was suffered to pass away without any resort to an expedient so obvious and decisive.

Besides, however, the alleged ambiguity of the British enactment, there was a concurrent cause which prevented the Government and Legislature of the United States from taking any steps relating to it. They were satisfied that the British Government either considered the United States as exempt, or meant to take special means of exempting them from the operation of the enactment; and that the commercial relations between the United States and the British colonies were, after all, to be arranged by treaty and not by reciprocal laws.

The grounds on which this persuasion was entertained are very fully set forth and discussed in the correspondence between Mr. Gallatin and Mr. Canning; and the subject appears so nearly exhausted that the undersigned sees no occasion for entering into it at large.

It is, indeed, self-evident that the Government of the United States set out with a very mistaken opinion of the views of Great Britain respecting her colonies, and more especially respecting the importance to those colonies of a direct intercourse with the ports of the United States. This, at least, seems the only principle which would account for what is otherwise so difficult of explanation, namely, that from the very few and, at best, doubtful indications alluded to in the correspondence, the Government of the United States should not only have inferred intentions on the part of the British ministry, which, *prima facie* at least, were in direct contrariety to an elaborate act of Parliament recently introduced by that very ministry, but should have deduced such inference so confidently as to act upon it for months together implicitly, although, during all that period, it received no support or confirmation of any kind from the British Government, and, although it was more than once in official communication with the American Government, strongly discountenanced by the British minister at Washington.

The supposition entertained by the United States consisted of two alternative members; the first of which was, that the British Government did not mean so to construe the act of July, 1825, as to comprehend the United States within it at all: that is, in an act professedly regulating the intercourse of the British colonies with all foreign countries, the description, "countries not having colonial possessions," did not include the United States; although it is admitted that no other expression in the act can possibly apply to the United States; although this very negotiation proves the pre-eminent interest of the United States in the subject of the enactment, and although Mr. Gallatin himself observes that, "with the exception of some of the German States, the terms of the enactment apply to no other maritime Power."

But, if the act could not be so construed, then it was believed that the British Government must be intending to exclude the United States from the sphere of it by a special order in Council. This supposition is, indeed, less violent than the former, the enactment being expressly subject to the exception, "unless his Majesty, by his order in Council, shall in any case deem it expedient to grant the whole, or any of such privileges to the ships of any foreign country, although the conditions aforesaid shall not, in all respects, be fulfilled by such foreign country."

Yet, surely, it was a little premature to assume that the British Government would gratuitously step forward to nullify the important rule which she had just enacted, in the very case to which (on this supposition) it pre-eminently applied; still more, that she should, without reason shown or asked, deviate from those principles of reciprocity for which she had been so strenuously contending, and deviate from them in the case of that very nation to which she had, in regard to those very principles, been making frequent and unsuccessful remonstrances. And most of all does it seem remarkable that this persuasion, adopted by Mr. Clay in December, 1825, when he felt satisfied that the expected order in Council was already on its way to America, should have been left wholly unshaken by the lapse of six months, during which no such order arrived, nor the remotest intimation of its being passed or intended.

It will not for a moment be imagined that, by these observations, the undersigned intends to cast any doubt on the explanation which has been given of the proceedings of the United States on the occasion alluded to, or to question the motives which dictated those proceedings. But he deems it due to his own country, due, indeed, to both the countries involved in these discussions, that each party should state its opinions and impressions with perfect frankness—a frankness, indeed, of which Mr. Gallatin himself has very honorably furnished an example, and which the undersigned deems not only consistent with friendly feelings, but even essential to a mutual good understanding and confidence. It is, then, in the judgment of the undersigned, important to show, and, with all proper deference, he conceives himself to have, in fact, shown, that the misapprehensions with regard to the views and intentions of Great Britain, by which the Government and the Legislature of the United States appear, in the present instance, to have been misled, were not warranted by any part of the conduct or the language of the British Government, and that this country, therefore, is not responsible for those misapprehensions, nor obliged, as of course, to reconsider any measures on her own part, or to repair any ill consequences on the part of others, to which they may have given rise.

And hence, the undersigned is naturally led to the third and only remaining topic of the present note.

Mr. Gallatin asks, whether, in the event of such a law as he describes being passed by Congress, the British Government would revoke the order in Council of the 27th of July, 1826, and adopt the other measures which he concurrently mentions?

The undersigned does full justice to the frank and friendly tone in which this inquiry is made; and he feels that the answer of the British Government ought, in the same proportion, to be explicit.

Without commenting on the particular provisions of the law which, according to the supposition of Mr. Gallatin, is to be enacted by Congress, it is proper to say that the British Government cannot

prospectively commit itself to the adoption of any specific line of conduct, in the event of such law being enacted.

With whatever conformity to the suggestion of Mr. Gallatin the proposed law may, as to its general principles, be framed, still those general principles are liable to be accompanied by details which no anticipation can embrace.

Much, also, may turn on the position and circumstances both of this country, of the United States, and of the commercial commonwealth in general, at the time when such law shall come into effect. This last consideration is indeed conclusive, for it has relation to the very essence of the principles which the British Government entertains on the present subject. Strictly asserting her right to prohibit or to regulate the intercourse of foreigners with her colonies according to her conception of her own interests, and without explanation or apology to other States, it would be impossible for Great Britain, without a compromise of her principles, to pledge herself by advance, and with reference to circumstances yet unknown or partially foreseen, to the establishment of any particular system of policy in relation to such intercourse.

On another and distinct ground the mode of proceeding suggested by Mr. Gallatin seems liable to exception. In adjusting her colonial relations with foreigners, this country has preferred the method of municipal legislation to that treaty; and the United States have at length acquiesced in that preference, though not themselves approving it. The process recommended by Mr. Gallatin (and which, if adopted, must become a precedent) would seem to combine the disadvantages of both methods without proportionally securing the benefits of either. If the terms of colonial intercourse are to be adjusted by mutual laws, but those laws themselves are to be founded on informal agreements, previously entered into between the Governments, it is manifest that a course of proceeding is pursued which fully ensures neither the certainty and notoriety of international convention, nor the facility and independence of domestic legislation.

On the whole, his Majesty's ministers feel themselves under the necessity of declining to give the pledge invited by Mr. Gallatin; and this with no special or exclusive reference to the peculiar measure in question. Their resolution is the result of considerations general in their nature, and conclusive against a prospective pledge of any description respecting the colonial policy of Great Britain, whether of relaxation or restriction.

In the formation of this decision the undersigned is persuaded that it is unnecessary to disclaim the influence of any unfriendly feelings towards the United States. He can only repeat that the British Government cherishes for the United States sentiments only of sincere amity.

The undersigned has the honor to renew to Mr. Gallatin the assurance of his high consideration.

DUDLEY.

ALBERT GALLATIN, Esq., *&c., &c.*

Mr. Gallatin to Lord Dudley.

UPPER SEYMOUR STREET, *October* 3, 1827.

The undersigned, minister of the United States, has the honor to acknowledge the receipt of the note addressed to him on the first of this month by Lord Dudley, his Majesty's Principal Secretary of State for Foreign Affairs, in answer to the notes of the undersigned of the 4th of June and 17th of August last, on the subject of the colonial intercourse.

It is believed that Lord Dudley would, on a close examination of the measures which the President of the United States was willing to recommend to Congress, have been satisfied that those measures would not only have tended to relax, but would have altogether abrogated, all the restrictions imposed by the American Legislature on the colonial intercourse through the medium of British vessels.

The objection drawn from an anticipation of the details which might have accompanied the general principles of the proposed law would have been easily removed. And those that are suggested against the process recommended by the American Government seem less conclusive against it than supporting the preference which the United States had given to an arrangement by treaty.

But since his Majesty's ministers are of opinion that much may turn on the position and circumstances of Great Britain, of the United States, and of the commercial world in general, when such laws should come into effect; and since, in declining to give the pledge invited by the overture of America, they have explicitly declared that their resolution was the result of considerations general in their nature and conclusive against a prospective pledge of any description respecting the colonial policy of Great Britain, the undersigned, whose efforts to obtain a more favorable answer to the inquiry he had been directed to make have been unavailing, has no other duty to perform in that respect than to transmit to his Government the determination of that of Great Britain.

It is with regret that the undersigned finds that Lord Dudley, who had at first considered the note of the 4th of June as not calling for any reply, has now deemed it necessary to offer some comment on the explanations contained in that note of the conduct of the Government of the United States, in relation to the colonial intercourse, subsequent to the act of Parliament of July, 1825. He had designedly separated the explanations from the inquiry, and suffered more than two months to elapse between his two notes, in order to afford sufficient time for any reply which that of the 4th of June might require, and in order that (the discussion on the topics embraced by it being finally concluded) the proposal he had to make might be taken into consideration without any retrospect of antecedent circumstances and solely as a question of policy and mutual convenience. It is with unfeigned reluctance that he finds himself compelled again to revert to points already so much debated, and to take some notice of Lord Dudley's observations on explanations which it had been hoped would have been deemed satisfactory.

It is correctly stated that the reasons alleged by the United States for not having complied with the condition prescribed by the act of Parliament of July, 1825, were, first, because the opinion was entertained that it was still the intention of Great Britain that the intercourse should be arranged by negotiation; secondly, because it was not known whether the condition was rightly understood.

On the last point, Lord Dudley seems to think that the doubts which the undersigned had mentioned as attaching to the meaning of the act were rather the suggestions of his own mind than the recorded grounds of the perplexity felt by the American Government or Legislature: and he infers, from the specific proposal contained in the note of the undersigned of the 17th of August, and from an allusion to

a declaration of Mr. Canning, that the condition in question had seemed to the Government of the United States so perfectly clear for all practical purposes as to be susceptible only of one interpretation.

The note of the undersigned, in which he tried to explain in what consisted the difficulty of understanding what was meant by the condition of the act of Parliament, is that of December 28, 1826; and that note was explicitly stated to be founded on "a despatch from the Secretary of State of the United States, the substance of which he was instructed to communicate to Mr. Canning." The statement of the doubts attaching to the meaning of the act, though varied in the expression, was, in substance, taken from that despatch; which, although it has not attracted the notice of Lord Dudley, was communicated to Congress, and republished in December or January last in several of the London newspapers.

But as, notwithstanding this, doubts may still be entertained respecting the recorded grounds of the perplexity felt on that subject by the American Government and Legislature during the session of 1825, 1826, the undersigned has the honor to enclose a copy of the report of the committee of the Senate, of March 31, 1826, to which he had already alluded in his note of 4th of June.

This document will satisfy Lord Dudley that the committee had under consideration the Baltimore memorial, requesting that British vessels, from whatever ports, might be admitted (in the ports of the United States) on the same terms as the vessels of the most favored nations; and that the committee's report against the prayer of the petitioners was founded on two reasons: First, that to admit British vessels indiscriminately, with their cargoes, from whencesoever arriving, or of whatsoever composed, on the same terms as vessels of the most favored nations, or, in other words, to comply with the condition of the act of Parliament, as understood by the committee, would operate as a surrender of the principle of equality, &c. Secondly, that a (corresponding) desire to arrange the colonial intercourse on a satisfactory footing appeared to exist on the part of the British Government, and that the negotiations respecting it were expected to come to a definitive issue before the next session of Congress.

To this day the Government of the United States are not sure that they understand precisely what was intended by the condition. Desirous as they were that their proposal should be accepted, they wished to present it in the most unexceptionable form; and if, instead of offering to comply with the act of Parliament, which certainly was the most simple proposition, and the most likely to be favorably received, a specific proposal has been made, it is, in fact, because it was thought unsafe to agree to terms not sufficiently understood, and which have not been explained.

It has been justly observed by Lord Dudley that the abolition of the discriminating duties must, under any construction of the act, have been an essential term in the condition. The undersigned, in his note of December 28, 1826, when observing that the words "commerce and navigation of this country" might have been intended to include only the circuitous intercourse, expressly stated what was true, that "this last interpretation had been suggested only by the observations that had occurred in the course of Mr. Canning's correspondence with him." Mr. Canning had limited his animadversions on the acts of the United States to two enactments only—the discriminating duties, and the restrictions on British vessels employed in what has been called the circuitous or indirect intercourse. The specific proposal made by the United States embraces those two objects. Having no other light but what was derived from the correspondence, they presume, without being certain that they were not mistaken, that it might be accepted as a fulfilment of the condition. The intimation that they would have considered the removal of the interdict as a matter of course had it not been for Mr. Canning's declaration, is clearly to be understood as founded on the supposition that they were not mistaken in the interpretation which, for the reasons that have been stated, they had ventured to give to the act of Parliament. But it cannot certainly be inferred that because, in framing a proposal and reasoning upon it, they have been induced to adopt or rather to assume a certain construction, they no longer have, much less that they never had, well-founded doubts on the meaning of the act.

It is rather remarkable that, after those doubts had been so explicitly stated in the note of December 28, 1826, to Mr. Canning, he did not even advert to that branch of the discussion in his reply of January 27, 1827; and still more so, that Lord Dudley, whilst commenting upon it, should have carefully avoided giving any explanation; and, on the contrary, should have distinctly said that he neither admitted nor denied that construction which the undersigned had suggested as being the literal, and which Lord Dudley designates as the severer interpretation of the act. The undersigned is at a loss how to account for the reluctance which seems to have been evinced of saying at once what was truly intended by the condition so often alluded to.

The final disposition of the bill which had been introduced for the repeal of the discriminating duties, even if considered as an absolute rejection, proves only that either it appeared to be unnecessary, as not fulfilling all the conditions required by the act of Parliament, or that the American Legislature relied on the issue of the expected negotiations.

If the Government of the United States did not apply to that of Great Britain for an explanation of the condition, it was partly because the distance between the two countries would have rendered such explanation unavailable in relation to any proceedings of Congress during the pending session, principally because entire reliance was placed on the issue of the negotiations, since the Cabinet of Washington had concluded to withdraw all the propositions which had heretofore prevented an arrangement.

The reasons why not the slightest apprehension was entertained of the determination of the British Government to consider this as no longer a fit subject for negotiations have been repeatedly stated.

At the conclusion of the conferences of the year 1824 between the plenipotentiaries of the two countries, the negotiations were expressly stated to be *suspended* by the necessity of referring to Washington on some of the subjects which had been discussed; and the plenipotentiaries parted under circumstances which prevented, *for the present*, any further progress in the negotiations.

Indeed, those which have been carried on between his Majesty's plenipotentiaries and the undersigned have been so clearly considered as being generally the continuation of the negotiations of 1824, that, at their first conference, and in relation to the subject first taken up, the British plenipotentiaries observed, "that a proposal of settlement on that subject having been offered on the part of Great Britain during the course of the negotiations in 1824, which proposal had been taken by the American plenipotentiary for reference to his Government, they presumed that Mr. Gallatin was prepared to give an answer to that or to offer some new proposal." And the American plenipotentiary did accordingly *substitute* another proposal for that which had been made by Mr. Rush in 1824.

There was, therefore, a perfect understanding between the two Governments in that respect. His Majesty's minister at Washington, in conformity with it, announced, in March, 1826, to the Government of the United States that his own was preparing to proceed in the important negotiations between the

two countries; that a new plenipotentiary had been appointed on the part of Great Britain, and that the negotiations would, therefore, be forthwith resumed.

No exception had been made—none was at that time suggested to be intended on the part of Great Britain, with respect to the colonial intercourse.

Lord Dudley has taken no notice of the circumstances which so naturally induced the American Government to rely on the ensuing negotiation as the means of regulating the intercourse in a manner satisfactory and beneficial to both countries. But, referring to a letter of December, 1825, from Mr. Clay to a member of Congress, he has expressed his astonishment that it could have been supposed that the British Government did not mean so to construe the act of July, 1825, as to comprehend the United States within it; and that, if it had been at first presumed that they would be excepted by a special order in Council, that expectation should have been unshaken, when, after six months, no such order had been issued, nor any intimation given to that effect.

It has not been believed by the Government of the United States that, in case an arrangement was not made by treaty, they would, nevertheless, by special favor, be permanently exempted from the general operation of the act. But it was presumed that Great Britain, under the expectation of a favorable issue of the negotiations that were to be forthwith resumed, would suspend the operation of the act in regard to the United States until the result of those negotiations was ascertained. In what manner that suspension would be effected was not known.

Mr. Clay's letter is written entirely in that spirit. He did not believe that it was intended by the British Government that the act of July, 1825, should disturb the trade between the British colonies and the United States, first, and principally, because it would be inconsistent with negotiations between the two Governments contemplated, if not yet resumed. Had it not been that it had been announced by the authorities at Halifax that it was intended to close that port against American vessels, he would have been strongly inclined to think that the intercourse was intended to continue to be regulated by the former acts of Parliament. If the Halifax construction should prove to be correct, he was persuaded that an exception in favor of the American trade would be made by a special order in Council.

It is true that no such order was issued, and equally true that, after the lapse of a few weeks, neither Mr. Clay nor any other person in America expected that it would be issued. For, the Halifax construction having been abandoned, and that, as well as all the other British colonial ports, remaining open to American vessels after the day when the act of Parliament was to take effect, it was concluded, without further investigation, that that act was not intended, at least for a time, to operate on the United States. It has since been made known that the suspension, which in fact took place, was intended by Great Britain, not in reference to negotiation, but in order to ascertain the result of the proceedings in Congress.

Lord Dudley intimates that the Government of the United States set out with a very mistaken opinion of the views of Great Britain respecting her colonies, and more especially respecting the importance to those colonies of a direct intercourse with the ports of the United States; and he seems to think that this is the only principle which would account for some of the proceedings of that Government.

Coinciding entirely in Lord Dudley's opinion, that perfect frankness is not only consistent with friendly feelings, but even essential to a mutual good understanding and confidence, the undersigned will be as explicit on this as on any other subject.

The United States do not suppose the direct intercourse between their ports and the British colonies to be necessary to those colonies. They know that the British West Indies have been supplied by other means, and have not materially suffered during those periods when that intercourse was interrupted by war, or has been interdicted by the laws of the two countries.

But, though not necessary to either party, that commerce is known to be beneficial to both. The proof is found in the fact that it has always been carried on to a considerable extent whenever it has been permitted; that absolute prohibitions can alone stop it. That Great Britain thinks so herself cannot be denied. It is believed that, except when the two nations have unfortunately been at war, there has not, to this day, been any time at which the intercourse has not, with certain limitations, been allowed by her in British vessels.

There are not, perhaps, two countries, within the same distance from one another, and with such easy and prompt communications, which have products so essentially different as the West Indies and the United States. There are, therefore, not any between which commerce is more natural, and the exchange of their respective commodities more mutually beneficial. The laws which interdict such a course are an obvious and practical departure from those principles of free trade which, in other respects, are so ably upheld and vindicated.

It is not at all asserted that the injury arising from a suspension of that commerce is more heavily felt by one party than by the other. The American Government neither overrates the importance to the West Indies of the direct intercourse, nor denies its great utility to the United States. In both countries the planter or farmer is, by the suspension, deprived of one of the markets for his produce, and compelled to pay dearer for his supplies; and a positive evil is inflicted on both parties, without any visible advantage to either.

The right of Great Britain to regulate the intercourse with her colonies is not questioned; and it is not usual for nations to make any great sacrifice for the sake of asserting abstract principles which are not contested. She is, undoubtedly, the only proper judge of what should be her commercial policy. The undersigned has not been fortunate enough to be able to discover what actual advantages she derives from the measures in which she perseveres in regard to the colonial intercourse. He has apprehended that considerations foreign to the question might continue to oppose obstacles to a proper understanding. Nothing has been omitted to remove those which might have arisen from misconceptions of the views and proceedings of the American Government. It is gratifying to have received assurances that the decision of Great Britain was not influenced by any unfriendly feelings towards the United States. Their sentiments for Great Britain are those of amity and good will; and their Government is animated by a sincere desire to improve and strengthen the friendly relations of the two countries.

The undersigned has the honor to renew to Lord Dudley the assurance of his high consideration.

ALBERT GALLATIN.

The Right Hon. EARL OF DUDLEY, *&c.*, *&c.*

Mr. Clay to Mr. Vaughan.

DEPARTMENT OF STATE, *Washington, March* 17, 1827.

The undersigned, Secretary of State of the United States, has the honor to transmit herewith to Mr. Vaughan, his Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, to be communicated to the British Government, a copy of a proclamation issued by the President of the United States on this day, in pursuance of an act of Congress, of the 1st of March, 1823, by the effect of which the acts of Congress of the 18th day of April, 1818, and of the 15th day of May, 1820, copies of which accompany the proclamation, are revived.

It would have been much more in accordance with the wishes of the President if he had felt himself authorized to have announced, through the undersigned, a measure of a directly opposite tendency; but he was required, by the enactments of an existing law, to perform the duty of issuing the proclamation, in the contingency which has happened, of the British interdict to the admission of American vessels in British colonial ports. The President will, nevertheless, seize, with pleasure, any fit occasion that may hereafter arise for his concurrence in measures to put an end to a state of things which is believed to be prejudicial to the interests both of the United Kingdom and the United States, by opening the trade and intercourse with the British colonies upon just and reciprocal terms.

The undersigned has the satisfaction to transmit herewith to Mr. Vaughan, also to be communicated to the British Government, a copy of orders which have been issued from the Department of the Treasury for the government of the custom-house officers in the application of the above mentioned acts of Congress of 1818 and 1820 to British vessels which have arrived or may arrive in the ports of the United States, from the British colonies, between the first day of December last and the first day of July next. According to these orders—1st. All such vessels as shall have arrived before the date of the above proclamation will be allowed freely to depart with their cargoes. 2dly. All such as shall arrive between the date of the proclamation and the day of its reception, at the respective American ports, will also be allowed freely to depart; and, 3dly. Such as may arrive at any American port, between the day of the reception of the proclamation at such port and the first of July next, will be warned off, and allowed freely to depart, without discharging any portion of their cargoes; and the penalties and forfeitures of the acts will not be enforced against them, unless, after such warning, they should attempt to elude or violate the provisions of the laws.

The Government of his Britannic Majesty cannot fail to recognize in these orders a strong evidence of the friendly disposition of that of the United States, even where it has been compelled, in the protection and preservation of its own rights, to resort to a measure of necessary counteraction, to mitigate the effects of that measure, as much as possible, in its operation upon individual cases.

The undersigned requests that Mr. Vaughan will accept assurances of his high consideration.

H. CLAY.

Mr. Vaughan to Mr. Clay.

WASHINGTON, *March* 18, 1827.

The undersigned, his Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honor to acknowledge the receipt of the note of the Secretary of State of the United States, transmitting to him, for the information of his Majesty's Government, a copy of the proclamation, dated the 17th instant, issued by the President of the United States, in pursuance of an act of Congress of the 1st March, 1823; after which, the acts of Congress of the 18th April, 1818, and of the 15th May, 1820, are revived and in operation.

The undersigned will take the earliest opportunity of communicating the note of the Secretary of State to his Majesty's Government, and he will have great satisfaction in drawing its attention to the circular enclosed in it, which has been addressed by the Secretary of the Treasury of the United States to the Collectors of Customs in the ports of this country, directing them in what manner they are to carry into effect the provisions of the acts of 1818 and 1820, as it at once removes all apprehension which might be entertained, upon reading the President's proclamation, that the penalties of the acts of 1818 and 1820, would be exacted immediately, and without further notice.

The undersigned requests that the Secretary of State will accept the assurances of his highest consideration.

CHA'S R. VAUGHAN.

Hon. HENRY CLAY, *&c., &c.*

20TH CONGRESS.] **No. 490.** [1ST SESSION.

CLAIM OF INDEMNITY FOR SPOLIATIONS BY SPAIN IN CASE OF JAMES RAY AND OTHERS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MAY 6, 1828.

Mr. EVERETT, from the Committee on Foreign Affairs, to whom was referred the memorial of James Ray and others, owners of the brig James Lawrence and her cargo, made the following report:

That the facts of the case are stated at length in the papers submitted by the memorialist, and in an extract from a letter from the minister of the United States at the Court of Madrid, communicated to this

committee from the Department of State. Assuming these statements of the facts to be correct, the Committee on Foreign Affairs deem it their duty to express the opinion that the circumstances of the capture, detention, and condemnation of the property in question, form a very strongly marked case of violation of neutral rights, and infraction of the law of nations, not less offensive to the honor of the country than injurious to the immediate sufferers. It is known to the House that this is one among several other cases of spoliation for which redress has long, urgently, and, hitherto, ineffectually, been demanded of the Government of Spain by that of the United States. The papers herewith submitted will recall to the recollection of the House the doings of the other branch of the Legislature, and a report of the Secretary of State, in the case of the James Lawrence, more than three years ago; and the extract from the letter of our minister at Madrid, already mentioned, will show the earnestness with which it continues to be pressed upon the Government of Spain. The fact alluded to in this letter, that a convention has long since been entered into between the Governments of Spain and Great Britain, for the purpose of securing an indemnity to the subjects of Great Britain for similar injuries, will no doubt present to the House, in a grave aspect, the continued neglect of Spain to render to the United States the same measure of consideration, and to their citizens the same measure of justice which she has accorded to the Government and subjects of another country. What measures the House may think it necessary to adopt, in view of the whole case, it can only judge by an examination of the correspondence between the two Governments on the subject. Not being prepared to recommend any specific measure in reference to the single case of the memorialist, the committee submit the following resolution for the adoption of the House:

Resolved, That the Committee on Foreign Affairs be discharged from the further consideration of the memorial of James Ray and others; and that the President of the United States be requested to communicate to the House (if the public interest will permit) a copy of the correspondence between the minister of the United States at the Court of Madrid and the Government of Spain on the subject of the claims of citizens of the United States against the said Government.

IN SENATE, *Thursday, February* 3, 1825.

The President communicated to the Senate the following report from the Secretary of State, on the memorial of James Ray and others, which was read:

DEPARTMENT OF STATE, *Washington, February* 2, 1825.

The Secretary of State, to whom, by a resolution of the Senate of the United States, the memorial of James Ray and others, owners of the brig James Lawrence and cargo, captured by a Spanish privateer and carried into St. John's, Porto Rico, praying the interposition of Government, with the documents accompanying the same, was referred, to consider and report thereon, has the honor of reporting, that the case of the James Lawrence is one of those flagrant outrages upon the property of the citizens of the United States upon which the Government of the United States have for the last three years constantly applied, near the Spanish authorities, exertions for reparation equally strenuous and unavailing. That the capture, in the first instance, was illegal, and that the proceedings of the Court of Appeals, condemning the property, were irregular, cannot be doubted. A last appeal to the justice of his Catholic Majesty at Madrid is all that remains practicable in this case short of a measure which, by authorizing reprisals, would assume upon the United States themselves the task of dispensing to their citizens that justice which has hitherto been sought from the Spanish authorities in vain.

JOHN QUINCY ADAMS.

Copy of a letter from Mr. Everett, Minister at Madrid, to David Lewis, Esq., President of the Phœnix Insurance Company at Philadelphia.

SIR: Your letter of 15th of September, enclosing the power of attorney requested in mine of 13th May, was duly received, and the document was found to be in proper form. Some circumstances have since occurred which have created a new delay in the progress of the case, and may, perhaps, make you think it expedient to abandon it entirely. The Council of War, which takes cognizance of appeals from the court at Havana, where the cause was last tried, decided that the copies of the proceedings which were transmitted in the first instance were not sufficient, and that the original record must be brought up. An order of court to this effect was accordingly despatched by the agent employed here to his correspondent at the Havana, Mr. William Murphy, about the time I wrote you last. An answer has just been received, under date 18th November, in which the writer states that the original record cannot be sent up until the cost of the last trial shall have been satisfied, which amounts, as he says, to $2,371. I did not feel myself at liberty to advance so large a sum as this without reference to you, and the proceedings are consequently now in suspense. If you think proper to go on, the shortest course would be to send directly to the Havana and order the necessary steps to be taken without delay. Mr. Murphy has the order of court, and, should he have occasion to be absent, will leave it in the hands of Don Diego Montalbo, of Castella. The agent here speaks pretty favorably of the probable success of the appeal, which, however, like all other proceedings in this country, will certainly occupy a good deal of time. You will, of course, decide for yourself how far it may be prudent to incur the new expense that now appears to be necessary. I would, however, take the liberty of suggesting whether it would not be expedient to ascertain, before you proceed any further, whether the adverse party is solvent; should not this be the case, the expense, which cannot fail to be considerable, will be a clear and gratuitous loss.

I am, sir, with much respect, your very faithful and obedient servant,

A. H. EVERETT.

MAY 10, 1827.

DEAR SIR: I hand you annexed a copy of a letter received yesterday through the Department of State from Alexander Everett, Esq., at Madrid. The contents of this letter were very unexpected to our

company. They are at a loss what to decide on, and we wish much to know your opinion of the matter, and whether or not it would be advisable to pay so large a sum on an uncertainty, or to relinquish the claim altogether.

Your reply will oblige your obedient servant,

DAVID LEWIS, *President.*

JAMES RAY, Esq., *near Newark, Delaware.*

Copy of a letter from Thomas Randall, Esq., dated

WASHINGTON, *July* 10, 1827.

DEAR SIR: It was with great sensibility and regret that I read your letter of 29th ultimo (postmarked 4th instant) containing the afflicting intelligence of the loss of your son, and my friend Edmund. This was entirely sudden and unexpected to me, as I had just returned, after a long absence, having been three months in Florida. I most sincerely condole with you on this most distressing calamity, which has excited the liveliest grief on my part. May it not, however, be otherwise? It appears your information is only negative, from not having heard of the vessel. May not some accident short of a total loss have induced this long silence? Pardon me, sir, if, rather than make up my mind to so afflicting a bereavement, I resort to the devices of ingenuity for some possible escape. But, sir, without any further attempt at consolation at this moment, when I fear it would be vain and ill-timed, permit me to reply to the inquiries in your letter. Immediately on the receipt of your letter I began to tax my recollection, and to examine my minutes and journal for the particulars you inquire about. In this examination I found the copy of a letter written by me to Mr. Brent, of the Department of State, sometime in December, 1824, in answer to a query similar to yours, and which I would now send you but that I yesterday left it in the State Department. That letter, however, states, in substance, that, immediately on the reversal of the decree of restitution by the "Junta of Marine" of the Havana, your son applied for, and was allowed, an appeal to the King in council. This occurred sometime in September, but it was not till about 8th November, 1824, that the preliminary matters were adjusted by your son, and, as we supposed, everything arranged by him and every step taken which it was incumbent on the appellants to take. In the interval every impediment and difficulty was thrown in his way, and the most grievous exactions attempted, with the view, as I conceived, of depriving him of benefit of the appeal.

I have noted in my journal that your son obtained a copy of the proceedings duly certified, and *for which he paid fully;* as, also, that, by the order of court, a copy (or the original papers) was to be sent by a King's packet to Spain from Havana. With respect, however, to the fact of any pecuniary demand on the appellants still subsisting, my information originally was not so very ample, nor is my recollection very distinct. I know that the most extravagant demands were made on your son, some of which he paid, and that, finally, by advice of his counsel, and from the necessity of the case, he made a "suggestion of insolvency," conformably with the provision of the Spanish law, the effect of which, if proved, (as in this case I know it was,) was to relieve the appellants from further pecuniary demands, and to entitle them to the benefit of the appeal without further cost. Now, that it was the duty of the appellants to have the documents sent on to Spain, and at their cost, I do not believe; for the very design of the court seemed to be not to give the control of the papers to either side, and the very object of the "suggestion of insolvency" was to acquit the party of further costs.

Immediately on the receipt of your letter I submitted it to Mr. Brent, who (in the absence of Mr. Clay) promised to take the necessary orders on the subject, and to write at once to Mr. Everett. You were informed by Mr. Brent, some time ago, that, up to July, 1826, (I think,) nothing had been written by Mr. Everett respecting the James Lawrence. His subsequent correspondence was not in the office, so that I could not learn if he had since written on the subject. Mr. Brent will, however, inform you.

Though grieved and indignant at the treatment you have received from the Spanish authorities and courts, I must confess I am not at all surprised, having, in my letters to Government, anticipated this course. It is precisely the course pursued in the case of Mr. Hollins, of Baltimore, a transaction referred to me in Havana.

How far our Government will interfere it is not for me to say; that they have not spoken *authoritatively* to Spain on the matter I presume is owing to the fact that the matter is still of judicial cognizance, and that the rules of international law presuppose and require the utmost faith and confidence in the purity and justice of those tribunals. Unfortunately, Spanish courts are not worthy of this confidence; and a corresponding change should, in my opinion, be made in the character of our intercourse with them.

I beg you will excuse this hasty letter, which I thought better to write at once, on the eve of my departure from this place, than to delay until I had more time. Wishing you a speedy relief under your present afflictions, I am, very respectfully, sir, your obedient servant,

THOMAS RANDALL.

JAMES RAY, Esq.

The honorable the Senate and House of Representatives of the United States:

The memorial of James Ray, owner of the brig James Lawrence, and others, the shippers, with himself, of the cargo, most respectfully showeth:

That in the month of January, 1824, the said brig and cargo, having been captured by a Spanish privateer, were carried into St. John's, Porto Rico, where she was cleared; and the captors, on appealing to the court at Principe, in the island of Cuba, were put under surety in $60,000, to appear there and prosecute said appeal; that your memorialist was obliged to send a vessel thither, at a very heavy expense, with his son, who had also to be paid, to attend to the said appeal; but, while the appeal was depending, the King being restored to his former power, the case, at the instance of the captors, was transferred to the Marine Court at the Havana, without any notice being given to your memorialist, and without being allowed any costs, and whither, at a further enormous charge, your memorialist was under the necessity

of again sending his son; and whither the President of the United States had likewise despatched Thomas Randall, Esq., as agent, to demand justice and redress for himself and other claimants from the Spanish authorities at the Havana. But, instead of receiving any restitution of his property, notwithstanding every exertion of your memorialist's counsel, and in spite and defiance of the remonstrances of the agent of the United States, the said court, in violation of the law of nations, and of all right and justice, condemned the cargo and vessel as good prize to the captors, although they had cleared and ordered restitution of the property of the other American claimants in precisely the same circumstances. And your memorialist says it was notorious at the Havana that a majority of the judges of the said court had been bribed by the agent of the captors to give the said decree.

Your memorialist says that his son prayed an appeal from the said judgment to Madrid; that at first the appeal was refused, but at length granted, after every delay, vexation, and extortion that could be devised had been thrown in the way And your memorialist craves leave to annex a copy of a letter from Thomas Randall, Esq., to him, under date the 10th July, 1827, to show the appeal had been duly granted, and to prove that not the shadow of dependence could be placed in the justice of the Spanish courts.

Your memorialist further states that, on his son's arrival in the United States, who came in company with Mr. Randall, so perfectly satisfied were both of them that the appeal had been duly taken out, that your memorialist and the shippers, in the month of January, 1825, feeling themselves to have been greatly aggrieved by this decision of the court at the Havana, to whom the only question left to them to decide by the captors and court at Porto Rico was as it respected the proof that the goods taken were American property, which the said court at the Havana admitted was fully proved; that they presented a memorial to the then Congress, detailing the circumstances of the capture, with the downright robbery of their property, and praying that the strong arm of Government might be extended to force the Spanish authorities to restore it; that, in each House, respectively, this memorial was referred to the Committee on Foreign Relations; and that the committee of the Senate, having called on the Secretary of State to report on the said memorial, the Secretary, on the 2d of February, 1825, made a report, whereby the injustice and illegality of the capture, and the irregularity of the proceedings of the Court of Appeals at Havana, were explicitly admitted; and that, as this was an atrocious case, nothing short of reprisal was left but a last appeal to the justice of his Catholic Majesty at Madrid.

To meet this recommendation of the Secretary of State, Judge Hemphill, then a member of the House from Pennsylvania, wrote to Mr. Lewis, the President of the Phœnix Insurance Company at Philadelphia, that the chairman of the Committee of Foreign Relations had acquainted him that we must *first* pursue the appeal. And this memorialist says the late N. Vandyke, Esq., told this memorialist the same thing; and that, in consequence, your memorialist applied to the Secretary of State to direct the minister at Madrid, from the then troubled state of Spain, to receive the appeal, and have it filed under his directions, and prosecuted to a decision without any expense to the United States. By a letter from Mr. Everett to Mr. Lewis, the President of the Phœnix Company, it appears the appeal was filed; but the Board of War, who took cognizance of the case, not having received the original papers from Havana, they were written for, and an answer was returned they would not be sent till the sum of $2,375 was first paid; and, as your memorialist's son had been lost at sea, he applied to Mr. Randall for information, from whose letter, before filed, it will plainly appear this demand has been set up after your memorialist's son had left the Havana, with certified copies of the papers for the appeal in his possession; and that it is a pretext set up purposely to prevent any appeal being had at all. For, if the terms for granting the appeal had not been complied with, the case must have been dismissed in favor of the captors; but, as it is kept on the docket of the court, it must evidently follow the appeal had been duly taken out; but, by this juggling in the court at the Havana, the Court at Madrid will never proceed at all, and thus will end the last appeal to his Catholic Majesty's justice.

Your memorialist conceives, from the tenor of Mr. Everett's letter, that, notwithstanding the report made by the Secretary of State, and notwithstanding the evident views of the Spanish authorities with the appeal, he had not made any remonstrance to the King at Madrid on the capture of your memorialist's property, or on the indignity and contempt with which their endeavors to obtain redress by this appeal had been treated; but they conceive it was his duty to have done so, and they believe such to have been the intention of the Legislature. And as it is now evident they can have no other resource but in the protection of their country, they pray that Congress will be pleased to authorize the Executive to adopt such steps as will force the Spanish Government to direct restitution of your memorialist's property, so long unjustly seized contrary to the law of nations; and which, in fact, was nothing less than direct piracy, equally derogatory to the rights as to the honor of the United States. And your memorialist will ever pray, &c.

JAMES RAY,
For himself and the rest of the Shippers.

DEPARTMENT OF STATE, *Washington, May* 5, 1828.

SIR: In compliance with the wish of the committee, as signified in your letter to the Secretary, dated the 29th of last month, I have the honor, in his absence, to transmit to you the extract enclosed of the last note which appears to have been written by the minister of the United States at Madrid to the Minister of Foreign Affairs of his Catholic Majesty, upon the subject of the claim of James Ray and others on the Spanish Government, in the case of the brig James Lawrence and cargo, illegally taken, as is stated, and condemned under Spanish authority, which will serve to show to the committee the then state of that claim.

Neither at the date of Mr. Everett's despatch to this Department, February 21, 1828, communicating a copy of his note to Mr. Salmon, nor at that of his last communication, had he received an answer to his note from the Spanish Government.

I am, with perfect respect, sir, your obedient, humble servant,

DANIEL BRENT.

EDWARD EVERETT, Esq.,
Chairman of the Committee of Foreign Affairs, H. R.

Extract of a note from Mr. Alexander H. Everett, Envoy Extraordinary and Minister Plenipotentiary of the United States in Madrid, to Don Miguel Gonzalez Salmon, Principal Secretary of State, dated Madrid, February 13, 1828.

"The brig James Lawrence, belonging to James Ray, a citizen of the United States, residing at Wilmington, in the State of Delaware, sailed from the port of Philadelphia on the 14th of December, 1822, for Laguayra, where she arrived early in the following month. She entered the port without interruption from any quarter; and, having taken on board a cargo consisting of coffee, cocoa, and other articles, consigned and belonging to citizens of the United States, sailed from Laguayra on the 16th of February, 1823, for Philadelphia. On the day succeeding she was captured by the Spanish privateer Esperanza, and ordered for St. John's, Puerto Rico, where she arrived on the 27th of the same month. She was here libelled before the Admiralty Court on the charge of having on board property belonging to the enemies of Spain. Upon this charge only the trial came on. On the 7th of March following a decree was made by which the cargo was condemned as enemies' property, and the ship acquitted. The master of the brig immediately applied for a new trial, which he obtained; and in the course of which he succeeded in proving to the satisfaction of the court that the cargo belonged wholly to citizens of the United States, and that the captors had taken from him and secreted his papers in order to prevent him from establishing this fact upon the former trial. The court, after this second hearing, and on the 7th of April following, reversed the former sentence, and condemned the captors to pay a fine of two hundred ducats for their fraudulent proceedings in regard to the papers.

The captors, however, not deterred by this check from pursuing their purpose, appealed from this sentence to the Supreme Audiencia, which sets at Principe, in the island of Cuba, and were ordered by the judge to give security in the sum of 62,010 dollars that they would obtain a reversal of the sentence within eight months from the 16th of August, the day on which the security was given. The captors, it appears, retained possession of the cargo; and the appeal, like the original libel, alleged no other cause of action against the brig or her cargo, excepting that the latter was enemies' property. Nothing was said of blockades or of interdicted trade; and it is evident that neither of these pretences had then been thought of, since on these grounds the ship would have been equally liable to confiscation with the cargo.

The master of the vessel arrived at Principe on the 2d of December, 1823, for the purpose of answering the appeal. The captors, however, did not appear; and, after waiting until the limited time of eight months had expired, the master obtained from the court a certificate of their default, and departed.

Here, according to all the ordinary principles of proceeding in such affairs, the case was closed forever, and in favor of the vessel. The captors, by failing to sustain their appeal, had forfeited the security which they had given at St. John's, and nothing remained but for the court to order the payment of it for the benefit of the owners. In the meantime, however, the court at St. John's had instituted a new series of proceedings in the same case, entirely at variance with their own previous acts, and in open violation of all the rules of law and justice. After granting to the captors, in the manner which I have described, an appeal to the Supreme Court at Principe, of which appeal the owners had received due notice, and to which they appeared, the Judge of Admiralty at St. John's, upon a subsequent application of the captors to have the place of hearing the appeal changed, granted their request, and ordered the case to be tried before the Marine Court or Junta sitting at the Havana. The owners received no notice, either of the application for a change in the Court of Appeals, or of the granting of that application; and learned the facts only in a private manner. This circumstance alone stamps the subsequent condemnation with the character of complete illegality; but this was not the only one of the same description. The appeal was to have been prosecuted within eight months, commencing on the 16th of August, 1823. The appellants did not appear until the 16th of May following, a month after the limited time had expired; but, although the owners who had received private information of the change in the court, and had an agent present, represented that the captors were not in time, the objection was overruled and the cause tried. Finally, by an act of injustice still more open and glaring, if possible, than either of the others, the court, on the 17th of September, 1824, reversed the former sentence, and condemned the ship and cargo, not as enemies' property, the charge upon which they had been tried, but, incredible as it may appear, for a wholly different one—that of trading with a blockaded port. Thus the property of the owners was taken from them under pretext of an offence, not only in itself entirely imaginary and groundless, but which had never been imputed to them up to the moment of the decision; against which they had had no opportunity to defend themselves; and of which the court had, of course, under the circumstances, no more right to declare them guilty than of treason, murder, or any other crime entirely foreign to the nature of the case and the previous course of the proceedings.

Such were the forms observed in the trial and condemnation of this vessel and her cargo; or rather such was the contempt which the court exhibited for all the forms usually observed on similar occasions in civilized countries. In order to found a just claim upon the Spanish Government for indemnity on account of the loss occasioned by these proceedings, it is wholly unnecessary, as your excellency must perceive, to inquire into the legality of the blockade, under pretext of violating which the vessel was finally condemned. Supposing her to have violated a regular blockade, it was the duty of the captors to prove the fact against her in a legal way; and, if this was not done, the condemnation was equally injurious, whether the offence charged were real or imaginary. In this case there had been four or five successive irregularities in the proceedings, any one of which was sufficient to invalidate the sentence, and entitle the owners to indemnity. It is believed by the Government of the United States that most, if not all, the other cases are in this respect similar to that of the James Lawrence; and it is very doubtful whether it would be necessary for the decision of any of them, even to raise the question how far the blockade of the coasts of the Spanish Main declared by General Morales was entitled to the respect of neutral Governments.

Should it, however, be necessary to examine this question, it is not apprehended by the Government of the United States that there could arise any material difference of opinion respecting it between the two Powers. The principles of national law which regulate the subject of blockades are perfectly well known and generally acknowledged; nor is it understood that it is the wish or intention of the Spanish Government to set up new ones. The most important of these were too openly violated in the case of the pretended blockade of General Morales to leave room even for an argument in favor of its legality. A blockade, in order to be legal, must be publicly declared by the Government of some belligerent Power,

and formally notified under the authority of such Government to those of neutrals. The pretended blockade in question was never declared or notified to neutral Governments by that of Spain. This defect alone was sufficient to deprive it of all pretensions to a regular character. Secondly. A blockade having been regularly declared and notified, must, in the next place, in order to be entitled to respect, be duly enforced; that is, a sufficient naval armament, consisting of at least one or two ships of war, must be actually stationed at the entrance of the port which it is intended to close. But it is perfectly notorious that the Spanish authorities had not, at the time in question, above one or two armed ships in the whole extent of the Gulf of Mexico, and that these were not stationed at the entrance of any one particular harbor. The pretended blockade, therefore, as it was never either regularly declared or notified, was also never for a moment, or at any point regularly enforced, and was, of course, destitute of every appearance of a legal character. It seems to have been intended by General Morales as an imitation, in a small way, upon his own authority, of the extravagant pretensions advanced by some of the great maritime Powers during the late European wars, and, had it not been made a pretext for the wanton and cruel spoliation of many innocent individuals, would have been a fit subject for derision, rather than respect or observance.

The principles and facts which I have here stated in regard to the blockade by General Morales are of course familiar to the Spanish Government, which is too just and enlightened not to acquiesce in the conclusion which has been drawn from them by that of the United States. There is, indeed, the less reason for insisting at great length upon this point, that it may not only probably not come up in the course of the negotiation, but that the blockade was revoked by the King himself, under circumstances amounting to an admission of its illegality. By his decree of December 21, 1822, his Majesty raised the blockade, in compliance, as is expressly stated, with the representations of the neutral Powers who had suffered by its operation, and recognized the liberty of neutral trade with the independent provinces, under the usual exception of articles contraband of war. At about the same time a convention of mutual indemnities was concluded by his Majesty with the British Government, the principal object of which is understood to have been to provide for making compensation to British subjects whose property had been seized and condemned under pretext of the blockade in question. These proceedings amount to disavowal of it, and are considered by the Government of the United States as affording a precedent which entitles them (independently of the essential justice of their claims) to expect a similar arrangement in behalf of their fellow-citizens. In regard to this subject your excellency remarks, in the note before me, that the convention with Great Britain now alluded to was concluded by his Majesty's Government during the period of the constitution, and is therefore to be viewed as null and void, and as not furnishing a precedent for similar proceedings towards other Powers. I must be allowed to express my surprise that your excellency should consider such an explanation as likely to be satisfactory to the President and Congress of the United States, since you cannot suppose them to be uninformed that one of his Majesty's earliest acts, after the overthrow of the constitution, was the formal confirmation of the convention alluded to; that its preliminary provisions were immediately carried into effect, by the appointment of Commissioners on both sides to liquidate the respective claims of the contracting parties; and that negotiations for the adjustment of difficulties that occurred in the course of the proceedings have been repeatedly resumed, and are, at this moment, actually in progress at London. All these subsequent acts performed since his Majesty's recovery of his absolute power, and when he has been, as your excellency remarks, at the head of a legal and circumspect administration, are so many confirmations of the justice of the original convention, and so many new admissions of the illegality of the captures for which it was intended to afford compensation. It is impossible for the Government of the United States not to consider these proceedings towards another nation under circumstances precisely similar, as greatly strengthening their essentially rightful claim to the same measure of justice.

In the case of the James Lawrence, of which I have taken the liberty to give your excellency an account in detail, there was this additional irregularity and injustice in the proceedings of the court, that the pretended blockade, for a violation of which the vessel was condemned, had been formally revoked by the King and declared by the Spanish authorities in the West Indies to be no longer in force before the time of her capture. The decree of revocation was brought out to Puerto Rico by a British frigate; and it was declared by the authorities of that island, upon the reception of it, that it was to be considered as taking effect from the day of its date, which, as I stated above, was December 21, 1822. Two or three vessels belonging to citizens of the United States, which had been condemned for breaking the supposed blockade at periods subsequent to that date, were accordingly restored at once. The James Lawrence was then on trial before the Admiralty Court at St. John's, but not being charged, as I have already observed, with a breach of the blockade, she could not take advantage of the decree of revocation. When the case was brought by appeal before the Marine Junta at the Havana, in the way I have described, that tribunal, with the same open disregard for the forms and principles of justice which had marked every stage of their proceedings, declared the blockade to be in force, notwithstanding the King's decree by which it was revoked. The pretence alleged was, that the decree did not take effect until it had been published by General Morales, which was not until the 8th March, 1823; as if the court could be supposed to be ignorant that notifications of the commencement and termination of blockades are regularly made by Governments to each other, through the medium of their ministers of State, and in that way only; or as if the attestation of General Morales, a personage unknown to foreign Powers, could add any weight to that of the Secretary of State, whose official character they were authorized and bound to acknowledge. It was in vain that these considerations, however obvious, were urged upon the attention of the Marine Junta. It was in vain that their own official counsellor, the Oidor of Marine, advised them strongly to confirm the decree of the Judge of Admiralty at St. John's, Porto Rico, and acquit the vessel, assuring them that the port of Laguayra was not in a state of blockade when she entered it. In vain did two of the most respectable members of the junta express the same opinion. The majority were bent upon their purpose, and the James Lawrence was finally condemned.

It only remained for the court, in order to fill up the measure of their iniquities, to attempt to deprive the owners of the advantage of an appeal, which they did, and with success. The owners were entitled by law, to an appeal to the Supreme Courts sitting at this place, without giving security to the captors; but the junta refused to allow them this privilege, and compelled them to enter into bonds to indemnify the captors in the event of failure, for all the damages which they might suffer by the further prosecution of the cause. The Oidor again interposed and assured the court that their proceedings were illegal; and the court a second time set at defiance the advice of their own official counsellor. The owners, meanwhile, being unable, in the state of impoverishment to which they had been reduced by the loss of their ship

and cargo, to pay the enormous costs and furnish the large security which was so unjustly required, were compelled to abandon their appeal and throw themselves upon the protection of their own Government.

Such, sir, are the circumstances in detail of one of the cases of spoliation in which the claims of the United States are founded. They will serve to give you an idea of the general complexion of the rest, and will enable his Majesty's Government to judge how far the reasons assigned in your excellency's note for refusing to accede to the propositions of the United States can be regarded as satisfactory. You will perceive that the general question of the King's right to interdict the trade with the colonies is not in any way involved in the merits of the case which rest upon the gross and repeated irregularities in the forms of the proceedings. You will perceive, in this case, that the ship was captured, in the first instance, in the most vexatious manner, and brought to trial upon a charge for which there was not a shadow of foundation, under circumstances of fraud and oppression on the part of the captors, which called forth the animadversion of the court itself; that having obtained an acquittal with costs and damages, the owners were again brought to trial, and, without notice, condemned for an offence with which they were not charged; condemned for breaking a blockade which had been revoked before they left the United States; and, finally, deprived of their right of appeal; while the captors, whose conduct had been from the beginning fraudulent and vexatious, and had been recognized and punished as such by the court itself, were treated at every subsequent stage of the process with illegal indulgence. In all these proceedings there is no question concerning general or disputed principles of public law. When the Spanish Government refuse to grant satisfaction in cases of this kind, on the ground that the King has a right to interdict trade with his colonies, it can only be because they have somewhat hastily prejudged, upon a mere proposal to negotiate, the merits of claims, concerning which they could have, and had, in fact, no correct information in detail. Without contesting the King's right to interdict trade with his colonies, it is equally certain that neutrals, when captured by Spanish privateers, have a right to a fair trial; and that if they be deprived of their property without it, they have a right to claim compensation of the Spanish Government. Such is the character of the greater part, and probably of the whole of the claims now presented by the United States.

Your excellency will not consider it unnatural that acts of injustice so glaring as those which I have now detailed, committed in time of profound peace by the agents of a professedly friendly Power, in the neighborhood and almost within view of the coast of the United States, upon their unoffending citizens, should have excited a strong sentiment of indignation and alarm throughout the country. As an evidence of the character and degree of this feeling, I take the liberty of informing your excellency of the proceedings that took place in regard to the same case of the James Lawrence, of which I have stated the details above. The parties interested in this vessel addressed a memorial to the Senate of the United States, representing the injuries they had suffered from the Spanish authorities, which was referred by the Senate to the Secretary of State, (now President of the United States,) who made thereupon the following report:

"DEPARTMENT OF STATE, *Washington, February* 2, 1825.

"The Secretary of State, to whom, by a resolution of the Senate of the United States, was referred the memorial of James Ray and others, owners of the brig James Lawrence and cargo, captured by a Spanish privateer and carried into St. John's, Puerto Rico, praying the interposition of the Government, with the documents accompanying the same, to consider and report thereon, has the honor of reporting:

"That the case of the James Lawrence is one of those of flagrant outrage upon the property of the citizens of the United States, upon which the Executive Government of the United States have, for the last three years, constantly applied, near the Spanish authorities, exertions for reparation equally strenuous and unavailing. That the capture, in the first instance, was illegal, and that the proceedings of the Court of Appeal, condemning the property, were irregular, cannot be doubted. *A last appeal* to the justice of his Catholic Majesty is all that remains practicable in this case short of measures which, by authorizing *reprisals*, would assume upon the United States themselves the task of dispensing to their citizens that justice which has hitherto been sought from the Spanish authorities in vain."

With this *last appeal*, having been nominated by the President of the United States their minister at this Court a few weeks after the above report was made, I had the honor to be entrusted, and have now been urging it with unremitted assiduity for nearly three years more.

To the honorable the Senate and House of Representatives of the United States:

The memorial of James Ray, in behalf of himself and the other shippers on the brig James Lawrence, bound from Laguayra to Philadelphia, captured by a Spanish privateer, and carried into St. John's, Porto Rico, respectfully represents: That your memorialist, owner of the said brig and part of the cargo, hath already memorialized your honorable House on the great and manifest injustice practiced towards them by the Spanish tribunal at the Havana, in altering and falsifying the records of the said court, *after* your memorialists had appealed from its decision, and *after* transcripts of the judgment had been taken out and granted them to prosecute the said appeal at Madrid; and, in support of the said memorial, had laid before your honorable House a letter from Judge Randall, of Florida, who had been agent of the United States at Havana at the time the appeal was sued forth; and having, within a day or two, received a certificate from John Mountain, Esq., late vice consul at the Havana, and Thomas Bradun, a respectable merchant at Wilmington, Delaware, detailing facts which fully prove the allegations contained in the said memorial, and show the statement made by Judge Randall to be entirely correct, your memorialists respectfully beg leave to lay them before your honorable body, and again reiterate their prayer to be protected against the piracy and robbery of their property by the Spanish authorities; and, as in duty bound, they will ever pray, &c., &c.

JAMES RAY, *in behalf of himself and the rest of the shippers.*

[Duplicate.]

I, John Mountain, late vice agent for American commerce and seamen at the city of Havana, in the island of Cuba, do hereby certify that Mr. Edmund Ray did visit the said city of Havana, in the summer of 1824, and appeared clothed with competent powers, as agent for the owners and underwriters, (in the absence of Captain Green,) to defend an appeal made by the captors of the brig James Lawrence, from the court or tribunal of Porto Rico, to which port the said brig was taken, when made a prize, and at which place, by the competent authorities, was given up to the owners, deeming the capture to be illegal; and that the captors were held to bail for amount, cargo, and damages awarded by said court at Porto Rico; from which decision the captors appealed to the higher court then held, in 1824, at the said city of Havana; that it did appear that through some management the court or tribunal at Havana did reverse the decree given in the case at Porto Rico, and at the same time demanded the expenses incurred in the case, amounting to a large sum of money, which demand Mr. Ray refused to pay, alleging that he was, in fact, a sub-agent, and acting by authority emanating from the owners and underwriters of said brig and cargo, in the absence of Captain Green, the legal and lawful agent of the said concern at the time of the capture, and as such was recognized by the court at Porto Rico; and, inasmuch as the said Captain Green was now insolvent and unable to pay anything, to which good and sufficient proof was made to the court, as it appeared was required; which plea, according to common usage in Spanish law, was admitted; and upon which Mr. Ray did direct that an appeal be made from the decision of court or tribunal at Havana to the Superior Court at Madrid; which request was granted Mr. Ray, with a decree that the original proceedings in the different courts held in the case should be forwarded to Madrid by the first King's courier; and at the same time did order and direct that the parties respectively should have twelve months to appear, either in person or by representatives, at the said court at Madrid, there to await the decision of his Majesty's court in the case.

JOHN MOUNTAIN.

WILMINGTON, *December* 31, 1827.

I, Thomas Bradun, of Wilmington, Delaware, merchant, do hereby certify and attest that I was in the city of Havana in the summer of 1824, where I met my friend, Mr. Edmund Ray, who appeared to be defending an appeal then making by the captors of the brig James Lawrence, which vessel and cargo, as it did appear, had been taken into the island of Porto Rico, where she, with her cargo, it had been decreed were illegally held; and, as I understood, the vessel was, by the legal authorities of Porto Rico, given up, and the captors held to bail for amount of cargo, with the damages allowed by the court; that the tribunal at Havana by some means reversed the decree made at Porto Rico; upon which a demand was made upon Mr. Ray for expenses incurred at Havana; but he making proof of the insolvency of Captain Green, the legal agent for the owners and underwriters of said brig and cargo, at the time of the capture, was, in accordance with Spanish law, liberated and excused from all charges in the case. Mr. Ray then demanded an appeal from the court at Havana to his Majesty's court at Madrid, which demand was granted, with an order that all the parties should appear in twelve months to prosecute their claims, and that the proceedings of the different courts should be forwarded to Madrid by the first King's courier. This decree was made and dated in the month of November, in the aforesaid year of 1824.

THOMAS BRADUN.

WILMINGTON, *December* 31, 1827.

20TH CONGRESS.] No. 491. [1ST SESSION.

TREATY OF COMMERCE AND NAVIGATION WITH PRUSSIA.

COMMUNICATED TO THE SENATE, IN EXECUTIVE SESSION, MAY 9, 1828.

To the Senate of the United States:

I communicate to the Senate, for their consideration and advice, a treaty of commerce and navigation between the United States and his Majesty the King of Prussia, signed on the first instant at this place by the Secretary of State and the Chargé d'Affaires of Prussia residing here. A copy of the treaty is also transmitted.

JOHN QUINCY ADAMS.

WASHINGTON, *May* 5, 1828.

TREATY OF COMMERCE AND NAVIGATION BETWEEN THE UNITED STATES OF AMERICA AND HIS MAJESTY THE KING OF PRUSSIA.

[Original.]

The United States of America and his Majesty the King of Prussia, equally animated with the desire of maintaining the relations of good understanding which have hitherto so happily subsisted between their respective States, of extending also and consolidating the commercial intercourse between them, and

convinced that this object cannot better be accomplished than by adopting the system of an entire freedom of navigation and a perfect reciprocity, based upon principles of equity equally beneficial to both countries, and applicable, in time of peace as well as in time of war, have, in consequence, agreed to enter into negotiations for the conclusion of a treaty of navigation and commerce; for which purpose the President of the United States has conferred full powers on Henry Clay, their Secretary of State, and his Majesty, the King of Prussia, has conferred like powers on the Sieur Ludwig Niederstetter, Chargé d'Affaires of his said Majesty near the United States; and the said plenipotentiaries having exchanged their said full powers, found in good and due form, have concluded and signed the following articles:

ARTICLE 1. There shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation. The inhabitants of their respective States shall mutually have liberty to enter the ports, places, and rivers of the territories of each party wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories, in order to attend to their affairs, and they shall enjoy, to that effect, the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing.

ARTICLE 2. Prussian vessels arriving, either laden or in ballast, in the ports of the United States of America, and, reciprocally, vessels of the United States arriving, either laden or in ballast, in the ports of the Kingdom of Prussia, shall be treated on their entrance, during their stay, and at their departure, upon the same footing as national vessels coming from the same place, with respect to the duties of tonnage, light-houses, pilotage, salvage, and port charges, as well as to the fees and perquisites of public officers, and all other duties or charges of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishment whatsoever.

ARTICLE 3. All kind of merchandise and articles of commerce, either the produce of the soil or the industry of the United States of America, or of any other country, which may be lawfully imported into the ports of the Kingdom of Prussia in Prussian vessels, may also be so imported in vessels of the United States of America without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if the same merchandise or produce had been imported in Prussian vessels. And, reciprocally, all kinds of merchandise and articles of commerce, either the produce of the soil or of the industry of the Kingdom of Prussia, or of any other country, which may be lawfully imported into the ports of the United States in vessels of the said States, may also be so imported in Prussian vessels without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishment whatsoever, than if the same merchandise or produce had been imported in vessels of the United States of America.

ARTICLE 4. To prevent the possibility of any misunderstanding, it is hereby declared that the stipulations contained in the two preceding articles are, to their full extent, applicable to Prussian vessels and their cargoes arriving in the ports of the United States of America; and, reciprocally, to vessels of the said States and their cargoes arriving in the ports of the Kingdom of Prussia, whether the said vessels clear directly from the ports of the country to which they respectively belong, or from the ports of any other foreign country.

ARTICLE 5. No higher or other duties shall be imposed on the importation into the United States of any article the produce or manufacture of Prussia, and no higher or other duties shall be imposed on the importation into the Kingdom of Prussia of any article the produce or manufacture of the United States, than are or shall be payable on the like article, being the produce or manufacture of any other foreign country. Nor shall any prohibition be imposed on the importation or exportation of any article the produce or manufacture of the United States or of Prussia to or from the ports of the United States, or to or from the ports of Prussia, which shall not equally extend to all other nations.

ARTICLE 6. All kind of merchandise and articles of commerce, either the produce of the soil or of the industry of the United States of America, or of any other country, which may be lawfully exported from the ports of the said United States in national vessels, may also be exported therefrom in Prussian vessels without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if the same merchandise or produce had been exported in vessels of the United States of America.

An exact reciprocity shall be observed in the ports of the Kingdom of Prussia, so that all kind of merchandise and articles of commerce, either the produce of the soil or the industry of the said Kingdom, or of any other country, which may be lawfully exported from Prussian ports in national vessels, may also be exported therefrom in vessels of the United States of America without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if the same merchandise or produce had been exported in Prussian vessels.

ARTICLE 7. The preceding articles are not applicable to the coastwise navigation of the two countries, which is respectively reserved by each of the high contracting parties exclusively to itself.

ARTICLE 8. No priority or preference shall be given, directly or indirectly, by either of the contracting parties, nor by any company, corporation, or agent, acting on their behalf or under their authority, in the purchase of any article of commerce lawfully imported, on account of, or in reference to, the character of the vessel, whether it be of the one party or of the other, in which such article was imported: it being the true intent and meaning of the contracting parties that no distinction or difference whatever shall be made in this respect.

ARTICLE 9. If either party shall hereafter grant to any other nation any particular favor in navigation or commerce, it shall immediately become common to the other party freely where it is freely granted to such other nation, or on yielding the same compensation when the grant is conditional.

ARTICLE 10. The two contracting parties have granted to each other the liberty of having, each, in the ports of the other, consuls, vice consuls, agents, and commissaries, of their own appointment, who shall enjoy the same privileges and powers as those of the most favored nations; but. if any such consuls shall exercise commerce, they shall be submitted to the same laws and usages to which the private individuals of their nation are submitted in the same place.

The consuls, vice consuls, and commercial agents shall have the right, as such, to sit as judges and arbitrators in such differences as may arise between the captains and crews of the vessels belonging to the nation whose interests are committed to their charge, without the interference of the local authorities, unless the conduct of the crew, or of the captain, should disturb the order or tranquillity of the country, or the said consuls, vice consuls, or commercial agents should require their assistance to cause their

decisions to be carried into effect or supported. It is, however, understood that this species of judgment or arbitration shall not deprive the contending parties of the right they have to resort, on their return, to the judicial authority of their country.

ARTICLE 11. The said consuls, vice consuls, and commercial agents are authorized to require the assistance of the local authorities for the search, arrest, and imprisonment of the deserters from the ships-of-war and merchant vessels of their country. For this purpose they shall apply to the competent tribunals, judges, and officers, and shall, in writing, demand said deserters, proving, by the exhibition of the registers of the vessels, the rolls of the crews, or by other official documents, that such individuals formed part of the crews, and, on this reclamation being thus substantiated, the surrender shall not be refused. Such deserters, when arrested, shall be placed at the disposal of the said consuls, vice consuls, or commercial agents, and may be confined in the public prisons, at the request and cost of those who shall claim them, in order to be sent to the vessels to which they belonged, or to others of the same country. But if not sent back within three months from the day of their arrest, they shall be set at liberty, and shall not be again arrested for the same cause. However, if the deserter should be found to have committed any crime or offence, his surrender may be delayed until the tribunal before which his case shall be depending shall have pronounced its sentence, and such sentence shall have been carried into effect.

ARTICLE 12. The twelfth article of the treaty of amity and commerce concluded between the parties in 1785, and the articles from the thirteenth to the twenty-fourth, inclusive, of that which was concluded at Berlin in 1799, with the exception of the last paragraph in the nineteenth article relating to the treaties with Great Britain, are hereby revived with the same force and virtue as if they made part of the context of the present treaty; it being, however, understood that the stipulations contained in the articles then revived shall be always considered as in no manner affecting the treaties or conventions concluded by either party with other Powers during the interval between the expiration of the said treaty of 1799 and the commencement of the operation of the present treaty.

The parties being still desirous, in conformity with their intention declared in the twelfth article of the said treaty of 1799, to establish between themselves, or in concert with other maritime Powers, further provisions to insure just protection and freedom to neutral navigation and commerce, and which may, at the same time, advance the cause of civilization and humanity, engage again to treat on this subject at some future and convenient period.

ARTICLE 13. Considering the remoteness of the respective countries of the two high contracting parties, and the uncertainty resulting therefrom with respect to the various events which may take place, it is agreed that a merchant vessel belonging to either of them, which may be bound to a port supposed, at the time of its departure, to be blockaded, shall not, however, be captured or condemned for having attempted, a first time to enter said port, unless it can be proved that said vessel could and ought to have learned during its voyage, that the blockade of the place in question still continued. But all vessels which, after having been warned off once, shall, during the same voyage, attempt a second time to enter the same blockaded port during the continuance of said blockade, shall then subject themselves to be detained and condemned.

ARTICLE 14. The citizens or subjects of each party shall have power to dispose of their personal goods within the jurisdiction of the other by testament, donation, or otherwise, and their representatives, being citizens or subjects of the other party, shall succeed to their personal goods, whether by testament or *ab intestato*, and may take possession thereof, either by themselves or by others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein the said goods are shall be subject to pay in like cases; and, in case of the absence of the representative, such care shall be taken of the said goods as would be taken of the goods of a native in like case, until the lawful owner may take measures for receiving them; and if question should arise among several claimants to which of them said goods belong, the same shall be decided finally by the laws and judges of the land wherein the said goods are; and where, on the death of any person holding real estate within the territories of the one party, such real estate would, by the laws of the land, descend on a citizen or subject of the other, were he not disqualified by alienage, such citizen or subject shall be allowed a reasonable time to sell the same, and to withdraw the proceeds without molestation, and exempt from all duties of *detraction* on the part of the Government of the respective States. But this article shall not derogate, in any manner, from the force of the laws already published, or hereafter to be published, by his Majesty the King of Prussia to prevent the emigration of his subjects.

ARTICLE 15. The present treaty shall continue in force for twelve years, counting from the day of the exchange of the ratifications; and if, twelve months before the expiration of that period, neither of the high contracting parties shall have announced, by an official notification, to the other, its intention to arrest the operation of said treaty, it shall remain binding for one year beyond that time, and so on until the expiration of the twelve months which will follow a similar notification, whatever the time at which it may take place.

ARTICLE 16. This treaty shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by his Majesty the King of Prussia, and the ratifications shall be exchanged in the city of Washington, within nine months from the date of the signature hereof, or sooner, if possible.

In faith whereof, the respective plenipotentiaries have signed the above articles, both in the French and English languages, and they have thereto affixed their seals, declaring, nevertheless, that the signing in both languages shall not be brought into precedent, nor in any way operate to the prejudice of either party.

Done in triplicate, at the city of Washington, on the first day of May, in the year of our Lord one thousand eight hundred and twenty-eight, and the fifty-second of the Independence of the United States of America.

H. CLAY.
LUDWIG NIEDERSTETTER.

[Original.]

Traité de Commerce et de Navigation entre sa Majeste le Roi de Prusse et les Etats Unis d'Amérique.

Sa Majesté le Roi de Prusse et les Etats Unis d'Amérique, également animés du desir de maintenir les rapports de bonne intelligence qui ont si heureusement subsisté jusqu'ici entre leurs Etats respectifs, et d'en étendre et consolider les relations commerciales, et convainciés que cet objet ne sauroit être mieux rempli qu'en adoptant le systême d'une entière liberté de navigation, et d'une parfaite réciprocité, basé sur des principes d'equité egalement avantageux aux deux pays, et applicables en temps de paix comme en temps de guerre; sont, en conséquence convenus d'entrer en négociation pour conclure un traité de commerce et de navigation. A cet effet, sa Majesté le Roi de Prusse a muni de pleins pouvoirs le Sieur Ludwig Niédersetter, Chargé d'Affaires de sa dite Majesté près les Etats Unis d'Amérique, et le Président des Etats Unis d'Amérique, a muni des mêmes pouvoirs Henri Clay, leur Secrétaire d'Etat; lesquels plénipotentiaires, après avoir echangé leurs dits pleins pouvoirs, trouvés en bonne et due forme, on arrêté et signé les articles suivans:

ARTICLE 1. Il y aura, entre les territoires des hautes parties contractantes, liberté et réciprocité de commerce et de navigation. Les habitans de leurs Etats respectifs pourront réciproquement entrer dans les ports, places, et rivieres des territoires de chacune d'elles, partout ou le commerce étranger est permis. Ils seront libres de s'y arrêter et résider dans quelque partie que ce soit desdits territoires, pour y vaquer à leurs affaires; et ils souiront, à cet effet de la même sécurité et protection que les habitans du pays dans lequel ils résideront, à charge de se soumettre aux lois et ordonnances y établies.

ARTICLE 2. Les bâtimens Prussiens arrivant, sur lest ou chargés dans les ports des Etats Unis d'Amérique; et réciproquement, les bâtimens des Etats Unis arrivant, sur lest ou chargés dans les ports du Royaume de Prusse, seront traités, à leur entrée, pendant leur séjour, et à leur sortie, sur le même pied que les bâtimens nationaux venant du même lieu, par rapport aux droits de tonnage, de fanaux, de pilotage, de sauvetage, et de port, ainsi qu'aux vacations des officiérs publics, et à tout autre droit ou charge, de quelque espèce ou dénomination que ce soit, perçus au nom ou au profit du Gouvernement, des autorités locales, ou d'établissemens particulièrs quelconques.

ARTICLE 3. Toute espèce de marchandises et objets de commerce, provenant du sol ou de l'industrie des Etats Unis d'Amérique, ou de tout autre pays, qui pourront légalement être importés dans les ports du royaume de Prusse, sur des bâtimens Prussiens, pourront également y être importés sur des bâtimens des Etats Unis d'Amérique, sans payer d'autres, ou plus forts droits ou charges, de quelque espèce ou denomination que ce soit, perçus ou nom ou au profit du Gouvernement des autorités locales, ou d'établissemens particuliers quelconques, que s'ils étoient importés sur des bâtimens Prussiens. Et réciproquement, toute espèce de merchandises et objets de commerce, provenant du sol ou de l'industrie du royaume de Prusse, ou de tout autre pays, qui pourront légalement être importés dans les ports des Etats Unis d'Amérique, sur des bâtimens desdits Etats, pourront également y être importés sur des bâtimens Prussiens, sans payer d'autres ou plus forts droits ou charges, de quelque espéce ou dénomination que ce soit, perçus au nom ou au profit du Gouvernement, des autorités locales, ou d'établissemens particuliers, quelconques, que s'ils étoient importés sur des bâtimens des Etats Unis d'Amérique.

ARTICLE 4. Afin de prévenir tout mésentendu et équivoque possibles, il est déclaré que les stipulations contenues dans les deux articles précédens, sont dans toute leur plénitude applicables aux bâtimens Prussiens et leur cargaisons, arrivant dans les portes des Etats Unis d'Amérique; et réciproquement, aux bâtimens des dit Etats et leurs cargaisons arrivant dans les ports du royaume de Prusse, soit que les dits bâtimens viennent des ports du pays auquels ils appartiennent, soit de ceux de tout autre pays étranger.

ARTICLE 5. Je ne sera imposé d'autres ni de plus forts droits sur l'importation dans les Etats Unis, des articles provenant du sol ou de l'industrie du royaume de Prusse; et il ne sera imposé d'autres ni de plus forts droits sur l'importation dans le royaume de Prusse, des articles provenant du sol ou de l'industrie des Etats Unis, que ceux qui sont, ou seront imposés sur les mêmes articles provenant du sol ou de l'industrie de tout autre pays étranger. De même il ne sera imposé sur l'importation ou sur l'exportation des articles provenant du sol ou de l'industrie des Etats Unis, ou d royaume de Prusse, à l'entrée ou à la sortie des ports des Etats Unis, ou de ceux du royaume de Prusse, aucune prohibition qui ne soit pas également applicable à toute autre nation.

ARTICLE 6. Toute espèce de marchandises et objets de commerce provenant du sol ou de l'industrie des Etats Unis, ou de tout autre pays, qui pourront être légalement exportés des ports des dits Etats, sur des bâtimens nationaux, pourront également en être exportés sur des bâtimens Prussiens, sans payer d'autres ni plus forts droits ou charges, de quelque espèce ou dénomination que ce soit, perçus au nom ou au profit du Gouvernement, des autorités locales, ou d'establissemens particuliers quelconques, que si ces mêmes marchandises ou deurées avaient été exportées par bâtimens des Etats Unis d'Amerique.

Une parfaite réciprocité sera observée dans les ports du royaume de Prusse, de sorte que toute espèce de marchandises et objets de commerce, provenant du sol ou de l'industrie du royaume de Prusse, ou de tout autre pays, qui pourront être légalement exportées des ports du dit royaume, sur des bâtimens nationaux, pourront également en être exportes sur des bâtimens des Etats Unis d'Amerique, sans payer d'autres ou de plus forts droits ou charges, de quelque espèce ou dénomination que ce soit, perçus ou nom ou au profit du Gouvernement, des autorités locales, ou d'établissemens particuliers quelconques, que si ces marchandises ou deurées avaient été exportées sur des bâtimens Prussiens.

ARTICLE 7. Les articles précédens ne sont pas applicable á la navigation de côtes ou cabotage de chacun des deux pays, que l'une et l'autre des hautes parties contractantes se reservent exclusivement.

ARTICLE 8. Il ne sera accordé ni directement, ni indirectement, par l'une ou par l'autre des parties contractantes, ni par aucune compagnie, corporation, ou agent agissant en son nom, ou par un autorité, aucune priorité ou préférence quelconque, pour l'achat d'aucun objet du commerce, légalement importé à cause ou en consideration de la nationalité du navire, qui auroit importé les dits objets, soit qu'il appartienne à l'une des parties, soit à l'autre; l'intention bien positive des parties contractantes, étant qu' aucune différence ou distinction quelconque n'ait lieu à cet égard.

ARTICLE 9. Si l'une des parties contractantes accorde, par la suite, à d'autres nations quelque faveur particuliere, en fait de commerce ou de navigation, cette faveur deviendra aussitot commune à l'autre partie, qui en jouira gratuitement, si la concession est gratuite, ou en accordant la même compensation si la concession est conditionelle.

ARTICLE 10. Les deux parties contractantes se sont accordé mutuellement la faculté de tenir dans

leurs ports respectifs, des consuls, vice consuls, agens et commissaires de leur choix, qui jouiront des mêmes privilèges et pouvoirs dont jouissent ceux des nations les plus favorisées; mais dans le cas ou les dits consuls veuillent faire le commerce, ils seront soumis aux mêmes lois et usages, auxquels sont soumis les particuliers de leur nation à l'endroit où ils résident.

Les consuls, vice consuls, et agens commerciaux, auront le droit, comme tels, de servir de juges et d'arbitres dans les différens qui pourroient s'elever entre les capitaines et les équipages des bâtimens de la nation dont ils soignent les intérèts, sans que les autorités locales puissent y intervenir, à mours que la conduite des équipages ou du capitaine ne troublât l'ordre ou la tranquilité du pays, ou que les dits consuls, vice consuls, ou agens commerciaux, ne réquissent leur intervention pour faire exécuter ou maintenir leurs décisions; bien intendu que cette espèce de jugement ou d'arbitrage, ne sauroit, pourtant priver les parties contendantes du droit qu'elles ont, à leur retour de recourir aux autorités judiciaires de leur pays.

Article 11. Les dits consuls, vice consuls, ou agens commerciaux, sont autorisés à requérir l'assistance des autorités locales, pour la recherche l'arrestation, la détention, et l'emprisonnement, des déserteurs des navires de guerre et marchands de leur pays; ils s'adresseront, pour cet objet, aux tribunaux, juges, et officiers compétens, et réclameront, par écrit, les déserteurs susmentionnés, en prouvant par la communication des régistres des navires, ou rôles de l'équipage ou par d'autres documens officiels, que de tels individus ont fait partie des dits équipages, et cette réclamation ainsi prouvée, l'extradition ne sera point refusée.

De tels deserteurs, lorsqu'ils auront été arrêtés, seront mis à la disposition des dits consuls, vice consuls, ou agens commerciaux, et pourront être enfermés dans les prisons publiques, à la réquisition et aux frais de ceux qui les réclament, pour être envoyés aux navires auxquels ils appartenoient, ou à d'autres de la même nation. Mais s'ils ne sont pas renvoyés dans l'espace de trois mois, à compter du jour de leur arrestation, ils seront mis en liberté, et ne seront plus arrétés pour la même cause.

Toutefois, si le déserteur se trouvoit avoir commis quelque crime ou délit, il pourra être sursis à son extradition, jusqu'à ce que le tribunal nanti de l'affaire, aura rendu sa sentence, et que celleci ait reçu son exécution.

Article 12. L'article douze du traité d'amitié et de commerce, conclu entre les parties en 1785; et les articles treize et suivans, jusqu'à l'article vingtquatre, inclusivement, du traité conclu à Berlin, en 1799, en exceptant le dernier paragraphe de l'article dix-neuf, touchant les traités avec la Grand Bretagne, sont remis en vigueur, et auront la même force et valeur que s'ils faisoient partie du présent traité; il est entendu, cependant que les stipulations contenues dans les articles ainsi remis en vigueur, seront toujours censeés ne rien changer aux traités et conventions conclus de part et d'autre, avec d'autres puissances, dans l'intervalle écoulé entre l'expiration dudit traité de 1799, et le commencement de la mise en vigueur du présent traité.

Les parties contractantes, desirant toujours, conformément à l'intention déclarée dans l'article douze du dit traité de 1799, pourvoir, entre elles, ou conjointement avec d'autres puissances maritimes, à des stipulations ultérieures, qui puissent servir à garantir une juste protection et liberté au commerce et à la navigation des neutres, et à aider la cause de la civilisatic n et de l'humanité, s'engagent ici comme alors, à concerter ensemble sur ce sujet, à quelque époque future et convenable.

Article 13. Fû l'eloignement de pays respectifs des deux hautes parties contractantes, et l'incertitude qui en résulte sur les divers événemens qui peuvent avoir lieu, il est convenue qu'un bâtiment marchand appartenant à l'une d'elles, qui se trouveroit destiné pour un port supposé bloqué, au moment du départ de ce bâtiment, ne sera cependant pas capturé ou condamné pour avoir essayé une premiere fois d'entrer dans le dit port, à moins qu'il ne puisse être prouvé qui ledit bâtiment avoit pû et dû apprendre en route que l'état de blocas de la place en question duroit encore; mais les bâtimens qui, après avoir été renvoyés une fois, essayeroient, pendant le même voyage d'entrer une seconde fois dans le même port bloqué, durant la continuation de ce blocus, se trouveront alors sujets à être détenus et condamnés.

Article 14. Les citoyens et sujets de chacune des hautes parties contractantes, auront, dans les Etats de l'autre la liberté de disposer de leurs biens personnels, soit par testament, donation, ou autrement, et leurs héritiers étant sujets ou citoyens de l'autre partie contractante, succéderont à leurs biens, soit en vertu d'un testament, soit *ab intestato*, et ils pourront en prendre possession, soit en personne, soit par d'autres agissant en leur place, et en disposeront à leur volonté, en ne payant d'autres droits que ceux auxquels les habitans du pays où se trouvent les dits biens, sont assujettis en pareille occasion. En cas d'absence des héritiers, on prenda provisoirement des dits biens les mêmes soins qu'on auroit pris en pareille occasion des biens das natifs du pays, jusqu'à ce que le propriétaire légitime ait agréé des arrangemens pour recueillir l'héritage. S'il s'elève des contestations entre les différens prétendans ayant droit à la succession, elles seront décidées en dernier ressort, selon les lois, etpar les juges du pays où la succession est vacante. Et si, par la mort de quelque personne possidant desbiens-fonds sur le territoire de l'une des parties contractantes, ces biens-fonds venoient à passer, selon les lois du pays, à un citoyen ou sujet de l'autre partie, celui-ci, si, par sa qualité d'étranger, il est inhabile à, les posséder, obtiendra un délai convenable pour les vendre, et pour en retirer le produit sans obstacle, et exempte de tout droit de retenue, de la part du Gouvernement des Etats respectifs. Mais cet article e dérogeran en aucune maniere à la force des lois qui ont déja été publiées, ou qui le seront par la suite par sa Majesté le Roi de Prusse, pour prévenir l'émigration de ses sujets.

Article 15. Le présent traité sera en vigeur pendant douze années, à comprte du jour de l'échange des ratifications, et si douze mois avant l'expiration de ce terme, ni l'une ni l'autre de hautes parties contractantes, n'annonce à l'autre par une declaration officielle, son intention d'en faire cesser l'effet, ledit traité restera obligatoire pendant un an audela de ce terme, et ainsi de suite, jusqu'à l'expiration des douze mois qui suivront une telle déclaration, à quelque époque qu'elle ait lieu.

Article 16. Le présent traité sera apprové et ratifié par sa Majesté le Roi de Prusse, et par le Président des Etats Unis d'Amérique, par et avec l'avis et le consentement du Sénat des dit Etats, et les ratifications en seront échangées en le ville de Washington, dans l'espace de neuf mois, à dater de ce jour, ou plutôt, si faire se peut.

En foi de quoi les plenipotentiaires respectifs ont signé les articles ci-dessus, tant en Français qu'en Anglais, et y ont apposé leurs sceaux, déclarant, toutefois, que la signature dans ces deux langues, ne doit pas, har la suite, être citée comme example, ni, en aucune maniere, porter prejudice aux parties contractantes.

Fait par triplicata en la cité de Washington, le premier Mai, l'an de Grâce mil huit cent vingt huit, et le cinquante deuxième de l'Independance des Etats Unis d'Amérique.

LUDWIG NIEDERSTETTER.
H. CLAY.

APPENDIX.

ARTICLE 12. If one of the contracting parties should be engaged in war with any other Power the free intercourse and commerce of the subjects or citizens of the party remaining neuter with the belligerent Powers shall not be interrupted. On the contrary, in that case, as in full peace, the vessels of the neutral party may navigate freely to and from the ports and on the coasts of belligerent parties, free vessels making free goods, insomuch that all things shall be adjudged free which shall be on board any vessel belonging to the neutral party, although such things belong to an enemy of the other, and the same freedom shall be extended to persons who shall be on board a free vessel, although they should be enemies to the other party, unless they be soldiers in actual service of such enemy.

ARTICLE 13. And in the same case of one of the contracting parties being engaged in war with any other Power, to prevent all the difficulties and misunderstanding that usually arise respecting the merchandise of contraband, such as arms, ammunition, and military stores of every kind, no such articles carried in the vessels, or by the subjects or citizens of either party, to the enemies of the other, shall be deemed contraband, so as to induce confiscation or condemnation and a loss of property to individuals. Nevertheless, it shall be lawful to stop such vessels and articles, and to detain them for such length of time as the captors may think necessary, to prevent the inconvenience or damage that might ensue from their proceeding; paying, however, a reasonable compensation for the loss such arrest shall occasion to the proprietors; and it shall further be allowed to use in the service of the captors the whole or any part of the military stores so detained, paying the owners the full value of the same, to be ascertained by the current price at the place of its destination. But in the case supposed, of a vessel stopped for articles of contraband, if the master of the vessel stopped will deliver out the goods supposed to be of contraband nature, he shall be admitted to do it, and the vessel shall not in that case be carried into any port, nor further detained, but shall be allowed to proceed on her voyage.

All cannons, mortars, fire-arms, pistols, bombs, grenades, bullets, balls, muskets, flints, matches, powder, saltpetre, sulphur, cuirasses, pikes, swords, belts, cartouch boxes, saddles, and bridles, beyond the quantity necessary for the use of the ship, or beyond that which every man serving on board the vessel or passenger ought to have, and, in general, whatever is comprised under the denominations of arms and military stores, of what description soever, shall be deemed objects of contraband.

ARTICLE 14. To insure to the vessels of the two contracting parties the advantage of being readily and certainly known in time of war, it is agreed that they shall be provided with the sea-letters and documents hereafter specified:

1. A passport, expressing the name, the property, and the burden of the vessel, as also the name and dwelling of the master; which passport shall be made out in good and due form, shall be renewed as often as the vessel shall return into port, and shall be exhibited whensoever required, as well in the open sea as in port. But if the vessel be under convoy of one or more vessels of war belonging to the neutral party, the simple declaration of the officer commanding the convoy that the said vessel belongs to the party of which she is, shall be considered as establishing the fact, and shall relieve both parties from the trouble of further examination.

2. A charter party; that is to say, the contract passed for the freight of the whole vessel, or the bills of lading given for the cargo in detail.

3. The list of the ship's company, containing an indication by name and in detail of the persons composing the crew of the vessel. These documents shall always be authenticated according to the forms established at the place from which the vessel shall have sailed.

As their production ought to be exacted only when one of the contracting parties shall be at war, and as their exhibition ought to have no other object than to prove the neutrality of the vessel, its cargo, and company, they shall not be deemed absolutely necessary on board such vessels belonging to the neutral party as shall have sailed from its ports before, or within three months after, the Government shall have been informed of the state of war in which the belligerent party shall be engaged. In the interval, in default of these specified documents, the neutrality of the vessel may be established by such other evidence as the tribunals authorized to judge of the case may deem sufficient.

ARTICLE 15. And to prevent entirely all disorder and violence in such cases, it is stipulated that when the vessels of the neutral party sailing without convoy shall be met by any vessel of war, public or private, of the other party, such vessel of war shall not send more than two or three men in their boat on board the said neutral vessel to examine her passports and documents. And all persons belonging to any vessel of war, public or private, who shall molest or insult, in any manner whatever, the people, vessels, or effects of the other party, shall be responsible, in their persons and property, for damages and interest, sufficient security for which shall be given by all commanders of private armed vessels before they are commissioned.

ARTICLE 16. In times of war, or in cases of urgent necessity, when either of the contracting parties shall be obliged to lay a general embargo, either in all its ports or in certain particular places, the vessels of the other party shall be subject to this measure upon the same footing as those of the most favored nations, but without having the right to claim the exemption in their favor stipulated in the sixteenth article of the former treaty of 1785. But, on the other hand, the proprietors of the vessels which shall have been detained, whether for some military expedition or for what other use soever, shall obtain from the Government that shall have employed them an equitable indemnity, as well for the freight as for the loss occasioned by the delay. And furthermore, in all cases of seizure, detention, or arrest for debts contracted, or offences committed by any citizen or subject of the one party within the jurisdiction of the other, the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceedings usual in such cases.

ARTICLE 17. If any vessels or effects of the neutral Power be taken by an enemy of the other, or by a pirate, and retaken by the Power at war, they shall be restored to the first proprietor, upon the conditions hereafter stipulated in the twenty-first article for cases of recapture.

ARTICLE 18. If the citizens or subjects of either party, in danger from tempests, pirates, enemies, or other accident, shall take refuge with their vessels or effects within the harbors or jurisdiction of the other, they shall be received, protected, and treated with humanity and kindness, and shall be permitted to furnish themselves, at reasonable prices, with all refreshments, provisions, and other things necessary for their sustenance, health, and accommodation, and for the repair of their vessels.

ARTICLE 19. The vessels of war, public and private, of both parties shall carry freely wheresoever

they please the vessels and effects taken from their enemies, without being obliged to pay any duties, charges, or fees to officers of admiralty, of the customs, or any others; nor shall such prizes be arrested, searched, or put under legal process, when they come to and enter the ports of the other party, but may freely be carried out again at any time by their captors to the places expressed in their commissions, which the commanding officer of such vessel shall be obliged to show.

ARTICLE 20. No citizen or subject of either of the contracting parties shall take from any Power with which the other may be at war any commission or letter of marque for arming any vessel to act as a privateer against the other, on pain of being punished as a pirate; nor shall either party hire, lend, or give any part of its naval or military force to the enemy of the other to aid them, offensively or defensively, against the other.

ARTICLE 21. If the two contracting parties should be engaged in a war against a common enemy, the following points shall be observed between them:

1. If a vessel of one of the parties taken by the enemy shall, before being carried into a neutral or enemy's port, be retaken by a ship of war or privateer of the other, it shall, with the cargo, be restored to the first owners for a compensation of one-eighth part of the value of the said vessel and cargo, if the recapture be made by a public ship of war; and one sixth part if made by a privateer.

2. The restitution in such cases shall be after due proof of property and surety given for the part to which the recaptors are entitled.

3. The vessels of war, public and private, of the two parties shall reciprocally be admitted, with their prizes, into the respective ports of each; but the said prizes shall not be discharged or sold there until their legality shall have been decided, according to the laws and regulations of the State to which the captor belongs, but by the judicatories of the place into which the prize shall have been conducted.

4. It shall be free to each party to make such regulations as they shall judge necessary for the conduct of their respective vessels of war, public and private, relative to the vessels which they shall take and carry into the ports of the two parties.

ARTICLE 22. Where the contracting parties shall have a common enemy, or shall both be neutral, the vessels of war of each shall, upon all occasions, take under their protection the vessels of the other going the same course, and shall defend such vessels, as long as they hold the same course, against all force and violence, in the same manner as they ought to protect and defend vessels belonging to the party of which they are.

[The following article to be valid in time of war. See article 24, below.]

ARTICLE 23. If war should arise between the two contracting parties, the merchants of either country then residing in the other shall be allowed to remain nine months to collect their debts and settle their affairs, and may depart freely, carrying off all their effects without molestation or hindrance; and all women and children, scholars of every faculty, cultivators of the earth, artisans, manufacturers, and fishermen, unarmed and inhabiting unfortified towns, villages or places, and, in general, all others whose occupations are for the common subsistence and benefit of mankind, shall be allowed to continue their respective employments, and shall not be molested in their persons, nor shall their houses or goods be burnt or otherwise destroyed, nor their fields wasted by the armed force of the enemy into whose power, by the events of war, they may happen to fall, but if anything is necessary to be taken from them for the use of such armed force, the same shall be paid for at a reasonable price.

[The following article to be valid in time of war. See the end of it.]

ARTICLE 24. And to prevent the destruction of prisoners of war, by sending them into distant and inclement countries, or by crowding them into close and noxious places, the two contracting parties solemnly pledge themselves to the world and to each other that they will not adopt any such practice; that neither will send the prisoners whom they may take from the other into the East Indies, or any other parts of Asia or Africa; but they shall be placed in some part of their dominions, in Europe or America, in wholesome situations; that they shall not be confined in dungeons, prison-ships, nor prisons, nor be put into irons, nor bound, nor otherwise restrained in the use of their limbs; that the officers shall be enlarged on their paroles within convenient districts, and have comfortable quarters, and the common men be disposed in cantonments open and extensive enough for air and exercise, and lodged in barracks as roomy and good as are provided by the party in whose power they are for their own troops; that the officers shall also be daily furnished by the party in whose power they are with as many rations, and of the same articles and quality, as are allowed by them, either in kind or by commutation, to officers of equal rank in their own army; and all others shall be daily furnished by them with such rations as they allow to a common soldier in their own service; the value whereof shall be paid by the other party on a mutual adjustment of accounts for the subsistence of prisons at the close of the war; and the said accounts shall not be mingled with or set off against any others, nor the balances due on them be withheld as a satisfaction or reprisal for any other article, or for any other cause, real or pretended, whatever; that each party shall be allowed to keep a commissary of prisoners, of their own appointment, with every separate cantonment of prisoners in possession of the other, which commissary shall see the prisoners as often as he pleases, shall be allowed to receive and distribute whatever comforts may be sent to them by their friends, and shall be free to make his reports in open letters to those who employ him; but if any officer shall break his parole, or any other prisoner shall escape from the limits of his cantonment, after they shall have been designated to him, such individual, officer, or other prisoner, shall forfeit so much of the benefit of this article as provides for his enlargement on parole or cantonment. And it is declared that neither the pretence that war dissolves all treaties, nor any other whatever, shall be considered as annulling or suspending this and the next preceding article; but, on the contrary, that the state of war is precisely that for which they are provided, and during which they are to be as sacredly observed as the most acknowledged articles in the law of nature or nations.

20TH CONGRESS.] No. 492. [1ST SESSION.

CONVENTIONS WITH GREAT BRITAIN—1. CONTINUING IN FORCE THE COMMERCIAL CONVENTION OF JULY 3, 1815; 2. CONTINUING IN FORCE THE CONVENTION FOR THE JOINT OCCUPATION OF THE TERRITORY WEST OF THE ROCKY MOUNTAINS OF OCTOBER 20, 1818; AND 3. CONVENTION FOR CARRYING INTO EFFECT THE FIFTH ARTICLE OF THE TREATY OF GHENT RELATIVE TO THE NORTHEASTERN BOUNDARY OF THE UNITED STATES.

COMMUNICATED TO CONGRESS MAY 19, 1828.

To the Senate and House of Representatives of the United States:

I transmit to Congress copies of three conventions concluded between the United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland, the ratifications of which were exchanged at London on the second of last month.

1st. A convention, concluded August 6, 1827, for continuing in force the provisions of the convention of July 3, 1815.

2d. A convention, concluded August 6, 1827, for continuing in force the provisions of the third article of the convention of October 20, 1818.

3d. A convention, concluded September 29, 1827, for carrying into effect the provisions of the fifth article of the treaty of Ghent, in relation to the northeastern boundary of the United States.

JOHN QUINCY ADAMS.

WASHINGTON, *May* 19, 1828.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a convention between the United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland was concluded and signed by their plenipotentiaries, at London, on the sixth day of August, one thousand eight hundred and twenty-seven, which convention is, word for word, as follows: The United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland, being desirous of continuing in force the existing commercial regulations between the two countries which are contained in the convention concluded between them on the 3d of July, 1815, and further renewed by the fourth article of the convention of the 20th of October, 1818, have, for that purpose, named their respective plenipotentiaries, that is to say: The President of the United States of America, Albert Gallatin, their Envoy Extraordinary and Minister Plenipotentiary to his Britannic Majesty; and his Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honorable Charles Grant, a member of his said Majesty's most honorable Privy Council, a member of Parliament, and Vice President of the Committee of Privy Council for Affairs of Trade and Foreign Plantations, and Henry Unwin Addington, Esquire: who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon and concluded the following articles:

ARTICLE 1. All the provisions of the convention concluded between the United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland on the 3d of July, 1815, and further continued for the term of ten yeas by the fourth article of the convention of the 20th October, 1818, with the exception therein contained as to St. Helena, are hereby further indefinitely, and without the said exception, extended and continued in force, from the date of the expiration of the said ten years, in the same manner as if all the provisions of the said convention of the 3d of July, 1815, were herein specifically recited.

ARTICLE 2. It shall be competent, however, to either of the contracting parties, in case either should think fit, at any time after the expiration of the said ten years—that is, after the 20th of October, 1828—on giving due notice of twelve months to the other contracting party, to annul and abrogate this Convention; and it shall, in such case, be accordingly entirely annulled and abrogated after the expiration of the said term of notice.

ARTICLE 3. The present convention shall be ratified, and the ratifications shall be exchanged in nine months, or sooner, if possible.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at London, the sixth day of August, in the year of our Lord one thousand eight hundred and twenty-seven.

ALBERT GALLATIN. [L. S.]
CHARLES GRANT. [L. S.]
HENRY UNWIN ADDINGTON. [L. S.]

And whereas the said convention has been duly ratified on both parts, and the respective ratifications of the same were exchanged at London on the second day of April, one thousand eight hundred and twenty-eight, by William Beach Lawrence, Chargé d'Affaires of the United States of America at the Court of his Britannic Majesty, and the Right Honorable Charles Grant and Henry Unwin Addington, Esquire, on the part of their respective Governments:

Now, therefore, be it known that I, John Quincy Adams, President of the United States of America, have caused the said convention to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington, this fifteenth day of May, in the year of our Lord one thousand [L. S.] eight hundred and twenty-eight, and of the Independence of the United States the fifty-second.

JOHN QUINCY ADAMS.

By the President:

H. CLAY, *Secretary of State.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a convention between the United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland was concluded and signed by their plenipotentiaries, at London, on the sixth day of August, one thousand eight hundred and twenty-seven, which convention is, word for word, as follows:

The United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland, being equally desirous to prevent, as far as possible, all hazard of misunderstanding between the two nations with respect to the territory on the Northwest Coast of America, west of the Stony or Rocky mountains, after the expiration of the third article of the convention concluded between them on the 20th of October, 1818; and also with a view to give further time for maturing measures which shall have for their object a more definite settlement of the claims of each party to the said territory, have respectively named their plenipotentiaries to treat and agree concerning a temporary renewal of the said article, that is to say:

The President of the United States of America, Albert Gallatin, their Envoy Extraordinary and Minister Plenipotentiary to his Britannic Majesty; and his Majesty the King of the United Kingdom of Great Britain and Ireland, the Right Honorable Charles Grant, a member of his said Majesty's most honorable Privy Council, a member of Parliament, and Vice President of the Committee of Privy Council for Affairs of Trade and Foreign Plantations, and Henry Unwin Addington, Esquire: who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon and concluded the following articles:

ARTICLE 1. All the provisions of the third article of the convention concluded between the United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland on the 20th of October, 1818, shall be, and they are hereby, further indefinitely extended and continued in force in the same manner as if all the provisions of the said article were herein specifically recited.

ARTICLE 2. It shall be competent, however, to either of the contracting parties, in case either should think fit, at any time after the 20th of October, 1828, on giving due notice of twelve months to the other contracting party, to annul and abrogate this convention; and it shall, in such case, be accordingly entirely annulled and abrogated after the expiration of the said term of notice.

ARTICLE 3. Nothing contained in this convention, or in the third article of the convention of the 20th of October, 1818, hereby continued in force, shall be construed to impair, or in any manner affect, the claims which either of the contracting parties may have to any part of the country westward of the Stony or Rocky mountains.

ARTICLE 4. The present convention shall be ratified, and the ratifications shall be exchanged in nine months, or sooner, if possible.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at London, the sixth day of August, in the year of our Lord one thousand eight hundred and twenty-seven.

ALBERT GALLATIN. [L. S.]
CHARLES GRANT. [L. S.]
HENRY UNWIN ADDINGTON. [L. S.]

And whereas the said convention has been duly ratified on both parts, and the respective ratifications of the same were exchanged, at London, on the second day of April, one thousand eight hundred and twenty-eight, by William Beach Lawrence, Chargé d'Affaires of the United States at the Court of his Britannic Majesty, and the Right Honorable Charles Grant and Henry Unwin Addington, Esquire, on the part of their respective Governments:

Now, therefore, be it known, that I, John Quincy Adams, President of the United States of America, have caused the said convention to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled, with good faith, by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this fifteenth day of May, in the year of our Lord one thousand eight [L. S.] hundred and twenty-eight, and of the Independence of the United States the fifty-second.

JOHN QUINCY ADAMS.

By the President:

H. CLAY, *Secretary of State.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a convention between the United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland was concluded and signed by their plenipotentiaries, at

London, on the 29th day of September, one thousand eight hundred and twenty-seven, which convention is, word for word, as follows:

Whereas it is provided by the fifth article of the treaty of Ghent that, in case the Commissioners appointed under that article for the settlement of the boundary line therein described should not be able to agree upon such boundary line, the report or reports of those Commissioners, stating the points on which they had differed, should be submitted to some friendly Sovereign or State, and that the decision given by such Sovereign or State on such points of difference should be considered by the contracting parties as final and conclusive: that case having now arisen, and it having, therefore, become expedient to proceed to and regulate the reference, as above described, the United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland have, for that purpose, named their plenipotentiaries, that is to say: the President of the United States has appointed Albert Gallatin, their Envoy Extraordinary and Minister Plenipotentiary at the Court of his Britannic Majesty; and his said Majesty, on his part, has appointed the Right Honorable Charles Grant, a member of Parliament, a member of his said Majesty's most honorable Privy Council, and President of the Committee of the Privy Council for Affairs of Trade and Foreign Plantations, and Henry Unwin Addington, Esquire: who, after having exchanged their respective full powers, found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE 1. It is agreed that the points of difference which have arisen in the settlement of the boundary between the American and British dominions, as described in the fifth article of the treaty of Ghent, shall be referred, as therein provided, to some friendly Sovereign or State, who shall be invited to investigate and make a decision upon such points of difference.

The two contracting Powers engage to proceed in concert to the choice of such friendly Sovereign or State as soon as the ratifications of this convention shall have been exchanged, and to use their best endeavors to obtain a decision, if practicable, within two years after the arbiter shall have signified his consent to act as such.

ARTICLE 2. The reports and documents, thereunto annexed, of the Commissioners appointed to carry into execution the fifth article of the treaty of Ghent being so voluminous and complicated as to render it improbable that any Sovereign or State should be willing or able to undertake the office of investigating and arbitrating upon them, it is hereby agreed to substitute for those reports new and separate statements of the respective cases, severally drawn up by each of the contracting parties in such form and terms as each may think fit.

The said statements, when prepared, shall be mutually communicated to each other by the contracting parties, that is to say: by the United States to his Britannic Majesty's Minister or Chargé d'Affaires at Washington, and by Great Britain to the Minister or Chargé d'Affaires of the United States at London, within fifteen months after the exchange of the ratifications of the present convention.

After such communication shall have taken place, each party shall have the power of drawing up a second and definitive statement, if it think fit so to do, in reply to the statement of the other party so communicated; which definitive statements shall also be mutually communicated, in the same manner as aforesaid, to each other by the contracting parties within twenty-one months after the exchange of the ratifications of the present convention.

ARTICLE 3. Each of the contracting parties shall, within nine months after the exchange of ratifications of this convention, communicate to the other, in the same manner as aforesaid, all the evidence intended to be brought in support of its claim beyond that which is contained in the reports of the Commissioners, or papers thereunto annexed, and other written documents laid before the commission under the fifth article of the treaty of Ghent.

Each of the contracting parties shall be bound, on the application of the other party, made within six months after the exchange of the ratifications of this convention, to give authentic copies of such individually specified acts of a public nature, relating to the territory in question, intended to be laid as evidence before the arbiter, as have been issued under the authority or are in the exclusive possession of each party.

No maps, surveys, or topographical evidence of any description shall be adduced by either party beyond that which is hereinafter stipulated; nor shall any fresh evidence of any description be adduced or adverted to by either party, other than that mutually communicated or applied for, as aforesaid.

Each party shall have full power to incorporate in or annex to either its first or second statement any portion of the reports of the Commissioners, or papers thereunto annexed, and other written documents laid before the commission under the fifth article of the treaty of Ghent, or of the other evidence mutually communicated or applied for, as above provided, which it may think fit.

ARTICLE 4. The map called Mitchell's map, by which the framers of the treaty of 1783 are acknowledged to have regulated their joint and official proceedings, and the map A, which has been agreed on by the contracting parties as a delineation of the water-courses, and of the boundary lines in reference to the said water-courses, as contended for by each party respectively, and which has accordingly been signed by the above named plenipotentiaries at the same time with this convention, shall be annexed to the statements of the contracting parties, and be the only maps that shall be considered as evidence, mutually acknowledged by the contracting parties, of the topography of the country.

It shall, however, be lawful for either party to annex to his respective first statement, for the purposes of general illustration, any of the maps, surveys, or topographical delineations which were filed with the Commissioners under the fifth article of the treaty of Ghent, any engraved map heretofore published, and also a transcript of the above mentioned map A, or of a section thereof, in which transcript each party may lay down the highlands or other features of the country, as it shall think fit; the water-courses and the boundary lines, as claimed by each party, remaining as laid down in the said map A.

But this transcript, as well as all the other maps, surveys, or topographical delineations, other than the map A and Mitchell's map, intended to be thus annexed by either party to the respective statements, shall be communicated to the other party, in the same manner as aforesaid, within nine months after the exchange of the ratifications of this convention, and shall be subject to such objections and observations as the other contracting party may deem it expedient to make thereto, and shall annex to his first statement, either in the margin of such transcript, map, or maps, or otherwise.

ARTICLE 5. All the statements, papers, maps, and documents above mentioned, and which shall have been mutually communicated as aforesaid, shall, without any addition, subtraction, or alteration, whatsoever, be jointly and simultaneously delivered in to the arbitrating Sovereign or State within two years after the enchange of ratifications of this convention, unless the arbiter should not, within that time, have

consented to act as such; in which case, all the said statements, papers, maps, and documents shall be laid before him within six months after the time when he shall have consented so to act. No other statements, papers, maps, or documents shall ever be laid before the arbiter except as hereinafter provided.

ARTICLE 6. In order to facilitate the attainment of a just and sound decision on the part of the arbiter, it is agreed that, in case the said arbiter should desire further elucidation or evidence in regard to any specific point contained in any of the said statements submitted to him, the requisition for such elucidation or evidence shall be simultaneously made to both parties, who shall thereupon be permitted to bring further evidence, if required, and to make each a written reply to the specific questions submitted by the said arbiter, but no further; and such evidence and replies shall be immediately communicated by each party to the other.

And in case the arbiter should find the topographical evidence, laid as aforesaid before him, insufficient for the purposes of a sound and just decision, he shall have the power of ordering additional surveys to be made of any portions of the disputed boundary line or territory as he may think fit; which surveys shall be made at the joint expense of the contracting parties, and be considered as conclusive by them.

ARTICLE 7. The decision of the arbiter, when given, shall be taken as final and conclusive; and it shall be carried, without reserve, into immediate effect by Commissioners appointed for that purpose by the contracting parties.

ARTICLE 8. This convention shall be ratified, and the ratifications shall be exchanged in nine months from the date hereof, or sooner, if possible.

In witness whereof, we, the respective plenipotentiaries, have signed the same, and have affixed thereto the seals of our arms.

Done at London, the twenty-ninth day of September, in the year of our Lord one thousand eight hundred and twenty-seven.

ALBERT GALLATIN. [SEAL.]
CHARLES GRANT. [SEAL.]
HENRY UNWIN ADDINGTON. [SEAL.]

And whereas the said convention has been duly ratified on both parts, and the respective ratifications of the same were exchanged at London on the second day of April, one thousand eight hundred and twenty-eight, by William Beach Lawrence, Chargé d'Affaires of the United States at the Court of his Britannic Majesty, and the Right Honorable Charles Grant and Henry Unwin Addington, Esq., on the part of their respective Governments:

Now, therefore, be it known that I, John Quincy Adams, President of the United States of America, have caused the said convention to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled, with good faith, by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington, this fifteenth day of May, in the year of our Lord one thousand eight [L. S.] hundred and twenty-eight, and of the Independence of the United States the fifty-second.

JOHN QUINCY ADAMS.

By the President:

H. CLAY, *Secretary of State.*

20TH CONGRESS.] No. 493. [1ST SESSION.

CLAIM OF INDEMNITY FROM SPAIN TO JAMES D. BARRY AND BAILEY AND TORREY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MAY 21, 1828.

Mr. EVERETT, from the Committee on Foreign Affairs, to whom were referred the memorial of James D. Barry, of Washington, executor of James Barry, deceased, and a resolution of the House of Representatives of December 18, 1828, directing them to inquire into the expediency of allowing to Bailey and Torrey the amount of their claim, presented to the Commissioners under the 11th article of the treaty between the United States and Spain, ratified February 22, 1819, made the following report:

The above named cases are among the number presented to the Board of Commissioners under the Florida treaty, and by them disallowed, either wholly or in part, from the imperfection or inadequacy of the testimony adduced in their support. The committee submit with this report a letter from the chief clerk in the Department of State, accompanied by another from Mr. Joseph Forrest, containing extracts from the records of the board under the Florida treaty touching these cases.

Numerous applications have been made to Congress by claimants under the Florida treaty, whose claims were allowed only in part, or wholly rejected, by the Board of Commissioners appointed under the 11th article of that treaty. These applications to Congress have, in no single case, been successful, nor has anything been done by the Legislature to encourage the expectation that it would consent to open the award of that board. Should the example of disturbing that award be set, the whole body of unsuccessful claimants might resort to Congress, and even the successful prefer a claim for a further measure of relief. Believing that the Government of the United States has done all in its power for the relief of this class of our citizens, the Committee on Foreign Affairs, while they deeply regret the hardship of many cases of unsuccessful applicants under the provisions of the treaty, feel themselves, nevertheless, unable to propose any measure of relief for the memorialists.

They accordingly ask to be discharged from the further consideration of the subject.

DEPARTMENT OF STATE, *Washington, February* 8, 1828.

SIR: Agreeably to your note of the 5th instant to me, and in compliance with the request in the one which you wrote to the Secretary on the same day, I have the honor to transmit to you, herewith, the copy of a letter from Mr. Joseph Forrest to myself, together with two bundles of papers, touching the claims of James D. Barry, executor of James Barry, deceased, and of Bailey and Torrey; both of the said claims, as you will perceive from the letter of Mr. Forrest referred to, who was clerk to the commission under the Florida treaty, having been taken from the papers on file in this office, arising under the eleventh article of that treaty.

It is important that these papers should be returned to this office when the committee has no longer any use for them, and I am directed by the Secretary to request you to cause this to be done.

I am, with great respect, sir, your obedient servant,

DANIEL BRENT.

EDWARD EVERETT, Esq., *Chairman of the Committee on Foreign Relations, House of Representatives.*

WASHINGTON, *February* 6, 1828.

SIR: According to your request, I have examined the papers deposited in the Department of State by the Commissioners under the Florida treaty, in order to select those on file in the cases of claims preferred by Mr. James D. Barry, Ann Torrey, and David Bailey. The papers on file accompany this note.

In the case of Mr. Barry, the board allowed to the claimant $833; but the amount of claims allowed exceeding the five millions stipulated in the treaty, an abatement from each allowance was made of 8¼ per cent., so that Mr. Barry's allowance was reduced to $763 58.

In the cases of Mrs. Torrey and Mr. Bailey, claiming on the same vessel, no allowance was made. The proofs offered to substantiate the claims were returned to General John Mason, who acted as their agent, by the Secretary to the board, during the sitting of the commission, a receipt for which will be found among the papers now handed you, the board having decided on the 26th December, 1823, that the proofs offered were not offered to establish their claims.

I am, with great respect, sir, your most obedient servant,

JOSEPH FORREST.

DANIEL BRENT, Esq.

20TH CONGRESS.] No. 494. [1ST SESSION.

CLAIM OF INDEMNITY FROM FRANCE TO JAMES RILEY AND OTHERS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MAY 21, 1828.

Mr. EVERETT, from the Committee on Foreign Affairs, to whom were referred the memorials of James Riley, and of Lewis Groning and Michael Kelly, made the following report:

That the case of James Riley, whose memorial, when presented, was printed by order of the House, is a strongly marked case of spoliation under the Milan decree of December 17, 1807. The case of Groning & Kelly is one of spoliation by a French privateer in 1805, prior to the commencement of the continental system, so called, and when great ravages were committed on the commerce of the United States in the West Indies by the armed vessels of France, both public and private.

It is known to the House that memorials of like nature have, at many former sessions, been presented to the consideration of Congress, and that their subject-matter has engaged the especial attention of the Executive, and been pursued for years of urgent, but hitherto unavailing, negotiation.

A resolution of the House of Representatives, passed at the first session of the 19th Congress, directed the preparation by the Secretary of State of a schedule of the claims of our citizens on foreign Powers for spoliations committed on their lawful commerce. This schedule was accordingly prepared. The magnitude of the claims comprehended in that schedule, exceeding $15,000,000, and not probably embracing the entire amount, will have contributed to impress the House with the great interest of this subject to the American people. Considered, apart from all questions of national honor, as an abstraction of so much of the actual capital of the country, it is unquestionably a subject deserving the gravest consideration.

At the commencement of the present session of Congress, the following statement was made by the President in his message to the two Houses: "A fresh effort has recently been made by the minister of the United States residing at Paris to obtain a consideration of the just claims of citizens of the United States to the reparation of wrongs long since committed, many of them frankly acknowledged, and all of them entitled, on every principle of justice, to a candid examination. The proposal last made to the French Government has been to refer the subject, which has formed an obstacle to this consideration, to the determination of a Sovereign, the common friend of both. To this offer no definitive answer has yet been received; but the gallant and honorable spirit which has at all times been the pride and glory of France will not ultimately permit the demands of innocent sufferers to be extinguished in the mere consciousness of power to reject them."

The Committee on Foreign Affairs are not aware that any definitive answer has yet been received

from the French Government to this proposal. This delay may partly be ascribed to the change of councils, which, it is matter of notoriety, has recently taken place in that Government.

The Committee on Foreign Affairs are of opinion that this important and painful subject must still remain a matter of negotiation with the two Governments, long as the negotiation has already been pursued, and disastrous as is the delay to many of the claimants.

Many circumstances concur to induce the committee to think that this negotiation will (perhaps before a very long period) begin to open some prospect of procuring the long sought indemnity. The controversy between the two Governments touching the right of entry in the ports of Louisiana (the point pleaded by the French Government as an obstacle to the examination of the claims for spoliations) has, practically, lost much of its importance. In the operation of the commercial convention between the two countries, the discriminating duties have been abrogated. French vessels enter the ports of Louisiana on the same terms as our own, and this by the same tenure as the vessels of Great Britain, or any other foreign Powers with whom we have conventions for a mutual freedom from discriminating duties. The committee cannot permit themselves to think that, after an alleged grievance has been practically removed, in the general operation of a liberal commercial system between the two countries, the enlightened Government of France will allow the former existence of that grievance to operate as a bar to the settlement of the just claims of the citizens of a friendly State. The proposal to refer this controverted point to some impartial Power, the mutual friend of both parties, is so manifestly liberal and reasonable that it cannot well be refused.

Other considerations unite to persuade the committee that the Government of France will eventually see its honor concerned in the payment of these claims. Their admission carries no reproach to the dynasty which the issue of thirty years of revolutions has reinstated in the Government of France. The acts by which our citizens suffered were those of the intermediate Government. In recognizing the right to indemnity of our citizens who suffered under them, his Majesty the King of France, instead of taking a step inconsistent with the character of his own Government, will but add a new sanction to his protest against that which preceded it. At the same time, it deserves to be considered that, however illegal the acts by which our innocent citizens were deprived of their property, France had all the benefit of them. The vessels and their cargoes of our merchants were so much added to the stock of public and private wealth of that country. Supposing their whole value to have gone into the coffers of the Government which seized them, and to have been expended in wars of aggrandizement and ambition, still it must be regarded as so much deducted from that burden of exaction which would otherwise have fallen, without alleviation, on the citizens of France.

In fine, the committee are acquainted with no principles of public law on which the payment of these claims can be withheld. If those exercising the Government of a country at one period be not bound to fulfil the obligations of their immediate predecessors, and if friendly and neutral nations are to be compelled, in self-defence, to take part in the internal contentions of other States, and to sit in judgment on the titles of their rulers, it is plain that the whole political system of the modern world must be broken up, and faith between nations destroyed.

So obvious are these considerations, that the committee will not doubt that they will be felt in their force by the French Government, and that the time will not be much longer delayed when it will order the restoration to our citizens of that property to which France had no title, and of which she has so long had the use.

As there is nothing in the individual cases of the memorialists distinguishing them from other cases of the same general nature, and putting it in the power of the American Government to attempt anything for their especial relief, the Committee on Foreign Affairs are not prepared to recommend any act of legislation in the premises. But, with a view of presenting the general subject in all its points more effectually before the House, they submit the following resolution:

Resolved, That the President of the United States be requested to communicate to this House (if the public interest will permit) the instructions given to our minister at the Court of France on the subject of the claims of American citizens against the Government of France, as far as the same have not heretofore been communicated.

20TH CONGRESS.] No. 495. [1ST SESSION.

CLAIM OF INDEMNITY FROM FRANCE TO GEORGE BLENKINSHIP.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MAY 21, 1828.

Mr. EVERETT, from the Committee on Foreign Affairs, to whom was referred the petition of George Blenkinship, of the town of Rochester, in the State of Massachusetts, made the following report:

That the memorialist was the owner of a vessel, and part owner of her cargo, fitted out and shipped for Barbadoes in the year 1799; that the vessel was captured by a French sloop-of-war, carried into Guadaloupe, and condemned. He prays that Congress will grant him such relief as, in their wisdom, they may think him entitled to.

The case of the petitioner appears to be one of a very numerous class of French spoliations committed prior to the convention of 1800 between the United States and France. The subject of the claims growing out of these spoliations has repeatedly been before Congress from the year 1802 down to the present time. The committees to whom they have been referred have taken different views of the subject, but have generally reported against the claim of the sufferers upon the Government of the United States. This claim is alleged by those concerned to arise from the renunciation by the United States of these

claims against the Government of France when the convention between France and the United States was negotiated in 1800.

The Committee on Foreign Affairs are inclined to think that the strength of the claim against the United States was impaired by a want of information as to the extent and positiveness of this alleged renunciation. The journal and correspondence of our ministers who negotiated the convention, from which alone the nature and extent of the renunciations could be collected, were never made known till at the close of the 19th Congress, when, in obedience to a call of the Senate of the United States, they were communicated *in extenso* to that body. They establish, incontestably, that the renunciation on the part of the United States was a *sine qua non* with the Government of France in consenting to abandon the privileges which that Government claimed under the treaty of 1778 and the consular convention of 1788. So long as the American envoys persisted in claiming any kind of indemnity, the French Commissioners insisted on the benefits of those treaties, one of which was a mutual guarantee of the territory of the two parties—a condition which the American Government could not have fulfilled without departing from its neutrality in the war between Great Britain and France. The French Government refused to ratify the treaty without the addition of a clause expressly stating that the two parties respectively renounced their claims. Accordingly, Mr. Madison, in writing to Mr. Pinkney in Spain, in 1804, says, in allusion to this subject, that "the claims from which France was released were admitted by France, and the release was for a valuable consideration in a corresponding release of the United States from certain claims on them."

After the communication of the documents in question, by which much new light is thrown on the subject, it was referred, at the last session of Congress, to a select committee of the Senate, by whom a report favorable to the claimants was made but not finally acted upon. At the present session of Congress the subject has, in like manner, been referred to a select committe of the Senate.

Inasmuch as the claim, if it have a valid foundation, accrues from an act of the treaty-making power in this Government, the Committee on Foreign Affairs perceive a convenience in a forbearance, on the part of the House of Representatives, to act upon the present case alone, while the general subject remains pending before the other branch of the Legislature, particularly as the present case is not known to the committee to differ from the large number of others similarly circumstanced.

The committee therefore ask to be discharged from the further consideration of the subject.

20TH CONGRESS.] No. 496. [1ST SESSION.

CLAIM OF INDEMNITY FROM NAPLES TO HENRY HUTTLESTON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MAY 21, 1828.

Mr. EVERETT, from the Committee on Foreign Affairs, to whom was referred the memorial of Henry Huttleston, of the town of Fairhaven, in the State of Massachusetts, made the following report:

That the memorialist represents himself to have sustained a heavy loss by the seizure and confiscation of his property at Naples, in the year 1808. No statement of facts accompanies the memorial; but the committee presume, from the time at which the loss is stated to have been suffered, that the petitioner is one of a large number of American citizens whose property was first sequestered and then confiscated, in the port of Naples, in the year 1808 and the following years. In the year 1818 a special mission was sent by the Government of the United States to Naples, to urge the just claims, on the part of our citizens who had been deprived of their property, to indemnification. The correspondence between the special minister, Mr. Pinkney, and the Neapolitan Government on this subject was communicated to Congress shortly after the termination of the mission, and gave little hope that the Neapolitan Government, under the state of circumstances then existing, and which has not since materially changed, would make our citizens that indemnity to which, on every principle of natural justice and public law, they are entitled. In order, however, to prevent the continued silence of the American Government from growing into a prescription against these claims, a special agent was despatched to Naples in 1825. The results of this agency have not yet been called for by either House of Congress. Presuming that the House is not, as yet, prepared for any legislation on this subject, or that, at all events, it would decline proceeding to such legislation without previous knowledge of the results of the last application to the Neapolitan Government, the following resolutions are submitted:

Resolved, That the President of the United States be requested to communicate to this House (if the public interest will permit) a copy of the correspondences between the Governments of the United States and Naples, touching the claims of American citizens on the Government of Naples, as far as the same has not heretofore been communicated.

Resolved, That the Committee on Foreign Affairs be discharged from the further consideration of the petition of the memorialist.

20TH CONGRESS.] No. 497. [1ST SESSION.

CONCILIATORY INTERVENTION WITH SPAIN TO MAKE PEACE WITH MEXICO AND THE CENTRAL AND SOUTH AMERICAN GOVERNMENTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MAY 21, 1828.

To the House of Representatives of the United States:

I transmit to the House a report from the Secretary of State, with a copy of the note of the minister of the United States to Spain, dated January 20, 1826, requested by a resolution of the House of the 19th instant.

JOHN QUINCY ADAMS.

WASHINGTON, *May* 21, 1828.

DEPARTMENT OF STATE, *Washington, May* 20, 1828.

The Secretary of State, to whom has been referred a resolution of the House of Representatives of the 19th instant, requesting the President to communicate to that House, if the public interest permit, a copy of the note of the minister of the United States to Spain, bearing date the 20th January, 1826, has the honor respectfully to submit to the President a copy of the said note.

H. CLAY.

[Confidential.]

Mr. Alexander H. Everett, Envoy Extraordinary and Minister Plenipotentiary to Spain, to the Duke del Infantado, Principal Secretary of State for Foreign Affairs.

MADRID, *January* 20, 1826.

SIR: The Government of the United States of America have looked with deep interest at the war now existing between Spain and her ancient colonies ever since its commencement. Situated in the immediate neighborhood of the regions where it has been carried on, they could not feel the same indifference upon the subject which has been shown by some other nations inhabiting a distant quarter of the globe. Their position, and the relations naturally resulting from it, were circumstances over which they had no control; and it was not in their power, had they wished it, to shrink from the responsibility that devolved upon them. It only remained, to meet the delicacy of the situation by a corresponding circumspection in their conduct, to proceed upon acknowledged principles, and in conformity with the best information they could procure. Such has been in fact the course of their policy. They have spared no pains in endeavoring to obtain the most accurate accounts of the state of the war at its several periods; and they have adopted no important measure without great consideration, and a careful inquiry into the laws and usages of civilized countries. In pursuance of this system, they have considered it their duty to observe a fair and just neutrality between the two parties, and to entertain pacific and friendly relations with both alike; and they have, with good faith, and to the best of their ability, acted accordingly. They have lent no military or naval assistance to either, but have freely granted to both the hospitality of their ports and territory, and have allowed the agents of both to procure within their jurisdiction, in the way of lawful trade, any supplies which suited their convenience. When the independence of the colonies appeared to them to be well established, it became a duty to regard and treat them as sovereign Powers; and their increasing intercourse with the United States made it convenient and suitable to organize the relations between the countries in the usual form, by exchanging diplomatic and commercial agents invested with the usual powers and characters. But, while the Government of the United States felt themselves not only justified in these measures, but bound in duty to adopt them, they have continued to observe, in word and in deed, their former course of strict and honest neutrality. They have never taken upon themselves to express an opinion upon the merits of the quarrel, or upon the validity of the arguments advanced by either party in support of its pretensions, still less to interfere actively in favor of one or the other. The people of the United States, including, as private persons, the individuals composing the Government, have generally felt and manifested a strong sympathy with the inhabitants of the colonies, in consequence of the similarity of their position with that of the United States half a century ago; but this natural feeling has not been allowed to influence the public measures. The President and Congress, in acting upon this subject, have uniformly proceeded upon strict principles and known facts. Their decisions on important points were adopted with almost unexampled unanimity, and have been, it is believed, very generally approved throughout the civilized world. They have since been closely followed by the two enlightened and powerful Governments whose position naturally called upon them to take the lead, in this respect, among the nations of Europe.

While pursuing this line of conduct, the Government of the United States have also considered it their duty and their policy to employ their good offices, from time to time, with both parties, for the purpose of reconciling them to each other, and bringing the war to a close. This tedious contest, carried on in their immediate neighborhood, has been, and still is, a source of no little actual inconvenience to them in various ways. It has been, in particular, the ultimate cause of the prevalence of piracy, to a fearful extent, upon the waters that surround their coasts—an evil which compels them to keep a strong naval force in active service, at a very unhealthy and dangerous post, and which nothing but the establishment of peace will ever completely eradicate. They have, therefore, the most powerful motives for wishing, in their own interest, to effect this great object. But, independently of any such considerations, the common senti-

ments of humanity, and the sympathy which all civilized and Christian nations naturally feel in each other's welfare, lead them to desire the close of this long and cruel struggle. Entertaining, and wishing to entertain, the most friendly relations with both parties, they cannot but feel the deepest interest in the restoration of harmony and good understanding between them, and in the consequent general pacification of the American continent. They have accordingly given to both, on many occasions, such counsels as appeared most likely to promote this object. As the independence of the colonies has appeared to them, for some years past, to be well established, they can imagine no other means of effecting the great purpose in question, except by the consent of his Majesty to treat with his ancient provinces on the footing of sovereign and independent States; and they have, from time to time, with all the delicacy required by the importance and peculiar character of the subject, and with all the respect which they sincerely cherish for the Spanish Government and nation, advised this measure. These counsels, although his Majesty has not yet thought proper to act upon them, have been received and listened to in the friendly spirit in which they were given; and the Government of the United States have been induced, in consequence, and by the generally friendly character of their relations with Spain, to continue the same course, as occasion may appear to render it expedient. I was accordingly instructed, upon leaving my country, to express to his Catholic Majesty, and his ministers, the firm conviction and earnest wishes of the Government which I have the honor to represent, in regard to this question. I have already communicated them in conversation to your excellency's predecessor, and to yourself. In order to state them with more distinctness, and to enable your excellency to lay them before his Majesty in the precise form in which they are conveyed to you, I now take the liberty of troubling you with a few suggestions in writing upon this great and interesting subject.

The present moment seems to be a favorable one for reviewing the decisions that were taken at an earlier period of the war, and for considering whether events have not since occurred which make it expedient to change them. A course of proceeding which was apparently wise and politic ten or fifteen years ago, may have been rendered, by the subsequent progress of affairs, impolitic and ruinous. It may have been natural for the King to make war upon his colonies at the time when they first declared their independence; when there was a probability of reducing them again to their allegiance, and when it was yet uncertain whether the efforts they were making were the work of a few factious spirits or of the whole community; and it may, nevertheless, be in the highest degree inexpedient to continue the attempt to subjugate these colonies now that they have grown up into six or eight populous and powerful nations, situated in a distant quarter of the globe, in the full exercise of all the prerogatives of sovereignty, and respected and acknowledged as sovereign by several of the greatest Powers of the world. It is the usage of prudent Governments not to adhere with too much constancy to any system merely because it has once been adopted, but to mark the course of affairs, and to regulate their conduct by the present situation of things rather than the past. A statesman who attempts to counteract the force of circumstances, or, in more religious and juster language, to defy the will of God, will find his efforts ineffectual and generally injurious to himself. The epochs of a critical and important character that present themselves from time to time in the progress of political affairs, appear more especially to invite the Governments interested in them to reconsider the principles upon which they are acting, in order either to assure themselves that they are in the right, or to shift their course if they find themselves in error. One of these great epochs is just now occurring in the history of the Spanish American colonies. After declaring their independence of the mother country, surmounting the obstacles that first presented themselves, consolidating to a great degree their political institutions, and maintaining their national existence for seventeen years without any organized concert among themselves, they are at this moment meeting, for the first time, by their plenipotentiaries, in a general Congress, for the purpose of regulating their mutual interests, and entering into an alliance, offensive and defensive, against their common enemies. This change in their position is evidently one of vast consequence. It calls imperiously upon the Spanish Government to consider well the system upon which it is now proceeding, and to examine anew the whole subject of its relations with these States. It has also been thought, by the Government of the United States, that the occurrence of this remarkable event furnishes an occasion upon which neutral and friendly Powers might, with propriety, renew their good offices in attempts to bring about a reconciliation between the parties to the war. They have been induced by this motive to communicate their opinions and their wishes to his Majesty's ministers in a more formal manner at this time than they have hitherto employed, and to invite the leading Powers of Europe to concur with them, as far as they might think it expedient, in the same great and benevolent purpose. France and Portugal have lately led the way in a course of proceeding similar to that which is now recommended to his Catholic Majesty. It only remains for the King to give one signal proof of magnanimity and wisdom in order to complete the pacification of the whole American continent. The President is well assured that the suggestions now presented by his order will be received as evidences of the friendly disposition of the Government of the United States; and he ventures to hope that they will be listened to with attention, and will not be without effect.

It has been thought a proper mark of respect to the Government of his Catholic Majesty to accompany the communication of the opinion entertained upon this subject by that of the United States with a statement of the reasons upon which they have been founded, that they might not appear to have been taken up capriciously and hastily, or to have been affected, in any degree, by a natural sympathy with the fortunes of the colonies. They have been adopted in general upon a deliberate view of all the information that could be procured; and a full recapitulation of the particulars from which they have been deduced would embrace a mass of details much too large to be brought within the compass of an official note. There might also be a difference, as respects some of these details, between the information that has been conveyed to the Government of the United States and to that of his Catholic Majesty. There are, however, certain great and leading facts in the history and present state of the war, notorious to the world at large, and, of course, familiarly known to his Majesty's Government, which are considered by that of the United States as sufficient of themselves to demonstrate the impossibility of recovering the colonies. In the following remarks I shall confine myself as much as possible to these points, and shall endeavor to avoid any allusion to doubtful matters, either of fact or of right.

It is now about seventeen years since the occurrence of the first movements in the colonies. They were not occasioned by a rebellious or discontented spirit, but were the effect of the invasion of the mother country, and of the usurpation of his Majesty's throne by a foreigner. They were equally legitimate with the movements which were made at the same time in Spain for the purpose of shaking off the French yoke, and were, indeed, precisely similar to them in character. Five or six years elapsed before this great object was obtained, and before the King returned from his captivity in a foreign country.

During this time the peninsula was the theatre of constant war; occupied and wasted by contending armies, foreign and domestic; distracted by political divisions; and, upon the whole, in a state approaching very nearly to entire anarchy. It is not singular that the colonies, having been compelled for a time to govern themselves, should have so continued to do until the King's return, without regard to the authority which the successive ephemeral Governments at home might pretend to exercise over them. The King's return introduced another order of events; but the colonies were now, and had been for several years past, in possession of the privileges of self-government, and a new state of things had in consequence grown up among them. They had formed new relations with each other, and with foreign Powers. Their whole political situation was completely altered. Were they bound, under these circumstances, to return at once to their ancient allegiance, or had the new position into which they had been thrown by events beyond their control, brought with it new rights and new duties incompatible with their former relations to the Spanish Crown? On this, which is the great question of right between the parties, the Government of the United States have never ventured to express an opinion. It is only on points of fact and expediency that they have felt themselves at liberty to offer their counsels.

Whatever may be thought of the merits of the case, a war, under all the circumstances, was, in a manner, unavoidable. It was accordingly undertaken by his Majesty's Government, and carried on with all the vigor and perseverance which the situation of the Kingdom would admit. Soon after the King's return a powerful expedition was fitted out for America, under the command of one of the first generals of the age, and directed against a very well chosen point in the territory of the colonies. Had it been possible to subjugate them with the means at the disposal of Spain, this expedition must have been attended with complete success. But the effort of General Morillo and his army to subdue the Americans produced no other effect than that of teaching them the military arts, which they wanted, and of forming among them, in the school of experience, a great commander, whose name alone is now a tower of strength to his countrymen. General Morillo, after seeing almost the whole of his army perish by his side, after performing miracles of courage, skill, and perseverance, after meriting all praise, excepting that of humanity, finally returned to Spain. The few troops that remained of his army were soon compelled to shut themselves up in a fortress, and not long after to surrender. The attempts made at home to fit out another considerable expedition terminated in a revolution. The troops which had been stationed in Peru and Chili, after carrying on the war for several years with various success, were finally reduced to capitulate by the decisive victory of Ayacucho, which exhibited a second great commander in a young man of only eight and twenty years of age. For some time before that event there had been no royal forces in Buenos Ayres, and none in Mexico, excepting the garrison of a single fortress. This battle terminated the active military operations of Spain upon the American continent; and the war has been, in fact, for nearly two years past, at an end.

Will it be said that it is the intention of the Spanish Government to renew it, and that other expeditions may be more successful than the former ones? Is it possible to suppose for a moment that Spain, in her present situation—her own territory partly occupied by foreign troops, enfeebled and convulsed by the effects of seventeen years of almost uninterrupted revolution, invasion, and war, without funds, and without credit—can fit out armies equal to the conquest of six or eight powerful nations a thousand leagues off? Were it even possible, as it evidently is not, that another expedition should be despatched immediately, as strong and as well appointed as that of General Morillo, would such a one be more likely to succeed now than his did, in fact, several years ago? Would it be less difficult to contend with accomplished and veteran commanders at the head of disciplined armies than it was with the fresh recruits and unexperienced officers out of which these armies and their generals have been formed? Or would the organized and acknowledged Governments that now exist offer a less formidable resistance than was made by the same communities when almost in a state of anarchy? These are evidently suppositions of things not merely improbable, or, in the common course of nature, impossible, but chimerical. They involve impossibility upon impossibility. It is impossible that new expeditions should be equipped; if they could be equipped, it is impossible that they should succeed. Since, then, the war is at an end, and cannot be renewed, it would seem that a peace, concluded on the best terms possible under such circumstances, would immediately follow.

It is understood, however, that his Majesty's Government, without intending to make any further attempts to subjugate the colonies by actual force, nevertheless entertain the expectation that they may, perhaps, be brought back to their allegiance by the effect of internal dissensions; and that it is principally upon that account that they consider it impolitic to treat with them as sovereign Powers. This expectation is no better founded, according to the views of the Government of the United States, than would be that of conquering them by actual war. It is believed that there is no greater probability of the occurrence of intestine troubles in these States than in other established and organized bodies politic; and that, should they occur, they could not, by any possibility, be turned in future to the profit of Spain.

Every community which changes its form of government violently and suddenly, is visited almost of necessity by a period of anarchy and civil war. This was an evil which the Spanish colonies, in separating from the mother country, had reason to expect that they should be obliged to encounter, and from which they have, in fact, suffered, in a greater or less degree. Serious divisions occurred in most, if not all, of them, soon after the declaration of their independence, and for a time threatened their existence as sovereign Powers. In Mexico an adventurer usurped the Government by military force, and assumed the title of Emperor. In Colombia the state of affairs was long unsettled, and there seems to have been at one moment considerable danger of insubordination among the blacks. In Peru and Chili the leading public characters were frequently at variance; and Buenos Ayres was for awhile the theatre of actual civil war. It was necessary that these troubles should terminate in one of two ways—either by bringing back the colonies to their allegiance, or by subsiding and disappearing under the influence of the new independent Governments. The latter part of the alternative has in fact been realized. The difficulties to which I have alluded, and which accompanied so naturally the first attempts of the colonies to establish their national existence, are now at an end, and the fate of those persons who were engaged in them has not been such as to hold out much encouragement to future imitators. The disturbers of the established order have met, in almost every remarkable instance, with signal defeat and exemplary punishment. Iturbide, in Mexico, General Piar, in Colombia, the Carreras, in Chili, were publicly executed as common traitors. Saint Martin, who deserted his post at the head of the Government of Peru at a critical period, lost his influence, sunk into insignificance, and is said to be now living unknown at Brussels. Pueyrredon, who appears to have been gained by the agents of his Majesty while occupying the post of Supreme Director of the Republic of the United Provinces of La Plata, could not carry with him a single man, was obliged

to quit his post and his country, and has since, it is understood, died somewhere, in obscurity, of a broken heart. Such have been the fortunes of the principal authors of internal dissensions in America, and they are evidently not of a kind to encourage new attempts. In fact, since the disappearance of these first troubles, the reign of good order and of consolidated political institutions seems to have taken place everywhere, and is apparently established. Five of the six principal States that have been formed out of his Majesty's colonial dominions, not including Paraguay, of which the internal condition is but little known to foreigners, present as tranquil an appearance as any part of Europe or the world. Peru is in some degree unsettled, but the tranquillity of that country is secured by the battle of Ayacucho, and the final arrangement of its political institutions will not probably be long delayed. Having thus organized their respective Governments at home, these States are already beginning to extend their views abroad, and are at this moment assembled by their ministers in a Congress at Panama for the purpose of forming among themselves some concerted schemes of action. This great event may be considered as indicating distinctly the consolidation of their several political institutions, and the disappearance of all pre-existing internal dissensions.

The troubles which naturally accompanied the first establishment of these new States having thus subsided, they cannot, in the natural course of events, be expected to return. They were incident to a particular period in the history of the colonies, and this period having passed away, the dangers incident to it have naturally passed away with it. The various epochs in the progress of communities, like the different ages in the life of man, are subject to particular disorders; but, in both cases, those that belong to one period can never be encountered at another. Troubles may doubtless occur in the nations that have been formed out of the Spanish colonies, as in all others; but they will not be hereafter of the same kind with those which were occasioned by the separation from the mother country and the attempt to establish an independent national existence. Let it be supposed, however, for argument's sake, that internal dissensions should again arise, equally serious with those which have already arisen and subsided; let it be supposed that a second Iturbide shall appear in Mexico, another General Piar in Colombia, that Buenos Ayres or Chili shall again be the theatre of civil war; that a new Pueyrredon should be gained by his Majesty's agents; or finally, in order to exhaust every supposition, however improbable, let it be imagined that Bolivar and Sucre shall belie their noble characters, disappoint the hopes of the world, and turn out Bonapartes and Cromwells instead of Washingtons; of what advantage would the occurrence of these or similar events be to the royalist cause? Or what additional probability would they furnish of a return of the colonies to their allegiance? If his Majesty's Government found it impossible to turn to any account the troubles that actually broke out at at a time when the state of the colonies was yet unsettled and they had a large military force in the country, would they be able to do it now, when they have not a soldier not under close siege from California to Cape Horn, and when the new Governments have acquired consistency and vigor? If Iturbide, when he overthrew the Mexican Government, while the royalist party was still imposing, and the prospect of success in the establishment of independence uncertain, did not think of proclaiming the King, would another Iturbide do it now? If the insubordination of Piar, under the eyes of General Morillo, could not be made the means of reducing Venezuela, would another black insurgent be likely to prove a better instrument, with nobody present to direct and employ him? If Bolivar or Sucre should attempt to establish a military despotism, would it be in the name of the legitimate King, and under the royal Spanish flag? These suppositions, like that of an actual military conquest of the country, are obviously not merely improbable, but chimerical, and full of inherent contradictions. The time to take advantage of internal dissensions, if ever, was the time when they might have been expected to occur—when they did in fact occur, and when the King had his armies in the country ready to back a discontented leader. If nothing could be done under all these favorable circumstances, it is vain to expect a better result at present, when every circumstance is of an adverse character.

Finally, such is the strength of public opinion prevailing throughout the colonies in favor of independence, that nothing would be really effected, even by successful attempts to create internal divisions and to gain over the popular leaders. This is evidently shown by the fate of Pueyrredon, to which I have already alluded. Here was a person holding the supreme executive power in one of the new States, enjoying a high reputation, and apparently possessing great influence, who consented to employ it in endeavoring to bring about a union of the colony under his government with the mother country in the most plausible way in which it could be done. This colony was precisely the one in which political dissension had prevailed to the greatest extent, having assumed for a long period the shape of actual civil war. The negotiation presented an additional probability of success, from being carried on under the auspices of one of the most powerful monarchs of Europe in alliance with his Catholic Majesty. The King had at that time one or two considerable armies in America ready to lend their aid in promoting the intended object. Here was a case, if ever there was or will be one, in which something might be expected from the effect of internal divisions and from the adhesion of leading characters. What happened? Did Pueyrredon, under all these favorable circumstances, succeed in bringing back to its allegiance the colony under his government? I have already stated that he did not carry with him a single man. He could not stay in his country. He was crushed at once to the earth by the execration and contempt of the whole American continent; and, in order to escape an ignominious death, was compelled to hide himself in some obscure corner, where he has since died of chagrin and shame. Such is the history of the only considerable apostate that has yet been gained from the cause of independence in America. It proves that whatever may be the merits of the contest, there is a force of public sentiment arrayed in support of this cause too strong to be resisted by any individual, however eminent; that nothing can be hoped by Spain from the effect of internal dissensions in the colonies; and that no means, excepting that of actual physical force, will ever bring them, or any part of them, again under the dominion of his Catholic Majesty. The impossibility of employing this means with success has already been shown, and is understood to be felt by his Majesty's Government.

It has sometimes been said, however, that Spain might reasonably be encouraged in the hope of recovering her ancient colonies by the great and sudden revolutions that have occurred in Europe in our own time. The late King of France, after being deprived of his hereditary rights and dominions for twenty-five years, finally succeeded in obtaining possession of them. Why may not the King of Spain in like manner recover his American possessions, although he should have lost them for an equal length of time? It is understood that this argument, from analogy, is considered by some persons of great respectability as the principal one that can be urged in favor of the continuance of the war, and it may therefore be proper to give it some attention.

The conquest of the colonies must be effected, if at all, by the aid of means; and the example of the King of France is applicable, in the present instance, only as far as the same means which were employed to place him on the throne are now at the disposal of the King of Spain for the purpose of recovering his lost possessions in America. What were these means, and how far can they probably be employed at present by the Spanish Government?

The revolution in the Government of France, of which the return of Louis XVIII was the natural consequence, was accomplished by the military force of other European Powers at a time when the King had not a soldier in the field in his own immediate service. Is it probable that there will be now or ever a similar alliance of these Powers for the purpose of restoring to the King his ancient dominions in America? What was the motive which induced all the Sovereigns of Europe to unite in a joint attack upon the Government of Bonaparte? It was no other than the direct interest they had in overthrowing that Government, on account of the inconveniences, more or less oppressive, which they all suffered from its continuance. Have they all, or any of them, any such motive for opposing at present the independence of the Spanish colonies? It is evident that their direct interest, as far as they have any in the affair, is on the other side; and that the independence of America, instead of being an inconvenience to them, is rather advantageous than otherwise, as it affords them a greater freedom of intercourse with these vast and wealthy regions than they would enjoy under any colonial system, however liberal. Their interest, therefore, would naturally lead them, considered merely as neutral Powers, to take part with the Americans, rather than with the Spanish Government. Such of them as possessed extensive and valuable colonies might be supposed, perhaps, to sympathize with Spain in this contest, either because these colonies had actually thrown off their allegiance, or might be expected to do so; and these, if any, are the Powers which would have an interest in assisting his Catholic Majesty, or in wishing at least for his success. What, then, has been the policy of the Power thus situated? France and Portugal have just acknowledged the independence of their ancient transatlantic dominions. England and Holland, the only nations now possessing colonies of consequence, have acknowledged the independence of South America. It so happens, therefore, that the four Powers which have or had colonies are precisely those which have given the most unequivocal proof that it is not their intention to deviate from the line of neutrality, by engaging in the war on the side of Spain. If such be the policy of these nations, which alone had some little indirect interest in common with that of his Catholic Majesty, what can be expected from the rest, which have all a pretty strong interest on the other side? There is evidently no probability that they will enter into a great European alliance for the reduction of America, like that which was employed for the overthrow of Bonaparte; nor is it believed that his Majesty's Government expect any such co-operation or assistance. It is, therefore, not in their power to take advantage of the same means which were used by the King of France to obtain possession of his hereditary dominions; and his example has, of course, no application to the present circumstances of his Catholic Majesty.

I fear that I may have taxed somewhat too severely the attention of your excellency by the length to which these considerations have been already drawn out; but it is difficult to touch, however concisely, upon the several leading points of so great a question without entering into a pretty extensive course of remarks. If the above statement of the grounds upon which the Government of the United States have formed their opinion in regard to this question be at all correct, it follows conclusively that there is no chance of recovering the colonies either by actual military force, by the effect of internal dissensions, or by the aid of foreign Powers. The object of the war is therefore unattainable. What remains, then, but to escape as soon as possible from its inconveniences, and to conclude peace at once? Peace is, of itself, and in all cases, the greatest of blessings, and an almost indispensable condition of all public and private prosperity. The advantages, direct and indirect, that would accrue to Spain from making peace at present with the colonies are, in the opinion of the Government which I have the honor to represent, of even more than ordinary value. I fear that I shall exhaust your excellency's patience, but being charged by my Government with the expression of their convictions and wishes upon a subject of such vast magnitude, I should have reason to reproach myself if the effect of their intercession were diminished, and the war protracted, by the omission of any topic that would be likely to have weight with his Catholic Majesty. Allow me, then, my Lord Duke, to request your attention a little longer, and to state to you, very concisely, as they appear to the Government of the United States, the important benefits which would result to Spain from the restoration of peace and the establishment of friendly relations with her ancient colonies.

The immediate inconveniences suffered by Spain from the continuance of the war are far from being inconsiderable, and the cessation of them would constitute, of itself, a very serious advantage. These inconveniences are principally the heavy expense necessary to keep up military and naval establishments adequate to the defence of the West India islands, and the almost entire destruction of the commerce of Spain by the armed vessels and privateers of the new American States. It is understood that the whole revenue which would accrue from the islands is, at present, absorbed by the charges of securing them against the danger of an attack. When to this great expense is added that of fitting out occasionally at home expeditions intended for their defence, it is clear that the burden must be considerable, especially in the present embarrassed state of the finances. The restoration of peace would remove this evil at once, and would, also, give new life to the Spanish commerce, which is now almost destroyed by the American privateers. These enterprising navigators not only cover the waters of the Gulf of Mexico and of the passage thence to Spain, but have lately ventured across the Atlantic, and almost blockade, at the present moment, the ports of the Peninsula and the entrance of the Mediterranean. The coasting trade is nearly at an end, and, as far as it is continued, must be carried on under convoy. It is true that the commerce of Spain, under the national flag, has not been for some years past very considerable; but the loss of the whole, or the greater part of it, such as it is, is still a serious inconvenience. The desolation of the seaports, and the falling off in the amount of the customs, show but too clearly the extent of the evil. The duties paid at Cadiz, which, as your excellency did me the honor to inform me the other day, were a hundred millions of reals before the commencement of the present troubles, are now, I understand, something less than four. When the inconveniences of this war are thus brought home to the resources of the Government and to the daily life of his Majesty's subjects, is it not time to consider whether it affords any advantages or hopes to constitute an adequate compensation for sacrifices of such vast importance?

In addition to these great mischiefs, which are actually suffered, and which would be removed by the termination of the war, there is another perhaps still more serious impending in immediate prospect which, in the opinion of the Government of the United States, nothing but a speedy restoration of peace

can avert—I mean the loss of the islands of Cuba and Porto Rico. These possessions are, for all purposes of revenue, already in a great measure lost; the whole amount of receipts drawn from them being, as is understood, exhausted by the charges of their defence. The continuance of the war for two or three years longer, perhaps for one, must, in all human probability, occasion their complete alienation in one form or another. Hostilities being now at an end on the continent, and the new States being compelled, by the refusal of Spain to make peace, to keep up their military and naval establishments they must, of course, employ them upon some active service. The Spanish islands present the most natural and advantageous point for attack, and will, of course, be attempted. Without intending to disparage the valor of his Majesty's armies on this station, still less the talent and efficiency of the Governor General—an officer of whom the Government of the United States have reason to speak in the highest terms of respect and estimation—I may add that it can hardly be doubted, considering the nature of the population of the islands, and their vicinity to the continent, that an attack would result either in their immediate conquest by the new States, or in a protracted civil war, which would put an end at once to their present prosperous condition, and would occasion, in like manner, their ultimate loss. It is believed, on the other hand, by the Government of the United States, that by making peace now his Majesty might insure the possession of these valuable colonies for a long and indefinite period of time to come. Under the system of free trade, upon which they are now fortunately governed, they have flourished almost beyond precedent. The inhabitants are prosperous and wealthy, and must, of course, be satisfied with their condition. Relieved from the burden incident to the defence of the islands, they would find their situation still further improved. There is no reason to suppose that under these circumstances any foreign Power would attempt to molest them, or to infringe upon the rights of his Majesty to their government; and, without pretending to prophecy what may happen in the course of centuries, it is every way probable that, for as long a period at least as any political combinations formed at the present day can be expected to produce effects, these islands would continue to acknowledge, quietly and cheerfully, the supremacy of Spain, and to constitute at once a rich appendage to the Peninsula and a convenient entrepôt for the immense trade which, in time of peace, must necessarily grow up between the mother country and the colonies.

Such would be the consequences resulting from the mere termination of the war; the removal of the immediate evils occasioned by it—such as the decline of commerce, and the burden of defending the islands—would be a real benefit. The assurance of preserving Porto Rico and Cuba would be another; but these negative advantages, however considerable, are of small importance when compared with those of a positive kind, which this Kingdom would derive from the conclusion of peace and the establishment of friendly relations with the colonies. Permit me, then, sir, to enlarge a little upon this topic, and, after touching very briefly upon the present unfortunate position of Spain, to present to you the more agreeable picture of her situation, as, in the opinion of the Government of the United States, it might and would be under a system of free intercourse with the ancient colonies, on a footing of equality and mutual independence.

The present distressed condition of Spain is a fact too notorious to require proof, and too painful to be dwelt upon without necessity. In alluding to it I shall quote the language of a report made last year by the Treasurer General to the Minister of Finance.

"Spain," says this officer, "has been the victim of political convulsions. It is extremely unpleasant to me to be obliged to relate disagreeable things, and to present unfavorable pictures; but, in the alternative of perhaps putting public tranquillity to hazard, I should consider myself criminal if any fears or private views made me conceal evils which require an immediate remedy, especially when, with all my efforts, I am unable to stifle the evils which are bursting forth in every quarter. The resources have diminished, and are daily diminishing. The great sums which used to be received from America, and which, in tranquil times, amounted annually to more than a hundred and sixty millions of reals, have fallen off. The customs, the tobacco duties, the salt duties, and other branches of the revenue, have sustained a defalcation amounting, by estimate, to another hundred millions, so that the revenue is scarcely sufficient to cover half the expenditure. Public credit is ruined by the enormous weight of the debt; and the measures that have been resorted to in this Department have failed to produce the expected results. So great a deficit, and so general a want of confidence, create uneasiness in all classes of society. Men neglect their private contracts, and the country is constantly exposed to the terrible effects of the general discontent, which is the necessary consequence of such a state of things."

Such is the alarming picture of the present state of Spain, presented in a public report by one of his Majesty's distinguished servants. The case, as the Treasurer observes, is one that demands an immediate remedy. Fortunately the great measure of making peace with the colonies, so desirable and necessary on other accounts, holds out, in addition, to the Kingdom the prospect of speedy and complete relief from its present distresses. The American States would doubtless consent to furnish, in return for the acknowledgment of their independence, such pecuniary supplies as would be sufficient to remove all financial embarrassments, and to re-establish the public credit on a solid basis. This great object being accomplished, the commercial relations that would naturally grow up between the mother country and the ancient colonies would open new, copious, and permanent sources of wealth, amply sufficient to complete the work of restoration, and even, in all probability, to elevate this Kingdom from its present state of depression to a height of greatness and glory which it never reached before. Thus the King would not only, in consequence of taking this measure, be crowned with the gratitude and love of sixteen millions of Americans, but would merit and obtain, by a single act, through all succeeding ages, the glorious title of the restorer of the Spanish monarchy.

In regard to the first of these points, viz: the supplies that would probably be furnished by the colonies in return for the acknowledgment of their independence, I wish to be understood as speaking entirely without authority from them, and without having the intention or the right to commit them in the smallest degree. I presume, however, that there can be no question upon this subject. The late example of Hayti shows to what an extent a community, in the situation of the Spanish settlements in America, is willing to make immediate sacrifices, in order to obtain complete and permanent security. It may be added, nevertheless, that the sooner the recognition is decided on the greater will be the probability of obtaining from it considerable advantages of this description.

The manner in which the establishment of commercial relations with the colonies would operate in restoring the prosperity and promoting the wealth and greatness of Spain is sufficiently obvious; but, as this is the most agreeable part of the subject, I shall make no apology for dwelling upon it a little longer.

The decline of industry occasioned by long and frequent political convulsions has been the immediate cause of the decay of the wealth and greatness of Spain, and the revival of industry is the only possible means by which this decay can be checked, and a contrary course of recovery commenced. The return of peace, especially after long intestine wars, has a natural tendency to produce such a revival, as well by restoring to productive labor the hands that were employed in the armies as by affording to the whole community that security for their persons and property which they cannot enjoy in the midst of convulsions, and without which nobody can labor with spirit or effect. But in order to bring about so complete and extensive a revival of industry as is wanted in this country, something more than this would be requisite; and it would also be necessary that some important change in the political or economical situation of the Kingdom should create a considerable increase of the ordinary demand for the products of labor. This would produce, immediately, an increased demand for laborers, a rise of wages, an augmentation of profits in all the branches of industry, and of the rents and value of land, and, in its more remote consequences, the extension of industry in all its branches, attended with an increase of population and of the comforts and well-being of all classes of society. Now, such an increase in the demand for the products of Spanish labor would be the direct consequence of the renewal of friendly relations with the colonies. New settlements possessing the tastes imparted by civilization and situated, at the same time, like the European colonies in America, in the midst of an extensive country not yet brought under cultivation, naturally turn their attention, in the first instance, to agriculture, as the most agreeable and profitable of all occupations, and depend for manufactures on the labor of older nations. Among these the mother country, in consequence of the community of language, tastes, and manners, must, of course, enjoy the preference. In this case, therefore, sixteen millions of Americans would immediately resort to Spain for all the supplies which they wanted from abroad, and which Spain could furnish. It is true that, in the present state of industry in this country, Spain would probably not be able to satisfy entirely this immense demand, and that the Americans would be obliged to seek, in other countries, many articles which they could not find in this. But the encouragement to labor afforded by this or by any other cause must, of course, operate at first only upon such branches of industry as are already established. If the new demand from America for the products of Spanish labor did not produce a revival of industry, the fact would prove that such a revival is impossible under the most favorable circumstances. But there is no reason to suppose that this is the case. Skill and labor enough still remain in this country to afford an ample basis for improvement and future progress. The demand from the colonies would operate, in the first instance, upon such products as now present themselves, and which, though chiefly agricultural, are not of the growth of America. The wines and fruits of the southern provinces of the Kingdom, and the manufactures of the eastern, would be sought with avidity by communities whose tastes have been formed to them by long and hereditary usage. The transportation of these and other articles would employ the navigation of Biscay and Galicia, diffuse life through the seaports, and give at once a wholesome spring to the circulation of the body politic. Such would be the first effects of this new situation; but its benefits would not end here. The profits resulting from the fresh impulse thus given to labor would augment the capital in the hands of the enterprising classes of the community, and would lead to the extension of all the existing branches of industry, to the establishment of new ones, and, in general, to the full development of the resources of this naturally rich and favored Kingdom. Foreign capital, if wanted, would take this direction. For every branch of industry thus established or extended, besides the large and increasing home demand, would be opened the vast market of the colonies, where the population, already so extensive, will probably increase with great rapidity, and require fresh and still augmented supplies faster even than the augmented labor and enterprise of the mother country would be able to furnish them. Under these circumstances, every thing at home must necessarily flourish. The agricultural products, which now constitute the chief wealth of Spain, would be obtained in larger quantities and in higher degrees of perfection. Manufactories would be founded, or enlarged and improved. The cotton fabrics would no longer be driven out of the home market by contraband foreign articles, but, after supplying the demand of Spain, would enter into competition, through all the American States, with those of other countries, and probably be preferred. The excellent wool of Castile and the silk of Valencia would no longer be exported and wrought up abroad, but would give employment and profit to millions of industrious hands at home. The mines, that have been so long neglected, would be explored to furnish materials for constructing the machinery necessary for these productive labors. New branches of industry, now entirely unknown in the country, would spring up under the operation of this prodigious stimulus. Population would increase with rapidity, and all classes would, nevertheless, enjoy a full share of the comforts of life. New communications, by roads and canals, would be opened. Navigation and commerce would wear an entirely different appearance. The value of land and labor would rise in proportion. The ancient cities that are now deserted and decaying would again swarm with crowds of busy inhabitants. The waste lands would be brought into cultivation, and a new life would animate the whole body politic.

Such would be the economical effect upon the mother country of the establishment of friendly relations with the colonies. It is hardly necessary to add that corresponding advantages would result as respects the facility of administering the Government and the general political situation of the Kingdom. The secret causes of the power and influence of States must be looked for in the industry and happiness of the individuals that compose them, as these, in turn, are the effects of wise laws and a just administration. When the people are idle, and of course poor and wretched, the Government, by a necessary consequence, is unprovided with resources, and its state politically weak. When the people are industrious, wealthy, and contented, the Government is also rich and powerful, and the state politically strong. Under the change of circumstances which I have supposed, Spain, instead of finding it difficult to collect a revenue large enough to cover half the annual expenses, reduced to the lowest possible scale, would be one of the wealthiest Governments in Europe. It is intimated by the Treasurer General, in the above extract from his report, that the supplies anciently received from the colonies amounted annually to more than a hundred and sixty million of reals. If this sum was then the measure of their value to the Crown, computed in money, it is certain that they would be worth much more in a state of independence. The immense revenue that might be derived from a free trade with the colonies may be conjectured by observing what has actually occurred in England. The duties collected at the custom-house in Liverpool in the year 1780, amounted to about £80,000. In the year 1823 they had risen to £1,801,402, and had thus increased more than twenty-fold. It is well known that the augmentation in the trade of Liverpool has been occasioned almost entirely by the separation of the United States from England. If the receipts at the custom-house at Cadiz, before the present troubles, were a hundred million reals, and we suppose them to increase only

as fast as those of Liverpool, under the influence of a much more powerful stimulating cause, (since the population of the Spanish colonies is now about five times as large as was that of the United States at the close of the Revolutionary war,) even on this moderate supposition they would amount, forty years hence, to about two milliards of reals, and would present a proportionate increase during the intervening years. A single port would thus furnish a sum equal to four times the amount of the whole annual receipts of the Kingdom, and twice the amount of the whole annual expenses, according to the present estimates. Such would be the effect upon one branch of the revenue, of this powerful cause, which would operate, at the same time, with corresponding vigor upon all the others. Nor would the failure of the supplies formerly received in money from the colonies be felt as a loss, since the islands, which would still remain to the Crown, under a system of free trade, and, liberated from the charge of defence, would furnish of themselves probably a larger sum. The duties collected at the port of the Havana alone are said to amount at present to a hundred million reals, and would be greatly augmented by the opening of commerce with the Main.

The effect of such vast additional resources as these would soon be perceived in every branch of the Government. It would show itself in the augmented majesty and splendor of the throne, in a more vigorous and steady administration of justice, in larger and more efficient military and naval establishments, and in an undoubted public credit. The internal dissensions by which the country has been long distracted, and which have their final origin in its unfortunate economical situation, would soon disappear. Spain, under these new circumstances, would be quiet at home and respected abroad. Instead of being attacked by foreigners every ten or twenty years, she would be in a situation to exhibit her own flag, when occasion should require, on the territory of neighboring and of distant nations. She would become, in short, what she was destined to be by her geographical position and great natural advantages—the leading Power in the south of Europe.

Such, according to the surest principles strictly applied, would be the effects resulting to Spain in the natural progress of events from a single wise and generous measure. The probability of their occurrence is confirmed in every point by the splendid example of England and the United States to which I have already alluded, and which, being parallel in every important circumstance, must be regarded as decisive, and deserves, of course, to be considered with great attention. It is now just half a century since the declaration of the independence of the United States, and about forty-three years since the conclusion of the peace with England. Previously to that event the respective positions of the two parties were the same with those of Spain and her ancient colonies at present. There was the same feeling of bitterness between them, occasioned by a long period of exasperation which preceded the war, and by the accidents of the war itself. England felt the same reluctance to treat with her colonies as sovereign States that is now felt by Spain. Their loss was generally viewed as a national misfortune, and many statesmen of the day predicted as its consequence the immediate decline and fall of the mother country. Fifty years have since elapsed, and where is England now? Instead of being ruined by the loss of her colonies, she has exhibited since that event a development of power and wealth wholly unparalleled in the history of any other country in Europe, and which seems at first view almost miraculous. Nay, this very loss of the colonies, from which so much mischief was anticipated, has proved to be a great blessing, and has been, in fact, as is now generally admitted, the principal cause of this prodigious prosperity. The rapid progress of the United States, which would never have flourished as they have done while dependent, has exercised a favorable reaction on the mother country, and has brought with it the wonders of improvements in England which the world has seen. This, as I have observed, is a thing generally acknowledged, and is also susceptible of proof. If we look in detail at the recent augmentation of the resources of England, we shall find that it has taken place chiefly in branches of industry unknown before the separation of the colonies, and growing directly out of that event. The principal of them is the manufacture of cotton. The exports of England in the year 1787 were valued at about fifteen millions sterling, and included no cotton fabrics whatever. In 1822 they were valued at about forty-five millions sterling, including cotton fabrics to the value of more than twenty-two. The exports of a country may be considered as an approximative, though not direct, indication of its economical state; and considering the increase of the exports of England during the interval between these two periods, amounting to thirty millions, as a measure of her increase of wealth, it will appear that three-fourths of it have proceeded from the establishment of this single branch of industry. Thus far the improvement has been owing entirely to the independence of the United States. Before the Revolution, no cotton was produced in the colonies, and very little was manufactured in England. In the year 1784, the one following the peace, the first exportation of this article took place from the United States, and consisted of eight bales, which were seized on their arrival at Liverpool on suspicion that they were not of the growth of the country, as it was not known previously that cotton was cultivated there. The necessity of finding some agricultural product with which to furnish the parent Kingdom in exchange for her manufactures soon extended the cultivation of this plant, and in the year 1823 the number of bales of cotton imported at Liverpool from the United States amounted to 406,670. The cheapness and abundance with which this valuable article was supplied naturally extended the manufacture of it in England; until, after satisfying an immense demand for home consumption, it furnished, in 1823, the prodigious quantity for exportation specified above. Upon every bale of cotton thus produced in the United States and wrought up in England, it is calculated that the profits of the labor of England are to those of the labor of the United States in the proportion of twenty to one. Such are the respective advantages resulting to the two parties from the intercourse that naturally grows up between a parent State and its colonies, and yet the latter have no reason to complain. The cotton planters of the United States are among the most prosperous and wealthy classes of the community, and this branch of industry is regarded by all as of the highest national importance.

Such has been to England the value of the increased market for her products, produced by the independence of her colonies, in this single department of labor. In others, such as the woolen and iron manufactures, the encouragement afforded, if not so extensive, has been still of great consequence; and, as it is generally acknowledged, so it appears to be true, on a close inspection, that the vast accession of wealth she has exhibited since the American Revolution, is immediately attributable to that cause, and could not have taken place without it. With the increase of wealth, the population has been doubled, and the comforts of life have been diffused throughout all classes; cultivation has been extended, roads and canals constructed or improved, and the face of the country in a manner entirely changed. The Government has found its resources augmented in the same proportion; has risen from the rank of a secondary to that of a leading European Power; has sustained a war of thirty years against a most

formidable combination of the continental States, attended with expenses before unheard of, to the amount, in one year, of thirteen milliards of reals; and, notwithstanding this astonishing destruction of productive capital, has still maintained its credit, and remains one of the wealthiest, most powerful, and most prosperous nations on the globe.

Such, or similar to these, would be the advantages derived by Spain from the independence of her colonies. The two cases are parallel; nor can any good reason be given why the results should not be the same. It may be said, indeed, that, because Spain is at present inferior in the perfection of her fabrics to some other countries, the new demand from the colonies would direct itself towards the latter, especially as commercial relations are already established with England, France, and the United States. But those who draw this conclusion have not sufficiently considered the influence of a community of origin, language, religion, and manners, in determining the intercourse among men. Similar predictions were made at the time in regard to the direction which would be taken by the commerce of the United States after their separation from England. They had received from France the most important aid in the Revolutionary war; and France was at that time a nation much richer than England, not only in natural products, as she is now, but even in those of art. A close commercial relation had been established by the political alliance that existed during the war; and it was anticipated that after the peace the trade of the United States with France would be much more considerable than that with England. No sooner, however, were the restrictions on the intercourse with the mother country removed by the conclusion of peace than the commerce of the United States returned into the old channels from which it had been diverted for several years, and has continued ever since to take this direction. The trade with France, notwithstanding the superior advantages of it in an economical point of view, never flourished to any great extent, and the exports to that country have never been more than a fourth or fifth of those to England. In like manner, the trade of the Spanish colonies would immediately take the direction of Spain, as far as the agricultural and manufacturing industry of the Kingdom is now capable of supplying their wants; and, in proportion as the resources of the Peninsula were developed under the operation of this beneficial intercourse, the trade would continue more and more to increase, bringing with it the favorable effects that I have already described.

Such, my Lord Duke, are the grounds upon which the Government of the United States have formed their opinion upon this subject, and the reasons by which they have been induced to recommend to his Majesty's Government the policy of a general pacification. If the facts I have stated are in any way correct, it results, from the whole, that the recovery of the colonies is impossible, either by actual force, by the effect of internal dissensions, or by the aid of foreign Powers; that the continuance of the war is attended with great inconveniences, among which must be reckoned, at no distant period, the loss of the islands; and that peace, besides the ordinary blessings which it always carries with it, would, in this case, administer immediate relief to the financial embarrassments of the Government, and, by its ultimate consequences, restore the prosperity and greatness of the Kingdom. Deeply impressed with this view of the subject, the Government of the United States have considered it an act of real friendship and duty to communicate their sentiments to his Catholic Majesty; and they cannot but hope that the communication will not be without effect. I have only to add that the efficacy of the measure recommended, both in removing evil and in producing positive good, depends very much upon its being adopted immediately. Should the peace be delayed a single year, it will, in all probability, be too late to save the islands. Should the acknowledgment of the independence of the colonies be deferred until it becomes a mere matter of form, it can hardly be presumed that they will be willing to purchase it by any great sacrifices, and it will not, in that case, bring relief to the finances. Finally, if the trade of America is permitted to flow for too long a time in foreign channels, it is at least uncertain whether it will ever return to the mother country. What is to be done should, on every account, be done quickly. If it should be thought by his Majesty's Government that the good offices of that of the United States would be of use in bringing about an accommodation on the basis indicated in the present note, they will be employed with great readiness and pleasure; and I should be truly happy to contribute, in any way, by my personal services, in effecting so great and benevolent an object.

Of the glorious actions achieved under the patronage of the Sovereigns of Spain, predecessors of his Majesty, the greatest, beyond a doubt, was the enterprise of Christopher Columbus. The discovery and settlement of an unknown world, the foundation of a brotherhood of new nations, the diffusion of the noble Castilian language, and with it, of the lights of civilization and Christianity, over a whole quarter of the globe; these were the results of the enlightened policy of Ferdinand the Catholic and his celebrated Queen. It has been reserved for his present Majesty to put the last finish to this great work, by a measure that shall at once confirm the prosperity of Spanish America, and restore the splendor and greatness of Spain. Seldom has it been in the power of any monarch or any Government to effect, by a single act, so much good as would result from this. May God, in his providence, incline the King's heart to perform it.

I pray your excellency to submit this communication to the consideration of his Majasty, and avail myself of this occasion to offer your excellency the renewed assurance of my sincere respect and esteem.

A. H. EVERETT.

His Excellency the DUKE DEL INFANTADO, *Principal Secretary of State.*

20TH CONGRESS.] No. 498. [1ST SESSION.

CORRESPONDENCE RELATIVE TO THE ARREST AND IMPRISONMENT OF JOHN BAKER BY THE BRITISH AUTHORITIES OF NEW BRUNSWICK.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MAY 23, 1828.

To the House of Representatives of the United States:

The enclosed report from the Secretary of State is accompanied by copies of the correspondence between this Government and the minister of his Britannic Majesty residing here, relating to the arrest and imprisonment of John Baker, requested by a recent resolution of the House.

JOHN QUINCY ADAMS.

WASHINGTON, *May* 22, 1828.

DEPARTMENT OF STATE, *Washington, May* 21, 1828.

The Secretary of State, in pursuance of a resolution of the House of Representatives of the — instant, requesting the President to communicate to that House, if not in his opinion incompatible with the public interest, any correspondence which may have taken place between the Government of the United States and the Government of Great Britain relative to the arrest and imprisonment of John Baker, a citizen of the United States, by the authorities of the province of New Brunswick, has the honor to submit to the President a copy of the correspondence upon that subject not already communicated to one or other of the Houses of Congress, and published under its authority, which has passed between this Department and the British minister residing here.

Respectfully submitted. H. CLAY.

[Enclosures.]

Mr. Clay to Mr. Vaughan, February 20, 1828.
Mr. Vaughan to Mr. Clay, February 20, 1828.
Mr. Clay to Mr. Vaughan, March 17, 1828.
Mr. Vaughan to Mr. Clay, March 25, 1828.

Mr. Clay to Mr. Vaughan.

DEPARTMENT OF STATE, *Washington, February* 20, 1828.

The undersigned, Secretary of State of the United States, has the honor to inform Mr. Vaughan, his Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, that about the date of his note of the 21st of November last, in answer to one from the undersigned of the 17th of the same month, it was deemed expedient to depute an agent to that portion of the State of Maine which is claimed by the British Government as being part of the province of New Brunswick, to inquire into the origin of settlements made thereon, the causes of recent disturbances among the settlers, and especially into the grounds of the arrest, deportation, and detention in confinement at Fredericton of John Baker, a citizen of the United States. Accordingly, Mr. S. B. Barrell was selected for the purpose, and sent on that service. About the same period the Government of Maine also appointed an agent to proceed to the disputed territory and to Fredericton for the purpose of making the same investigations. The undersigned postponed transmitting to Mr. Vaughan a reply to his above mentioned note until the report of Mr. Barrell should be received. He has now the honor of laying before Mr. Vaughan a copy of that report, and also a copy of the report made by the agent of the Government of Maine; and he avails himself of this occasion to submit a few observations.*

The undersigned, in the actual state of the negotiation between the two Governments, having for their object the settlement of the question of disputed boundary, heartily concurs with Mr. Vaughan in the sentiment expressed in the conclusion of his note, that too much vigilance cannot be exerted by the authorities on both sides to remove misapprehension, and to control all misconduct arising out of it. The undersigned also participates with Mr. Vaughan in the regret which he feels on account of the collisions of authority, to which both countries are so repeatedly exposed by the long delay which has taken place in the final adjustment of the boundary on the northeast frontier of the United States. Without meaning to allege that the British Government is justly chargeable with having intentionally contributed to that delay, the undersigned is fully persuaded that Mr. Vaughan must agree that that of the United States has not unnecessarily prolonged it. Considering the course which the business is now likely to take, it ought to be the earnest endeavor of both Governments, and it will certainly be that of the Government of the United States, to avoid giving any just occasion of inquietude, until the experiment of the arbitration shall have been crowned with success, or been attended with failure. Although the reports of the two agents before referred to establish that there was some misrepresentation in the accounts of the disturbances which had reached the Government of the United States prior to Mr. Barrell's departure on his agency, and which had been communicated to Mr. Vaughan, they disclose some transactions which the President has seen with regret.

* These reports having been already published, copies of them are not sent to the President with the report of this Department of May 21, 1828.

The undersigned cannot agree with Mr. Vaughan in the conclusion to which he has brought himself, that the sovereignty and jurisdiction over the territory in dispute have remained with Great Britain, because the two Governments have been unable to reconcile the difference between them respecting the boundary. Nor can he assent to the proposition stated by him, that the occupation and possession of that territory was in the Crown of Great Britain prior to the conclusion of the treaty of 1783, if it were his intention to describe any other than a constructive possession. Prior to that epoch the whole country now in contest was an uninhabited waste. Being, then, an undisputed part of the territory of the King of Great Britain, he had the constructive, and the right to the actual possession. If, as the Government of the United States contends, the disputed territory is included within their limits, as defined in the provisional articles of peace between the United States and Great Britain of November, 1782, and the definitive treaty which was concluded in September of the following year, the prior right of Great Britain became thereby transferred to the Government of the United States, and it drew after it the constructive possession of the disputed territory. The settlement on the Madawaska, the earliest that has been made within its limits, was an unauthorized intrusion on the property of the State of Massachusetts, to which the territory then belonged, by individuals, posterior to the treaty of 1783. That settlement of those individuals could not affect or impair, in any manner whatever, the right of the State of Massachusetts, or give any strength to the pretensions of the British Government. The settlers, in consequence, probably, of their remoteness and their quiet and peaceable conduct, do not appear, for a long time, to have attracted the attention of either the State of Massachusetts or that of the adjoining British province. It was not until the year 1790 that the Government of New Brunswick took upon itself to grant lands to the intruders. No knowledge of these grants is believed to have been obtained, until recently, by either the Government of Massachusetts or Maine, or that of the United States. The Provincial Government had no color of authority to issue those grants for lands then lying within the State of Massachusetts. It cannot be admitted that they affected the rights of the United States as acquired by the treaty of peace. If, in consequence of the Madawaska settlement, a possession *de facto* was obtained by the Government of New Brunswick, it must be regarded as a possession limited by the actual occupancy of the settlers, and not extending to the uninhabited portions of the adjoining waste. Although, subsequent to the year 1790, the Provincial Government appears to have exercised, occasionally, a jurisdiction over the settlement, it has not been exclusive. As late as 1820 the inhabitants of the settlement were enumerated as a part of the population of the United States by their officers charged with the duty of taking the periodical census for which their Constitution and laws provide.

The settlement of John Baker appears to have been outside of the Madawaska settlement, upon contiguous waste lands. Other American citizens established themselves in his neighborhood. Whatever jurisdiction the Government of New Brunswick might claim, in virtue of the Madawaska settlement being confined to it, could not be rightfully extended to Baker and his American neighbors. Even if he had been guilty of any irregularity of conduct, he was not amenable to the Provincial Government, but to his own. His arrest, therefore, on the disputed ground, and transportation from it to Frederickton, at a considerable distance from his family, and his confinement there in a loathsome jail, cannot be justified. It is a proceeding which seems to have been adopted without regard to the rights of the United States in the territory in question, and which assumes an exclusive jurisdiction on the part of the Provincial Government. Nor is it compatible with that moderation and forbearance which it has been understood between the two Governments should be mutually practiced until the question of right between them was finally settled. I am charged, therefore, by the President to demand the immediate liberation of John Baker, and a full indemnity for the injuries which he has suffered in the arrest and detention of his person.

Nor can the President view with satisfaction the exercise of jurisdiction, on the part of the Provincial Government, over the settlement on the Aroostook. That settlement was made only about six years ago, partly by American citizens and partly by British subjects. The settlers supposed they were establishing themselves on American ground, and beyond the British jurisdiction. It has been only within these three or four years past that the Provincial Government has undertaken to issue civil process against the settlers; and as late as last summer process for trespass and intrusion on the Crown lands was for the first time issued. These proceedings cannot be reconciled with the resolution which you state to have been adopted by his Britannic Majesty's Lieutenant Governor of New Brunswick, to maintain the disputed territory in the same state in which his excellency received it after the conclusion of the treaty of Ghent. Nor can they be reconciled with that mutual forbearance to perform any new act of sovereignty within the disputed territory, having a tendency to strengthen the claim of the party exercising it, which it has been expected would be observed by the two Governments during the progress of their endeavors amicably to adjust the question of boundary. The undersigned must protest, in behalf of his Government, against any exercise of acts of exclusive jurisdiction by the British authority on the Madawaska, the Aroostook, or within any other part of the disputed territory, before the final settlement of that question; and he is directed to express the President's expectation that Mr. Vaughan will make such representations as will prevent, in future, any such jurisdiction from being exerted.

The undersigned requests Mr. Vaughan, on this occasion, to accept assurances of his high consideration.

H. CLAY.

Mr. Vaughan to Mr. Clay.

WASHINGTON, *February*, 1828.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of his Britannic Majesty, has the honor to acknowledge the receipt of a note from the Secretary of State of the United States, enclosing a copy of the report made by the agent of the General Government, and a copy of the report made by the agent of the Government of the State of Maine, sent to inquire into the proceedings which took place, not long since, in the disputed territory within the province of New Brunswick.

The undersigned has not any remarks to make upon the reports which have been submitted to him; but he is glad to learn, from Mr. Clay's note, that it appears from those reports that some misrepresenta-

tion took place in the accounts which had reached the Government of the United States respecting the recent disturbances which took place amongst the settlers in the disputed territory.

The Secretary of State expresses his dissent to the principle laid down by the undersigned in his note of the 21st of November last, that the sovereignty and jurisdiction over the territory in dispute continue to be vested in Great Britain until the two Governments shall have reconciled their differences respecting the line of boundary. Mr. Clay observes, that the United States contend that possession was transferred to them by the treaty of 1783, which places the disputed territory within their limits. Whatever may be the conviction of the Government of the United States with regard to the extent of the limits assigned to it by that treaty, those limits are still undefined, and remain unadjusted; and, notwithstanding the reports of the Commissioners of Boundary, and after repeated negotiations remained to be settled by a reference to a friendly Sovereign, it is the opinion of the undersigned that the sovereignty and jurisdiction of the disputed territory rests with Great Britain until that portion of it designated in the treaty of 1783 shall have been finally set apart from the British possessions as belonging to the United States.

The British settlement upon the Madawaska river is considered by Mr. Clay as an unauthorized intrusion on the property of the State of Massachusetts. When the treaty of 1783 was concluded, New Brunswick had not been erected into a separate province, but it was included in the province of Nova Scotia. The St. Croix river was then considered to be the boundary, on the northeast, of Massachusetts, and on the west, of Nova Scotia. Some difficulty might have arisen about the exact boundary between that province and Massachusetts, on account of the uncertainty of the limits of Acadie, (which now forms the province of New Brunswick,) as ceded by France to Great Britain in 1713. The undersigned, however, cannot acquiesce in the pretensions of Massachusetts to the territory upon the Madawaska, which lies to the north of the St. John's, and falls into that river at a distance from its source. It remains to be seen, when the position of the northwest angle of Nova Scotia shall have been determined, whether the line of boundary between Great Britain and the United States will intersect any portion of the Madawaska territory. In the meantime the undersigned begs leave to express his conviction that neither the establishment of settlements upon that river nor the grants of land made to the settlers by the Government of New Brunswick in 1790 can, in any shape, affect the final settlement of the boundary, or tend, as Mr. Clay seems to imagine, to strengthen the claims of Great Britain, or in any manner to invalidate the rights acquired by the United States under the treaty of 1783.

The Secretary of State observes, in his last note, that the jurisdiction exercised by the Government of New Brunswick in the Madawaska settlement has not been exclusive, inasmuch as an agent sent by the Governor of the State of Maine took a census of the population in 1820 as belonging to that State. The undersigned begs leave to remind Mr. Clay that that attempt of the State of Maine to interpose its jurisdiction was considered by the British Government as an encroachment, and it was the subject of a remonstrance to the Government of the United States.

With regard to the arrest of John Baker, surely his outrageous conduct in stopping the mail from Canada, in hoisting the American flag, and forming a combination to transfer the territory in which he resided to the United States, made him amenable to the laws. Although his residence, as it is observed by Mr. Clay, was not actually in the Madawaska settlement, it was within the jurisdiction of New Brunswick, and he knew it, as he had applied for and received, in 1822, the bounty upon corn grown in newly cultivated ground, given by the Government of that province. A moderate bail was demanded of Baker for his appearance to take his trial. He did not profit by this offer of the magistrates, and thereby obtain his release from confinement, because he understood that a writ had been taken out against him by some one of his creditors. It does not appear that the proceedings have been carried on against him with any unusual severity; and after the investigation which has taken place into all the circumstances attending his arrest, the undersigned did not expect that the President of the United States would have demanded his immediate liberation, and full indemnity for the injuries he has suffered by the arrest and detention of his person. A copy of the note which the undersigned has had the honor to receive from the Secretary of State shall be immediately transmitted to his Majesty's Government and to the Lieutenant Governor of New Brunswick.

It appears that the President of the United States does not view with satisfaction the exercise of jurisdiction by the Government of New Brunswick in a settlement upon the Aroostook river, which had its origin in the unauthorized residence of stragglers from other districts. They remained for some time unnoticed; but, within the last three or four years, civil process has been issued against the settlers by the Provincial Government, which Mr. Clay is at a loss to reconcile with the resolution which the undersigned has stated to have been adopted by the Lieutenant Governor of New Brunswick, to maintain the disputed territory in the state in which it was after the conclusion of the treaty of Ghent. The undersigned is convinced that Mr. Clay will admit that no part of the disputed territory can be left without the control of any civil authority. All persons, of whatever description, who take up their residence in the disputed territory, are within the British jurisdiction until the boundary line is adjusted, and are amenable to the Government of New Brunswick, and owe a temporary allegiance to his Majesty so long as they remain under his protection. It is not for the Lieutenant Governor of New Brunswick to surrender up the exercise of an ancient jurisdiction, but in strict conformity with his resolution above alluded to. His excellency has exercised it with great moderation, by refusing to make grants of land, and by suspending the issuing of licenses for the cutting of timber, and by strictly enjoining all magistrates under his control to prevent trespasses and intrusions of every description. The Secretary of State may rely upon the moderation with which the jurisdiction will be exercised by his excellency over the disputed territory.

The undersigned has observed that a misconception pervades all the papers which have fallen under his notice from the State of Maine. The disputed territory is invariably represented as a part of that State, unjustly withheld from it; overlooking, always, the difficulties which Great Britain and the United States have encountered in appropriating and setting apart that portion which belongs to the United States under the treaty of 1783, and which have so unfortunately kept, as it were, in abeyance the title of the United States.

The undersigned cannot conclude this note without expressing his anxious wishes that the measure now resorted to by both Governments, of arbitration, may put at rest forever the question of boundary which has lately so repeatedly occupied the attention of the Secretary of State and of the undersigned.

The undersigned requests Mr. Clay to accept the assurances of his highest consideration.

CHAS. R. VAUGHAN.

Mr. Clay to Mr. Vaughan.

DEPARTMENT OF STATE, *Washington, March* 17, 1828.

The undersigned, Secretary of State of the United States, in acknowledging the receipt on the 20th ultimo of the note of Mr. Vaughan of the —— day of that month, in answer to that which the undersigned had the honor to address to him, transmitting the reports made by the agents of the United States and the State of Maine, would have restricted himself to a simple expression of his satisfaction with the engagement of Mr. Vaughan to lay the demand of the Government of the United States for the immediate liberation of John Baker, and a full indemnity for the injuries he had suffered by his arrest and detention, before the Governments of Great Britain and the province of New Brunswick, but for certain opinions and principles advanced by Mr. Vaughan to which the undersigned cannot assent. And he feels it to be necessary, to guard against any misinterpretation from his silence, expressly to state his dissent from them. In doing this he will avoid, as much as possible, any discussion of the respective claims of the two countries to the disputed territory. If it were necessary to enter into that argument, it would not be difficult to maintain as clear a right on the part of the United States to that territory as they have to any other portion of the territory which was acknowledged by Great Britain to belong to them by the treaty of 1783. But as, by the arrangements between the two Governments, the question of right has received a different disposition, it is unnecessary to give it a particular consideration here. The correspondence which the undersigned has had the honor of holding with Mr. Vaughan has related to the intermediate possession, and to acts of jurisdiction within the disputed territory until the right is finally settled. It would furnish a just occasion for serious regret if, whilst the settlement of that question is in amicable progress, any misunderstanding should arise between the two Governments in consequence of what must be regarded by the Government of the United States as the unwarranted exercise of a right of jurisdiction by the Government of the province of New Brunswick within the disputed territory.

The undersigned cannot concur in the opinion that, the limits of the treaty of 1783 being undefined and unadjusted, the sovereignty and jurisdiction of the disputed territory rests with Great Britain until that portion of it designated in the treaty of 1783 shall have been finally set apart from the British possessions as belonging to the United States. Mr. Vaughan's argument assumes that some other act of setting apart the territories of the United States from those of Great Britain than the treaty of peace of 1783 was necessary, and that until that other act should be performed the United States could not be considered in possession. This argument would prove that the United States are not now lawfully in possession of any portion of the territory which they acquired by the war of their Independence; the treaty of 1783 being the only act of separation in virtue of which they are in possession of their territory. If, at the conclusion of the treaty of 1783, Great Britain had had the actual, and not merely constructive possession, and that actual possession had *all along* remained with her, Mr. Vaughan might have contended that the Government of Great Britain had a right to exercise a jurisdiction *de facto* over the disputed territory. But at that epoch neither party had the actual possession of the disputed territory, which was then an uninhabited waste. Which of the parties had the right to the possession depended upon the limits of the treaty of 1783. If, as the United States contend, those limits embrace it, they had the right both of sovereignty and to the possession, and Great Britain could not lawfully exercise either. It is true that Great Britain asserts that those limits do not comprehend the disputed territory. On that point the parties are at issue, and cannot agree. They have, however, amicably agreed to refer the decision of it to a common friend. Whilst the experiment is making for this peaceful settlement of the question, ought either of the parties to assume the exercise of sovereignty or jurisdiction within the contested territory? If he does, can he expect the other party to acquiesce in it, or to look on with indifference? It was a mutual conviction of the irritating consequence which would ensue from the exercise of a separate jurisdiction by either of the parties that led to the understanding which has so long prevailed between them, to abstain from all acts of exclusive jurisdiction which might have a tendency to produce inquietude. In conformity with that understanding licenses to cut timber from the disputed territory, granted by the provincial authority, had been revoked, and the practice of cutting and removing the timber has been understood by the Government of the United States to have been discontinued.

It follows, from the view now presented, that the undersigned cannot subscribe to the opinion that the jurisdiction of the British Government, through its provincial authority, over the disputed territory has continued with Great Britain, notwithstanding the treaty of 1783. To maintain that opinion, Mr. Vaughan must make out either, first, that the terms of the treaty do exclude altogether the disputed territory, or that, if they include it, *actual* possession of the disputed territory was with Great Britain in 1783. Neither proposition can be established.

Mr. Vaughan seems to think that some civil government is absolutely necessary within the disputed territory. If its utility be conceded in reference to the inhabitants, it would not be a necessary consequence that the Government of New Brunswick, and not the State of Maine, ought to exert the requisite civil authority.

The alleged irregularity of the conduct of John Baker is relied upon by Mr. Vaughan as forming a justification for his arrest and the subsequent proceedings against him in the courts of New Brunswick. The President is far from being disposed to sanction any acts of Mr. Baker by which, on his private authority, he would undertake the settlement of a national dispute. He derived no power for any such acts either from the Government of the United States or, as is believed, from the Government of Maine. National disputes ought always to be adjusted by national and not individual authority. The acts of Baker complained of were, however, performed by him under a belief that he was within the rightful limits of the State of Maine, and with no view of violating the territory or offending against the laws of Great Britain. This case, therefore, is very different from what it would have been if the irregularities attributed to him had been committed on the uncontested territory of Great Britain.

The undersigned finds himself as unable to agree that the misconduct of Mr. Baker, whatever it may have been, warranted the Government of New Brunswick in taking cognizance of his case for the purpose of trying and punishing him by British laws, as he was unprepared to admit that the want of civil government on the part of the inhabitants of the disputed territory created a right in the Government of New Brunswick to supply, in that respect, their necessities. In assuming that Baker rendered himself amenable to the laws of New Brunswick, Mr. Vaughan decides the very question in controversy. He decides that the part of Maine in contest appertains to the province of New Brunswick, and that the laws of New Brunswick can run into the State of Maine, as the limits of that State are understood to exist by the Government of the United States. The Provincial Government of New Brunswick, in the arrest and

trial of Baker for acts of his done on the disputed territory, commits the very error which is ascribed to Baker—that of undertaking, in effect, to determine a national question, the decision of which should be left to the Governments of Great Britain and the United States, which are, in fact, endeavoring peaceably to settle it.

It would have been more conformable with good neighborhood and the respective claims of the two Governments, as well as the mutual forbearance which they stand pledged to each other to practice, if a friendly representation had been made to the Government of the United States of any misconduct charged against John Baker, or any other citizen of the United States inhabiting the disputed territory, accompanied by a request for the redress called for by the nature of the case. Such was the course pursued by Sir Charles Bagot as far back as the year 1818. In December of that year he had an interview with the then Secretary of State, in which he preferred a complaint of irregular settlements attempted by citizens of the United States on the lands in controversy. The Secretary of State, on receiving the complaint, stated that he supposed the settlers were of that class of intruders denominated squatters, meaning persons who commence settlements upon the public lands without title; that as, by Mr. Bagot's representation, it appeared that they were entering on the disputed borders in families, peaceable means would doubtless be sufficient to remove them; and that if he, Mr. Bagot, would procure and communicate their names to the Secretary of State, he would invite the Government of Massachusetts to take the necessary measures for restraining them. But their names were never, in fact, disclosed to this Government. Among the papers recently communicated by the Government of New Brunswick to Mr. Barrell, the agent of the Unithd States, the President has observed, with regret and surprise, a letter from Mr. Bagot to the Lieutenant Governor of the province, bearing date the 8th of December, 1818, in which, after referring to the above interview, Mr. Bagot gives it as his opinion that the Government of New Brunswick might remove the settlers by force. This conclusion is not only unwarranted by anything which passed at that interview, but, I am directed to say, is contrary to that which the Government of the United States had reason to expect would have resulted from it. So far from conceding a right in the Government of New Brunswick forcibly to remove those persons, their names were requested, to enable their own Government to operate upon them, if necessary. In the letter from Mr. Bagot to the Lieutenant Governor of New Brunswick he did, agreeably to the request of the Secretary of State, ask for their names, whilst the advice that the Government of New Brunswick should forcibly remove them as intruders obviously superseded the only practical purpose for which their names had been denied, that the Governor of Massachusetts might be called upon, by peaceable means and by his lawful authority, to restrain them.

The enumeration of the settlers on the Madawaska as a part of the population of the United States, which took place in 1820, was not under the authority of the State of Maine; it was made in virtue of the laws of the United States, and by officers duly commissioned by them. Mr. Vaughan says there was a remonstrance against it at the time; no trace of any such remonstrance is discernible in the records of this Department.

In the note which Mr. Vaughan addressed to the undersigned on the 21st day of November last it was stated that the Lieutenant Governor of New Brunswick had resolved to maintain the disputed territory in the state in which it was at the conclusion of the treaty of Ghent: that treaty was signed on the 24th of December, 1814, and the exchange of its ratifications was made on the 17th day of February, of the ensuing year. More than seven years thereafter, and four years after the interview between Sir Charles Bagot and the Secretary of State, certain persons, without authority, settled themselves on the waste and uninhabited lands of the Aroostook, within the disputed territory, supposing that they were occupying American ground. Within only three or four years past the Provincial Government has undertaken to issue civil process against the settlers, for the purpose of enforcing the collection of debts, and the performance of other social duties. The undersigned, in his note of the 20th ultimo, has stated that he could not reconcile this exercise of jurisdiction with the above resolution of the Lieutenant Governor of New Brunswick, and he is still unable to perceive their compatibility. If the Lieutenant Governor had applied to the Government of the United States to remove the settlers, he would have manifested a disposition to preserve the disputed territory in the state in which it was at the conclusion of the treaty of Ghent. But, by treating the settlers as British subjects, and enforcing on them British laws, there is, at the same time, a manifest departure from the resolution formed by the Lieutenant Governor, and a disregard of the lawful rights of the United States. If a succession of illegal settlements can be made within the territory, and if these unauthorized intrusions lay a just ground for the exercise of British authority and the enforcement of British laws, it is obvious that, so far from maintaining the country in the uninhabited state in which it was at the date of the treaty of Ghent, the whole of it may become peopled, and be brought, with its inhabitants, under British subjection.

Mr. Vaughan supposes that the acts of British authority, to which the undersigned, in the course of this correspondence, has had occasion to object, can in no shape affect the final settlement of the boundary, nor tend to strengthen the claims of Great Britain, nor in any manner to invalidate the rights of the United States. If there were an absolute certainty of a speedy settlement of the boundary within a definite time, Mr. Vaughan might be correct in supposing that the rights of the respective parties would not be ultimately affected by those acts of jurisdiction. But it is now near half a century since the conclusion of the treaty of peace out of which the controversy grows, and it is more than thirteen years since the final ratification of that of Ghent, providing a mode of amicably settling the dispute. It remains unadjusted. Mr. Vaughan himself has repeatedly expressed regret, in which the undersigned has fully participated, on account of the delay. Judging from past experience, as well as the uncertainty of human affairs in general, we are far from being sure when a decision will take place. If, in the meantime, Great Britain were to be allowed quietly to possess herself of the disputed territory, and to extend her sway over it, she would have no motive for co-operating in quickening the termination of the settlement of the question. Without imputing to her a disposition to procrastination, she would, in such a state of things, be in the substantial enjoyment of all the advantages of a decison of the controversy in her favor. The President of the United States cannot consent to this unequal condition of the parties; and the undersigned, in conclusion, is charged again to protest against the exercise of all and every act of exclusive jurisdiction, on the part of the Government of the province of New Brunswick, and to announce to Mr. Vaughan that that Government will be responsible for all the consequences, whatever they may be, to which any of those acts of jurisdiction may lead.

The undersigned requests Mr. Vaughan to accept the renewed assurances of his high consideration.

H. CLAY.

Right Hon. CHARLES R. VAUGHAN, *&c., &c., &c.*

Mr. Vaughan to Mr. Clay.

WASHINGTON, *March* 25, 1828.

The undersigned, his Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honor to acknowledge the receipt of the note of the Secretary of State of the United States, dated the 17th instant, in which, in order to guard against any misrepresentation of his silence, he has taken occasion to express his decided dissent from the principles and opinions advanced by the undersigned in justification of certain acts of jurisdiction which have been exercised in the disputed territory by the provincial authorities of New Brunswick.

As it is the intention of the undersigned to submit to the consideration of his Majesty's Government the correspondence which has taken place between the Secretary of State of the United States and himself, he is not disposed to prolong the discussion respecting the exercise of jurisdiction in the disputed territory.

When he received the complaints against the conduct of the Lieutenant Governor of New Brunswick, he thought it his duty to suggest the grounds upon which that conduct might be justified and the irritation might be mitigated which was likely to arise out of it.

The undersigned is at a loss to understand the distinction, made by Mr. Clay, between the actual and constructive possession of the disputed territory previously to the conclusion of the treaty of 1783. Though a part of that territory was uninhabited, and in a state of waste, so far from neither party having the actual possession, the sovereignty and possession of the entire province of Nova Scotia was vested, indisputably, in his Britannic Majesty; and it is the received opinion that the plenipotentiaries engaged in concluding the treaty of 1783 did intend and did agree to leave untouched the rights of his Majesty over the province of Nova Scotia.

The boundary, from the mouth of the river St. Croix to its sources, is clearly defined; the right continuation of the line entirely depends upon the position of the northwest angle of Nova Scotia, which the British Commissioners of Boundary, under the fifth article of the treaty of Ghent, have placed at Mars Hill, and the American Commissioners have placed at a great distance to the northward, and not far from the right bank of the river St. Lawrence.

The undersigned agrees with Mr. Clay in wishing to avoid any discussion of the claims of the respective Governments; but he has ventured to point out the very great difference between the Commissioners of Boundary, as he conceives that, until that difference shall be reconciled, jurisdiction must continue to be exercised within the disputed limits by the original possessors. A joint jurisdiction appears to the undersigned inadmissible, as it must prove impracticable.

The undersigned cannot acquiesce in the opinion given by Mr. Clay, that the issuing of legal process, within the last few years, in a settlement upon the river Aroostook, formed originally in an unauthorized manner by stragglers from other districts, is to be considered as an infringement of the engagement of the Lieutenant Governor of New Brunswick to preserve the disputed territory in the state in which it was at the conclusion of the treaty of Ghent. These settlements were established previously to the Government of New Brunswick being confided to Sir Howard Douglas; and the undersigned conceives that it was not optional in his excellency to exercise, or not, jurisdiction within the limits of his province.

Proceedings in a tract of land upon the river Madawaska, in which a settlement was established soon after the treaty of 1783 by French Acadians, have furnished repeatedly cause of remonstrance to both Governments. From the date of 1786 the laws by which those settlements have been governed, and the magistrates by whom those laws have been executed, have been derived from New Brunswick. Whether any, and what, part of that settlement belongs to the United States depends upon the provisions of the treaty of 1783. Until the two Governments can agree upon the true intent of that treaty, possession and actual jurisdiction remains with Great Britain.

It is true that, in 1820, there was an attempt to invalidate that jurisdiction, when the marshal of the State of Maine sent an agent to enumerate the population of that settlement under a law enacted by the General Government of the United States. The undersigned learns, with regret, that there is no record in the Department of State of a remonstrance against that proceeding by the British Government, as he had asserted. Such was the conviction upon his mind, justified by the frequent remonstrances which he had been called upon to make, since the summer of 1825, against proceedings of agents from the State of Maine authorized to sell lands and to lay out roads and townships in the same district.

With regard to the arrest of Baker, the Secretary of State, in his last note, seems to think that, as he committed the outrage for which he was taken up under a conviction that he was upon territory belonging to the United States, a representation should have been made of his offence to the Government of the latter.

The undersigned has only to refer the Secretary of State to his note dated the 27th of February, where it is shown that Baker was perfectly aware of his residing within the jurisdiction of New Brunswick, as he had received the provincial bounty for corn raised upon land newly brought into cultivation.

The undersigned regrets that he should have found himself under the necessity of making the foregoing observations; and he cannot conclude without expressing his earnest wish that the reference to arbitration may relieve the Secretary of State and the undersigned from any further discussion relative to the boundary on the northeastern frontier of the United States.

The undersigned avails himself of this occasion to renew to Mr. Clay the assurance of his distinguished consideration.

CHAS. R. VAUGHAN.

Hon. HENRY CLAY, *&c., &c., &c.*

20TH CONGRESS.] No 499. [1ST SESSION.

AFFAIRS WITH BRAZIL.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES MAY 23, 1828.

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives of the 30th ultimo, I transmit herewith a report from the Secretary of State, with copies of the correspondence with the Brazilian Government, and showing the measures taken by the Government of the United States in relation to the several topics noticed in the resolution.

JOHN QUINCY ADAMS.

WASHINGTON, *May* 23, 1828.

DEPARTMENT OF STATE, *Washington, May* 23, 1828.

The Secretary of State, in obedience to the resolution of the House of Representatives of the 30th ultimo, requesting the President to communicate to that House the correspondence between the late Chargé d'Affaires of the United States at the Court of Brazil and the Governments of the United States and the Brazils, in relation to the alleged blockade by the naval force of the Brazilian Government, in relation to the imprisonment of American citizens by the said Government, and in relation to the demand made upon it by the said Chargé d'Affaires of his passports, and the cause thereof, has the honor now to report to the President copies of the correspondence requested.

The resolution of the House also requests any information that may have been recently received by the Government concerning a paper blockade of the whole coast of the Buenos Ayrean Republic by the Government of Brazil, and the consequent embarrassment to American commerce. All the information in the possession of the Department of State on that subject is to be found in the correspondence, copies of which are now communicated, embracing the correspondence of Mr. Wright, the American consul at Rio Janeiro, and that between the commanders of our squadrons on that service and the Department of the Navy, and officers in the service of the Emperor of Brazil.

The resolution of the House further requests a communication of the measures which have been taken by this Government since the late Chargé d'Affaires left the Court of Brazil to countervail the illegal system of blockade attempted to be enforced, and to redress the suffering and losses of American citizens who are navigating the ocean under the protection of the law of nations and the guardian care of this Government.

Shortly after the return of Mr. Raguet to the United States, Mr. William Tudor, our consul at Lima, was designated as his successor, and a commission was transmitted to him. This gentleman was selected in consequence of his known qualifications, his long residence in South America, and his intimate and thorough knowledge of the habits and usages of that portion of this hemisphere, and the commercial connexions existing between it and the United States. The personal knowledge which the President had of him, and his extensive and interesting correspondence with the Department of State during his residence in South America, pointed him out as eminently fitted for this station. It was expected that he would reach Rio Janeiro towards the end of the last or early in the present year. His arrival there has been delayed by unforeseen casualties. He probably got there some time in the last month. Instructions adapted to the existing state of our relations with the Government of Brazil were forwarded to Rio Janeiro in the month of November last, where they awaited his arrival. These instructions have for their object the execution of the arrangement made between the Brazilian Chargé d'Affaires and this Department, as evidenced by the correspondence communicated to the House of Representatives in a report from this Department made on the twenty-fifth day of January last, and also all other interests which appeared at that time to call for instructions. In the present probable state of the negotiation, it would be premature to communicate them to the House of Representatives. A copy of the last instruction transmitted from this Department to Mr. Tudor on the subject of the blockade accompanies the documents communicated.

Some part of the voluminous correspondence now submitted may, perhaps, be considered as not called for by the resolution of the House. It is, however, presented under the persuasion that it will exhibit a more comprehensive and satisfactory view of the several subjects referred to in the resolution, and of the belligerent operations of the Government of Brazil affecting the interests of the United States.

All which is respectfully submitted.

H. CLAY.

List of papers.

Mr. Raguet to Mr. Clay, December 23, 1825. (Extracts.)
Same to Brazilian Minister of Foreign Affairs, December 13, 1825.
Minister of Foreign Affairs to Mr. Raguet, December 6, 1825.
Same to same, December 7, 1825.
Same to same, December 23, 1825.
Mr. Raguet to Minister of Foreign Affairs, December 19, 1825.
Same to Mr. Clay, January 17, 1826. (Extract.)
Minister of Foreign Affairs to Mr. Raguet, January 4, 1826.
Mr. Raguet to Mr. Clay, March 20, 1826. (Extracts.)
Same to same, April 12, 1826. (Extracts.)

Same to same, May 25, 1826. (Extract.)
Same to same, June 27, 1826. (Extract.)
Same to same, July 17, 1826. (Extract.)
Same to Minister of Foreign Affairs, June 20, 1826.
Minister of Foreign Affairs to Mr. Raguet, June 28, 1826.
Mr. Raguet to Minister of Foreign Affairs, July 15, 1826.
Minister of Foreign Affairs to Mr. Raguet, July 19, 1826.
Mr. Raguet to Minister of Foreign Affairs, July 24, 1826,
Minister of Foreign Affairs to Mr. Raguet, August 14, 1826.
Mr. Raguet to Mr. Clay, September 1, 1826. (Extract.)
Minister of Foreign Affairs to Mr. Raguet, August 31, 1826.
Mr. Raguet to Mr. Clay, September 23, 1826. (Extracts.)
Protest of George K. Budd, supercargo of brig Ruth, September 23, 1826.
Mr. Raguet to Minister of Foreign Affairs, September 9, 1826.
Minister of Foreign Affairs to Mr. Raguet, September 12, 1826.
Mr. Raguet to Mr. Clay, October 2, 1826.
Minister of Foreign Affairs to Mr. Raguet, September 25, 1826.
Mr. Raguet to Minister of Foreign Affairs, September 26, 1826.
Commander of the Independencia on Morté to Minister of Marine, August 23, 1826.
Minister of Marine to Auditor General of Marine, August 29, 1826.
Commodore Biddle to Mr. Raguet, September 6, 1826.
Minister of Foreign Affairs to Mr. Raguet, with note therein referred to, September 30, 1826.
Mr. Raguet to Mr. Clay, October 31, 1826. (Extract.)
Same to Minister of Foreign Affairs, October 5, 1826. (Extract.)
Same to same, October 13, 1826.
Minister of Foreign Affairs to Mr. Raguet, October 17, 1826.
Same to same, October 20, 1826.
Mr. Raguet to Minister of Foreign Affairs, October 23, 1826.
Mr. Bond to Mr. Raguet, October 16, 1826.
Mr. Raguet to Mr. Clay, November 27, 1826. (Extracts.)
Minister of Foreign Affairs to Mr. Raguet, October 31, 1826.
Mr. Raguet to Mr. Clay, December 4, 1826. (Extracts.)
Same to Minister of Foreign Affairs, November 14, 1826.
Same to same, November 30, 1826.
Same to Mr. Clay, December 5, 1826. (Extract.)
Minister of Foreign Affairs to Mr. Raguet, December 4, 1826.
Mr. Raguet to Mr. Clay, December 22, 1826. (Extracts.)
Admiral Pinto to Mr. Hood, British consul at Montevideo, October 24, 1826.
Minister of Foreign Affairs to Mr. Raguet, with document therein referred to, December 10, 1826.
Mr. Clay to Mr. Raguet, October 22, 1826. (Extract.)
Mr. Raguet to Mr. Clay, January 9, 1827. (Extracts.)
Same to Minister of Foreign Affairs, January 3, 1827.
Same to Mr. Clay, February 7, 1827. (Extract.)
Same to Minister of Foreign Affairs, January 17, 1827.
Minister of Foreign Affairs to Mr. Raguet, January 18, 1827.
Same to same, January 18, 1827.
Same to same, January 18, 1827.
Mr. Raguet to Minister of Foreign Affairs, January 24, 1827.
Minister of Foreign Affairs to Mr. Raguet, January 25, 1827.
Mr. Raguet to Mr. Clay, March 12, 1827.
Same to same, March 17, 1827.
Same to Minister of Foreign Affairs, March 5, 1827.
Minister of Foreign Affairs to Mr. Raguet, March 7, 1827.
Mr. Raguet to Minister of Foreign Affairs, March 7, 1827.
Same to same, March 8, 1827.
Minister of Foreign Affairs to Mr. Raguet, March 9, 1827.
Same to same, March 10, 1827.
Mr. Clay to Mr. Raguet, January 20, 1827.
Mr. Raguet to Mr. Clay, May 31, 1827. (Extracts.)
Mr. Wright, United States consul at Rio de Janeiro, to Mr. Clay, February 2, 1828.
Decree requiring foreign vessels to give bonds not to enter the ports of Buenos Ayres, November 6, 1827.
Mr. Wright to Brazilian Minister of Foreign Affairs, January 10, 1828.
Minister of Foreign Affairs to Mr. Wright, January 16, 1828.
Mr. Wright to Minister of Foreign Affairs, January 22, 1828.
Minister of Foreign Affairs to Mr. Wright, January 24, 1828.
Mr. Wright to Minister of Foreign Affairs, January 25, 1828.
Mr. Clay to Mr. Tudor, Chargé d'Affaires to Brazil, April 1, 1828.

Extract of a letter from Mr. Condy Raguet, Chargé d'Affaires of the United States in Brazil, to Mr. Clay, Secretary of State of the United States, dated Rio de Janeiro, December 23, 1825.

"It is very manifest that each Government was desirous of placing upon the other the responsibility of the first open declaration of hostilities, and each probably resolved to enter upon positive measures of war without a formal notification. Accordingly, this Government, on the 6th, 8th, and 7th of the month, gave notice that 'all the ports belonging to the Government of the United Provinces of the River of Plate' were to be placed in a state of blockade.

"The consequences of the blockade above adverted to, I fear, will be exceedingly injurious to our commerce. The Brazilian naval forces which are already in the south, added to those which are on the way, and which comprise, large and small, perhaps thirty vessels, are probably adequate to place the ports of the river Plate in a state of effective blockade; but the mischief we shall have to apprehend will arise chiefly from the seizure of our vessels, under false and frivolous pretexts, by officers who, knowing that prize money cannot proceed from a war with a nation which possesses neither mercantile capital nor ships, will endeavor to reap a harvest out of neutrals under the fraudulent plea of their attempting to violate the blockade.

"In order, however, that nothing on my part should be left undone to avert the evils which I anticipate, I thought it advisable to address to this Government a communication upon the doctrine of blockades, as maintained by the United States, as far as my humble abilities could enable me to explain it. This I did on the 13th instant, and I shall feel happy if I have been so fortunate as to have expressed myself in accordance with the views in relation to that important subject entertained by the President and yourself. A copy will be found herewith enclosed, accompanied by copies of the two communications which announced the blockade. I have as yet received no reply to this representation.

"P. S.—This moment I have received an answer to my communication of the 13th instant, a copy of which is enclosed herewith."

Mr. Raguet to the Minister of Foreign Affairs of Brazil.

RIO DE JANEIRO, *December* 13, 1825.

The undersigned, Chargé d'Affaires of the United States of America, presents his compliments to the Viscount of St. Amaro, Counsellor, Minister and Secretary of State for Foreign Affairs, and acknowledges the receipt (on the days of their respective dates) of his excellency's communications of the 6th and 7th instant: the first announcing that "his Majesty the Emperor had ordered to be fitted out a naval force with the object of placing in effective blockade all the ports belonging to the Government of the United Provinces of the River of Plate;" and the second giving notice that the said ports "were to be immediately blockaded, by order of his Majesty the Emperor, by the forces already there stationed, reinforced by those which have just departed."

As this measure of war cannot fail deeply to affect the interests of neutral nations, the merchants of which, with their own ships and capitals, carry on, almost exclusively, the foreign trade of Buenos Ayres, and the other ports intended to be blockaded, and as the general terms of the notification, "all the ports" of a coast several hundred miles in extent, involves a question of infinite importance to the interests of the United States, and all the other Powers of America, as well as the secondary States of Europe, the undersigned, as representing one of the nations most interested, conceives it to be his duty to bring into the view of his Majesty's Government some observations upon the principles of blockade as maintained by the United States in their construction of the national law, in the hope that they may be found to be in accordance with those professed by his Majesty's Government, and that thus all liability to any misunderstanding which might possibly arise from the misapplication of those principles may be removed at the onset. The necessity of making this representation is rendered the more imperious upon the undersigned by the occurrence of a case wherein a valuable American ship, seized by one of the commanders in his Majesty's naval service for an alleged breach of the blockade of Pernambuco, in September, 1824, remains, to this day, *after a lapse of near fifteen months*, not only without a decision, in the first instance, but even without an early prospect of one. As this matter, however, will form the subject of a separate communication, no further remarks in relation to it will here be made.

It cannot but be known to his excellency that the doctrine of blockades, as maintained in the *practice* of modern times by some of the European Powers, has been entirely subversive of the principles respected by the majority of nations, and which have been uniformly held to be settled by the most distinguished writers on public law, and even by those very Powers themselves in *theory*. The right of a belligerent to distress his enemy by the institution of sieges and blockades cannot be questioned; but the extent to which he may lawfully prejudice the interests of neutrals is a matter which it is not competent for the belligerent alone to decide. Neutrals as well as belligerents have their rights; and if the former have acceded to the rule that trade in articles contraband of war may not be carried on with the country of a belligerent, this acquiescence is to be viewed as the result of that respect for the laws of humanity which desires to see a speedy termination to the disasters of war wherever they have unhappily been displayed. To this same respect for the laws of humanity is to be ascribed that further concession in favor of belligerents by which neutral nations agree not to convey provisions, or other supplies, to ports or places actually besieged or blockaded; and upon no other principle can the abandonment by neutral nations of their innocent commerce with States with which they are in amity be contended for.

Neutral nations, however, in thus giving up for the common good a portion of their neutral rights, by no means intended that an assailing belligerent should be invested with an *artificial* power to distress his antagonist, or with any advantages not due to the positive force of his arms. It was for this reason that the maxim was settled, that no port could be considered as in a state of blockade unless so guarded as that "no vessel could enter without evident danger, on account of vessels of war so stationed there as to form an effectual blockade." From this principle it followed that, if any withdrawal of the blockading force should, at any time, take place, owing to the power of the besieged or his allies; or to the necessity of refitting or procuring supplies; or for the purpose of cruising or blockading other places; or from any other cause, (except storms, which drive it temporarily from its position, *but which it immediately resumes,*) the blockade was considered at an end, and any *repetition* of it could only be considered as a new blockade, and not as an uninterrupted continuation of the original one, which could affect the interests of neutrals who had entered the port in the meanwhile when no blockading force was present to warn them off or obstruct their entry. In accordance with this equitable construction of the laws of blockade, as defined above, by the armed neutrality of 1780, the Government of Great Britain, the most powerful maritime nation of the world, in a convention with the Empire of Russia, formed in the year 1801, stipulated that, "in order to determine what characterizes a blockaded port, that denomination is given only to a port where there is, by the disposition of the Power that attacks it, with ships *stationary*, or sufficiently near, an evident danger of entering." It is needless to say that the other Powers of Europe, as well as the United States, at that time the only independent American Power, never having disputed the principle, it could not be otherwise regarded than as the established law of nations at the commencement of the

present century; and it is equally clear that it must be so considered at this day, notwithstanding the numerous violations that have been practiced by States which acknowledged its correctness. The principle being then indisputable, that the existence on the spot of the means adequate to the end was necessary for the institution of a blockade, the next question which presented itself was, how were neutrals to be notified of the fact? That all aggressions upon an innocent and friendly stranger were contrary to the laws of humanity and justice was too palpable to be denied; and the very proper practice was soon introduced of warning neutrals about to enter a blockaded port of the existence of a blockade; and, without this warning by the blockading force, they could not be liable to capture and confiscation. This just and equitable rule, not at all shaken by the refinements of modern sophistry, or the outrages of modern injustice, was founded upon a fair demarcation of the limits between the rights of neutrals and the rights of belligerents, and is supported by the following reasoning:

The right to prevent the entry of neutrals into the blockaded ports of a Power with which they are in amity is, as above declared, the result of a concession in favor of the belligerent, but a concession only made for such length of time as the blockading party actually maintains the blockade. To prevent the entry of a neutral, even for a moment, after the raising the blockade would be a manifest infringement of his rights; and if the doctrine were admitted, that a notice published in a distant country of a blockade which might by possibility be raised long before any vessel could reach the designated port was the only one requisite, the consequences would be highly injurious to the interests of a distant nation, whose merchants would be deprived of the advantages enjoyed by those near at hand, of furnishing supplies to the party which had been, by the recurrence of peace, or other causes, relieved from the distresses of a siege. In countries which are proximate to each other, as Great Britain, France, Holland, and where the intercourse requires but the lapse of a few hours or days, the institution or the withdrawal of a blockade may be known in so short a period of time as to render the importance of the principle here advocated less manifest than it is to nations which are relatively more distant, such as those that are separated by the Atlantic Ocean, and especially those which are located in different hemispheres. To meet this argument by contending that a vessel is bound to call for information at a neighboring port would be substituting one measure of injustice for another. Leaving out of the question the impracticability, in many cases, especially those wherein whole coasts are blockaded, of complying with such a demand, no belligerent has a right to compel a neutral vessel to perform a circuitous route to the port of her destination; nor has he the right to impose upon her the necessity of incurring the expense of port and other charges in his own ports, or those of any other nation. So satisfied of the correctness of this principle was the Government of Great Britain that, in the year 1804, in consequence of a remonstrance made by the American Government against a declaration of a general blockade of "the islands of Martinique and Guadaloupe" proclaimed by a British naval commander, orders were issued to him "not to consider any blockade of those islands as existing, unless in respect of particular ports which may be actually invested, and then not to capture vessels bound to such ports *unless they shall previously have been warned not to enter them.*"

The United States, maintaining the same principles, have always denied the doctrine of general and diplomatic notifications of blockades as binding upon their citizens. Whenever they are made, however, they regard them as friendly offices on the part of the Government from which they proceed; because it gives their merchants an opportunity of taking into the calculation of their voyages the contingency of a *continued* effective blockade of the ports designated, and affords them an occasion for advancing their own particular views upon that branch of the public code which has been so flagrantly violated by some of the principal Powers of Europe. In the year 1816 the Government of the United States, having been notified by the Spanish minister at Washington of a declaration of the blockade of "the ports of the Viceroyalty of Santa Fe," lost no time in protesting against the general terms of the same; and its representative at Madrid was instructed to advise the Government of Spain that "a blockade, to be acknowledged as valid by the United States, must be confined to particular ports, each having a force *stationed* before it sufficient to intercept the entry of vessels; and no vessel shall be seized, even in attempting to enter a port so blockaded, till she has been previously warned away from that port." It was also notified that indemnity would be claimed for all captures of American vessels not made in accordance with this rule.

It is manifestly not the interest of the new independent American States to adopt, in their practice, the broadest possible construction of the laws of blockade; for the time may come when, being at war with the powerful maritime nations of Europe, they may find it all important to be able to show that, like the United States, they have always adhered to those maxims which have been received and acknowledged as settled principles of national law, and have always been ready to observe those rules which, consistently with self-protection, have operated least injuriously to neutral and friendly nations. It is for this reason that the undersigned begs leave to invite the attention of his excellency to the following considerations connected with the important question referred to:

The submission of neutrals to the laws of blockade, as above established, is a concession granted to the besieger, and can only be construed to extend so far as shall promote his benefit. Any act, therefore, which can be shown to inflict a positive injury upon a neutral, without conferring a benefit on the besieger in the furtherance of his plans, must be inadmissible, upon the common principles of natural justice. Thus, if a neutral's vessel and property are within a port at the time of the institution of a blockade, it would be manifestly unjust to prohibit their departure, inasmuch, as by so doing, extensive evils would be brought upon the citizens of friendly nations in their pursuit of a lawful commerce. It is, indeed, difficult to imagine what justifiable motive could induce a besieger to prevent a neutral from withdrawing from the besieged place his ships and property; for, by such act, the means of escape and defence, as well as the means of prolonging the contest, would, at the same time, be withdrawn from the enemy. With respect to the right of neutral *ships* to depart, there seems to be no difference of opinion amongst nations; but the same does not happen in regard to their *cargoes*. In the year 1813, whilst Great Britain was at war with the United States, some of the European Powers remonstrated against the unjustifiable pretensions of her system of blockade, which embraced the chief part of the coast of the United States; and, in an answer given to the minister of Sweden, it was contended that, although neutral *vessels* which had entered the American ports without a knowledge of the blockade might, in conformity with the established rule, be allowed to depart, yet that this permission could not be extended to their *cargoes*. Special motives, in this particular case, on the part of Great Britain might amply account for a measure which she might not, perhaps, willingly have approved if adopted by any other Power; and it is not to be wondered at that a nation which already monopolized so great a share of the commerce of the world should have pursued a system calculated to exclude from competition the capitals of other States.

If, therefore, it can be made to appear, to the satisfaction of his Majesty's Government, that the citizens of nations with which his Majesty is in amity are the proprietors of a large amount of property already in the ports of the United Provinces of the River Plate, or which may enter them before the institution of the blockades, the undersigned would respectfully submit to the consideration of his Majesty's Government, whether it would not be advisable to furnish the officers who are to direct the same (in case the measure has not already been adopted) with explicit instructions on the subject, in order that by no misconception of powers may neutrals be exposed to the privation of their property, either by detention in port or by seizure after leaving it. The undersigned trusts that in this communication his excellency will perceive an additional evidence of the desire by which he is actuated, of endeavoring to perpetuate the harmony and good understanding which so happily subsist between their respective nations; and which will be more and more strengthened, in proportion, as they mutually embrace the same principles of justice and of respect for each other's rights. The undersigned, on this occasion, renews to his excellency the Viscount of St. Amaro the assurance of his great respect and esteem, and of the high consideration with which he has the honor to subscribe himself his excellency's most obedient and humble servant,

CONDY RAGUET.

The Brazilian Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE OF RIO DE JANEIRO, *December* 6, 1825.

His Majesty the Emperor having ordered a naval force to be got ready to render effectual the blockade of all the ports belonging to the Government of the United Provinces of Rio de la Plata, I have thus to communicate it to you for your due information, and that it may be made known to all the citizens of your nation to whom this imperial resolution may be interesting.

God preserve you.

VICONDE DE S. AMARO.

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE OF RIO DE JANEIRO, *December* 7, 1825.

I hasten to inform you, by the declaration of my communication of yesterday, that the ports belonging to the Government of the United Provinces of the Rio de la Plata have been already blockaded, by order of his Majesty the Emperor, by forces which are there, reinforced with those which have just sailed.

On this occasion I repeat to you, sir, the assurances of my esteem and respect.

VICONDE DE S. AMARO.

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE OF RIO DE JANEIRO, *December* 23, 1825.

The undersigned, Counsellor, Minister and Secretary of State for Foreign Affairs, acknowledges the receipt of the note which, on the 13th current, Mr. Condy Raguet, Chargé d'Affaires of the United States of America, addressed to him, and to communicate to him that the Government of his Imperial Majesty, penetrated with the sentiments of justice and impartiality expressed in his note, and which agree with those manifested by the same Government, in the frank policy which they always adopt, of not desiring the subjects of other nations to suffer inconveniences which they do not wish their own to experience in like cases, the undersigned is ordered to assure him, in reply to said note, that, in the orders forwarded to the commander of the blockade of the ports of the United Provinces of Rio de la Plata, the ships of neutral and friendly Powers that may be there before the blockade have been expressly considered; it being resolved that, by a manifesto, the said commander should declare that all the ships before mentioned may freely sail, with their cargoes, within the space of fourteen days, and that, during that time, they should not be prevented from sailing or carrying a cargo.

By these orders the Government of his Imperial Majesty has endeavored to avoid any just causes of dispute which might possibly occur between it and those of neutral nations by reason of the present war and that blockade; and the undersigned flatters himself that Mr. Condy Raguet will recognize in this answer the justice and frankness of proceeding of this Government.

The undersigned, therefore, has another occasion to express to Mr. Condy Raguet the sentiments of his friendship and esteem.

VICONDE DE S. AMARO.

Mr. Raguet to the Minister of Foreign Affairs, dated Rio de Janeiro, December 19, 1825.

MOST EXCELLENT SIR: On the 3d day of March last, in my capacity of consul of the United States, I had the honor to address to the respectable gentleman who preceded your excellency in the Department of

Foreign Affairs a communication relative to the case of the American ship Spermo, of New York, which had been unjustly seized at Pernambuco, in the month of October preceding, for an alleged breach of blockade. I had also, upon the same occasion, the honor to urge the early attention of his Majesty's Government towards the case of this ship, as one of unauthorized aggression on the part of the officer who made the seizure, and solicited, in behalf of the owners, her restoration, with adequate damages, or an immediate trial before some competent tribunal. To this representation, calculated, as I had flattered myself, with the documents which accompanied it, to prove to the satisfaction of his Majesty's Government that the proceedings against the said ship were without the least foundation in law or justice, I received a reply, under date of the 22d of March, declaring that the case of the Spermo "must be decided in the competent tribunals by the means marked out in the laws." In consequence of this determination of his Majesty's Government, the American claimants, fully persuaded of the justice of their cause, omitted no exertions that were calculated to bring the case to a speedy conclusion. Thus far, however, their endeavors have been fruitless; and, as I have received the commands of my Government upon this subject, which involves a principle upon the doctrine of blockades highly important to the interests of its citizens, and which, at this particular moment, especially calls for investigation, it becomes my duty to invite the serious attention of your excellency to the same, in the conviction that it will be found to be such a case as demands the interposition of his Majesty's Government. The representation above referred to, of 3d of March, contains a statement of the facts, and of the early proceedings in the case; and I therefore beg leave to refer your excellency to the same, with the assurance that the legal documents (autos) of the suit not only substantiate all the material points therein asserted, but even confirm, *by the very evidence of the captors themselves*, the fact that the Spermo entered the harbor of Pernambuco on the 11th day of August, 1824, *the day before the date of Captain Carvalho's declaration of blockade.*

But the injustice originally practiced in the case of the seizure of this ship does not at present constitute the whole ground of complaint. The Government of the United States, when it sees its citizens interrupted in the pursuit of a lawful commerce, and deprived of their property by officers for whose conduct their Government is responsible, and is told that, for the redress of their wrongs, the aggrieved parties must be turned over to the ordinary process of law—that Government, I say, has a right to expect that *tribunals of known and undoubted competency* do really exist, and that justice will be administered by the proper authorities without oppressive and unnecessary delay. How far this reasonable expectation has failed, and how far the party injured, in the case referred to, has a right to complain, your excellency will be enabled to judge from the following statement:

On the 5th of March, the judge at Pernambuco, who had assumed to himself the jurisdiction in the case of the Spermo, after having for *five months* permitted the suit to be prosecuted before him, came to the decision that he was not competent to try such a case, and that it was one of that peculiar class which belonged to the sole cognizance of the Conselho Supremo Militar, at Rio de Janeiro. This decision was objected to by Captain Carvalho, who had always opposed the wishes of the master of the Spermo to have the case tried at the seat of the Imperial Government, but was confirmed by the judge on the 21st of same month, and the *autos* were, in consequence, all transmitted, after the lapse of *two or three additional months*, to the Supreme Military Council, which received them in the latter end of June.

But the delays which have just been adverted to are not the only ones which have taken place in prejudice of the owners of the ship in question. That respectable tribunal, the Supreme Council, perhaps not aware that a valuable ship, exposed to total destruction by the scorching rays of a tropical sun, was awaiting the result of its deliberations, did not decide until the 26th October upon the validity of the irregular sentence pronounced by the judge at Pernambuco. On that day it was determined that the case of the Spermo could only be brought before their body *by appeal;* that the judge at Pernambuco had defaulted in his duty, and that, to comply with the law, it was requisite that the case should be remanded to him for a decision in the first instance. Reflecting, however, upon "the *prejudices*, expenses, and other injuries" which would devolve upon the parties by such a course, that considerate tribunal, consisting of eleven members present, *unanimously* resolved to represent the affair to his Majesty the Emperor, and to solicit of him the same permission to try the cause here which had been granted in the case of another vessel. To this solicitation his Majesty, on the 26th of November, was pleased, in his wisdom, to direct that "the law should be observed," (observe se a loi,) by which decision the case is to be sent back to Pernambuco; and thus, *after a lapse of fifteen months*, the aggrieved party will find that his resort to the means marked out in the laws has involved him in a mass of damages and expenses, many of which can never be reimbursed by the decision, which must ultimately be given in his favor, *and without having advanced him one step towards the redress so manifestly his due.* But this is not all. The judge at Pernambuco may still adhere to the original ground of his refusal to pass sentence, and thus a decision may never be obtained until the ship shall have become a prey to the climate and the worms. Justice too long delayed ceases to be justice, and it is for this reason that I urge anew upon his Majesty's Government the solemn consideration to which this case is entitled, and again repeat the very just demand for the restoration of the said ship, with adequate damages, or an immediate trial before some competent tribunal. This communication I should have had the honor to make out at an earlier day, but was prevented by the impossibility of procuring, prior to the 15th instant, from the proper Department, a certified copy of the consulta and imperial determination above referred to.

I have the honor to be, with the highest respect, your excellency's most obedient and humble servant,

CONDY RAGUET.

Mr. Raguet to Mr. Clay, dated Rio de Janeiro, January 17, 1826.

[Extract.]

"My last communication of 31st December, with the documents therein referred to, will accompany this.

"I now have the honor to enclose to you the answer of this Government to my late representation in regard to the ship Spermo, by which it will appear that the case is to be sent back to Pernambuco. Mr. Kirkpatrick, the agent of the owners, will proceed to that place, but I have no idea that his presence will hasten the decision of the cause; for, as Captain Carvalho, the captor, is at the river Plate, time will

be afforded him for those measures which he may deem *indispensable*. You will have observed, in my first representation of 3d March last, in relation to this ship, that I supposed her to have entered the harbor of Pernambuco on the 12th of August, 1824, the very day upon which the declaration of blockade was dated; whereas it was admitted by the captors that she entered on the 11th. This difference of date, I presume, arose from the oversight of Captain Clark in his protest, in adhering to the *sea time* and not adopting the *civil time* after he came to anchor; for, by this omission, he appeared to have arrived off the harbor on the 11th, when, in fact, it was on the afternoon of the 10th. In the minister's note to me you will also have observed an expression which would seem to imply that the case of the vessel which had been tried by the Conselho Supremo was cited by me, whereas it was cited by that tribunal in its representation to the Emperor."

The Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE OF RIO DE JANEIRO, *January* 4, 1826.

In acknowledging the receipt of the note you addressed me under date the 19th December last, I have to reply that the Government of his Imperial Majesty feels and acknowledges the necessity of providing an efficient remedy against dilatory proceedings, but that the necessary measures to accomplish this object are not within the scope of its powers; it is for this reason that, in the case of the proceedings against the ship Spermo, which has given rise to your representation, the measures you suggest cannot be adopted, as it exceeds the powers of the Government to order judgment to be given, in the case of said vessel, by the Supreme Military Council. The instance cited by you cannot be applicable to the present case, as being an act occurring while all powers were united in the person who at that time governed Brazil.

But the Imperial Government, desirous of showing its good wishes and its sentiments of equity, I will direct that orders be transmitted to the Governor of the province of Pernambuco, earnestly to recommend, in the name of the Government of his Imperial Majesty, tó the respective judges, to take into their consideration, as heretofore, the case in question, and to decide in conformity to law.

On this occasion, I renew to you the expression of my esteem, friendship, and respect.

God preserve you many years.

VISCOUNT DE S. AMARO.

Mr. Raguet to Mr. Clay, dated Rio de Janeiro, March 20, 1826.

[Extracts.]

"The Spermo, at Pernambuco, is fast falling to decay; and I have yet heard nothing from the agent of the owners at that port, or of the progress of the suit. Captain Jenkins, of the brig Exchange, of Boston, is still here prosecuting his claim for damages; but I am, as before, of opinion that justice in neither case will be done until I am instructed to demand it in a tone different from that which I have heretofore considered myself authorized to employ. With respect to the case of the Morning Star, of Philadelphia, in relation to which I received your instructions under date of April last, no redress can be expected. The very documents admit a violation of the navigation laws of this country, which prohibit foreign vessels from carrying, coastwise, Brazilian productions, under penalty of confiscation."

"The schooner Grace Ann, of whose detention at Santos I made mention in my letter of January, was stopped in December, in the river Plate, by the blockading squadron, and sent to Montevideo, *after having had part of her crew taken out.* After a few days' detention, she was liberated from this unlawful seizure, and, having cleared out for the Pacific, shaped her course for Buenos Ayres, where she safely arrived. Mr. James Bond, acting as our vice consul at Montevideo, in a correspondence with Admiral Lobo and the Captain General, relating to the detention of this vessel, displayed much intelligence and spirit; but the consequence of this evasion of the blockade was the issuing, on the 19th January, by the Viscount of Laguna, an order declaring that no foreign or national vessel should be permitted to depart with cargoes of foreign production, without giving security, to the value thereof, that she would not enter 'the ports of the Republic of Buenos Ayres.' This singular mode of substituting a blockade ought to be resisted; but I am afraid that if I were to make a representation against it now, the consequence would be an immediate order to enforce the same regulation in all the other ports, which would make the matter worse, by multiplying the cases."

Mr. Raguet to Mr. Clay, dated Rio de Janeiro, April 12, 1826.

[Extracts.]

"The frigate Nitherwhy and schooner-of-war Itaparica, sailed for the river Plate on 22d March. Admiral Lobo has thus far been so unsuccessful in his blockade and warfare that report says he is to be superseded by an Admiral Pinto, who is to sail at an early day with a reinforcement of ships. This latter gentleman is a native of Portugal, somewhat advanced in life, and has not been at sea for many years. This measure has probably been resorted to in consequence of some representation made by the naval commanders in the river Plate, through the Chief of Division, José de Brito, who was wounded in the action of 9th February, and arrived here on the 30th ultimo. Lobo, it would seem, has displayed too much *prudence* in his operations, and, it is said, has avoided combat with Brown whenever he had a

chance. It is even supposed that he might have been present at the second attack on Colonia; and so loosely has he maintained his blockade that it has been at times difficult to find him. Mr. Bond writes me that Mr. Slacum, who reached Montevideo on the 19th February, had cruised three days for Admiral Lobo, in order to deliver him Mr. Forbes' protest, without meeting with him; and Captain Martin, of the British sloop-of-war Jasseur, for Buenos Ayres, on the 25th of that month, has informed me that he was three days beating down to Montevideo, during which time he did not see a single vessel of the Brazilian squadron. It is supposed that not a single foreign vessel which attempted to reach Buenos Ayres, *with a knowledge of the blockade*, has failed to succeed, and that those which have been turned off, *and ordered to Montevideo*, (for it is said that Lobo actually designates the port of destination, in order, no doubt, to trammel the vessel with the bonds of which I made mention in my last,) were only such as were ignorant of its existence."

"At the date of my last letter I was not sure, as I now am, that the French brig-of-war Fawn had entered Buenos Ayres during the existence of the blockade. The principle has therefore been settled for the English and French; and I daily expect to hear that Captain Elliott has settled it for us; after which, I presume, the doctrine of the right to exclude neutral ships of war from a blockaded port will be abandoned in this hemisphere."

Mr. Raguet to Mr. Clay, dated Rio de Janeiro, May 25, 1826.

[Extract.]

"By the movements of Brown and the arrival at Buenos Ayres of a number of merchant vessels, amongst which were several Brazilian prizes, estimated to be worth upwards of $100,000, it is discernible that an effectual blockade of the river Plate cannot be said to exist. An attempt was made by Lobo's squadron to stop the Cyane, on the 3d of April, off the Otiz banks, on her way up, but was abandoned on its being ascertained that Captain Elliott was prepared to resist by force. The particulars of this occurrence, as well as a correspondence which he held with the admiral on the subject of the blockade, he will, no doubt, communicate to the Government through the proper channel."

Mr. Raguet to Mr. Clay, dated Rio de Janeiro, June 27, 1826.

[Extract.]

"P. S.—JUNE 28. There has been published here, in the Spectator of the 22d and 23d instant, a correspondence which took place at Montevideo, on the 28th of May, between the British consul at that port, Mr. Hood, and Admiral Pinto, of which I send you a copy, relative to the capture of two British vessels. The latter assumes the British doctrine of blockades, maintaining that a ship is liable to capture if bound to a port known to be declared in a state of blockade at the time she sailed or at any time during her voyage; and that an effective force on the spot is not essential to render a capture valid, inasmuch as the *declaration* and the *notification* to neutral nations is binding upon them. These pretensions will, no doubt, be enforced against our vessels, unless resisted by physical means."

Mr. Raguet to Mr. Clay, dated Rio de Janeiro, July 17, 1826.

[Extract]

"On the 10th instant there arrived at this port the brig Leonidas, of Boston, captured by the blockading squadron in the river Plate, somewhere about the 18th of June, and sent into Montevideo, where the captain, (Bartlett,) by accident or design, was left behind. Two mates and two men have arrived in the vessel; the rest of the crew, consisting of four seamen, having been taken out by the captors, and a prize crew of thirteen having been put in their place. The chief mate (Mr. Pulsifer) states that the Leonidas was chartered last year, at Buenos Ayres, to the house of Stewart, McCall & Co., for a voyage to Canton and back, and that her cargo cost, in China, above ninety thousand dollars, and belongs to a number of individuals, some of whom are English merchants, and the rest are citizens of Buenos Ayres. They had heard nothing of the blockade of the river Plate, and the presumption is that the vessel is sent in on account of having on board enemy's property. On the 14th instant the Auditor General of Marine went on board, and, in the presence of Mr. Samuel Clapp, an American merchant, in whose hands Mr. Pulsifer had placed the business of the vessel, opened the sealed bag transmitted by the captors, in which were contained the ship's papers, the original manifest, bills of lading, and correspondence, by which it would appear (as Mr. Clapp has informed me) that the principal part of the cargo, which, if sold here, would probably bring two hundred thousand dollars, is in the name of a house believed to be natives of Buenos Ayres, and that no part of it belonged to citizens of the United States. Thus far I have taken no steps in the case further than addressing a note to the Minister of Foreign Affairs, requesting him to inform me of the cause of the capture; and, at the same time, requested him to cause to be suspended any definite proceedings until a reasonable time be afforded for the arrival of the master. Whether any pretensions will be set up against the vessel for an attempt to violate the blockade I cannot say; but, as far as the question may relate to enemy's property, the case looks gloomy enough. I shall, however, watch the progress of the adjudication, and act in the affair as well as my limited knowledge of law will enable me.

"Excepting the case just referred to, nothing material in relation to our commerce with the river Plate has yet occurred. The American brig Homer, of Baltimore, which cleared hence for Valparaiso,

and the ship Corsair, which sailed from Bahia, both with a knowledge of the blockade, safely arrived at Buenos Ayres in June; and when these facts shall become known to this Government they will probably resort to *bonds* in relation to all vessels of doubtful destination. Mr. Joshua Bond, who returned to Montevideo from Buenos Ayres in April, states to me, under date of 13th June, as follows: 'There have been, I believe, no instances in which the conduct of the commanders of the armed vessels or others could be complained of, with the exception of those of which you have already been informed. Two seamen, impressed at Bahia, have been released, after some little importunity.' The cases alluded to by Mr. Bond have been noticed by me in former letters. The same gentleman, under date of the 16th of June, says that 'the ship Macedonian, of Portland, laden with salt, from the Cape de Verds, had arrived on the day before, having been turned off by the squadron.'"

Mr. Raguet to Minister of Foreign Affairs.

LEGATION OF THE UNITED STATES OF AMERICA, *Rio de Janeiro, June* 20, 1826.

The undersigned, Chargé d'Affaires of the United States of America, presents his respectful compliments to the Viscount of Inhambupe, Counsellor, Minister and Secretary of State for Foreign Affairs, and has the honor to communicate to his excellency that he has been advised by the consul of the United States at Bahia, under date of 7th instant, that two American seamen, named William Forbes and John B. Staat, representing themselves to have been forcibly impressed on board the frigate of his Imperial Majesty, Donna Paulla, had sailed from that port on board that ship, bound, as it was supposed, to the river of Plate. As the undersigned has had repeated assurances from the Government of his Imperial Majesty that it is not its intention to employ in its service foreign seamen who have not voluntarily entered, he has only, on this occasion, to request that his excellency will cause the matter to be inquired into, and, if the facts be as represented, that orders will be issued to the commander of the frigate in question to deliver up the said seamen to any consul of the United States, or to the commander of any American ship of war which he may meet at Montevideo or elsewhere.

The undersigned renews, upon this occasion, to his excellency the assurance of his high consideration and respect, &c.

M.

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE OF RIO DE JANEIRO, *June* 28, 1826.

In addition to my note of the 22d instant, as it relates to the two American citizens, William Forbes and John B. Staat, whom you represent as having been enlisted at Bahia as sailors for the frigate Paulla, I have to inform you that the Minister and Secretary of State for Affairs of Marine has issued the necessary orders to the commander of the squadron in the river Plate, should it appear, on examination, that violence was really used towards these individuals, that they be delivered up in the manner required by the Chargé d'Affaires.

I take this opportunity to renew the expression of my respect and esteem. God preserve you many years.

VISCOUNT DE INHAMBUPE.

Mr. CONDY RAGUET.

Mr. Raguet to Minister of Foreign Affairs.

RIO DE JANEIRO, *July* 15, 1826.

The undersigned, Chargé d'Affaires of the United States of America, presents his compliments to the Viscount of Inhambupe, Counsellor, Minister and Secretary of State for Foreign Affairs, and having learned that the American brig Leonidas, which entered this port on the 10th, has been sent here by one of the commanders of his Imperial Majesty's ships in the river Plate, would thank his excellency to inform him of the cause of her capture. The undersigned would further request of his excellency that, as the master of the said vessel is not on board of her, no definitive proceedings may take place until a reasonable time be afforded for his arrival from Montevideo, into which port the vessel was first sent.

The undersigned avails himself of this occasion to assure his excellency of his distinguished consideration.

CONDY RAGUET.

I. I.

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE OF RIO DE JANEIRO, *July* 19, 1826.

In answer to the note which you addressed me, under date the 15th instant, asking explanations as to the capture of the American brig Leonidas and the circumstances which occurred in that transaction,

I have to inform you that I have transmitted a copy of your note to the Department of Marine, in order to obtain the information called for by you on this subject.

I avail myself of the present occasion to express to you my sentiments of respect and esteem.

God preserve you many years.

VISCOUNT DE INHAMBUPE.

J. J.

Mr. Raguet to Minister of Foreign Affairs.

RIO DE JANEIRO, *July* 24, 1826.

Mr. Raguet, Chargé d'Affaires of the United States of America, presents his compliments to the Viscount of Inhambupe, Counsellor, Minister and Secretary of State for Foreign Affairs, and hastens to communicate to his excellency that he has this day been made acquainted with the arrival at this port of the master of the American brig Leonidas, and, of course, withdraws his request, made on the 15th instant, that definitive proceedings against that vessel should be delayed on account of his absence.

Mr. Raguet renews to the Viscount the assurance of his respect and consideration.

K.

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE OF RIO DE JANEIRO, *August* 14, 1826.

In addition to my note of the 19th ultimo, I have to inform you that I have received the explanations which I had asked of the Minister and Secretary of State for Affairs of Marine. The motives for the capture of the brig Leonidas, of your nation, reduce themselves to the fact of her having been found and detained by the blockading squadron of the river Plate in sight of the blockaded port, for which she was bound directly, and particularly for having on board goods belonging to enemy's subjects. I refer you to the papers and correspondence of the commander of the squadron, which form the principal ground of accusation, and which are annexed to the proceedings in the case of said brig, from which you may cause extracts to be made of the certificates, and of such other documents as you may desire.

I renew to you, on this occasion, the assurances of my esteem and consideration.

God preserve you.

VISCOUNT DE INHAMBUPE.

Mr. Raguet to Mr. Clay, dated Rio de Janeiro, September 1, 1826.

[Extract.]

"On the 29th ultimo there arrived at this port, under convoy of the imperial brig-of-war *Independencia on Morté*, the Ruth, of Philadelphia, Captain Jefferson, which was captured by the former on the 5th of August, on her passage from Gibraltar to the river of Plate, off soundings, and I think about one hundred and fifty miles from the land. The crew were taken out with the exception of the mate, the cook, and one man, who, with the master and supercargo, Mr. George K. Budd, were left on board, and their place was supplied by a prize crew of one officer and eleven men. On the 11th of the same month a disturbance of some kind (in the course of which Mr. Budd was in danger of losing his life) took place on board the Ruth, which was made use of by the prize-master as a pretext for confining that gentleman and his companions, upon the ground of an attempt to recapture the vessel. This transaction took place within sight of the brig-of-war, which had also under her convoy a Danish, one English, and two French prizes; a circumstance which, of itself, in connexion with the superior numbers of the prize crew would be sufficient to invalidate the charge, which is declared by Mr. Budd and Captain Jefferson to be wholly without foundation.

"After a close confinement of three nights and two days, the prisoners, all except the cook, were sent on board the Independencia on Morté, under circumstances of the most atrocious character. The commander of that vessel himself came on board and insulted, with the most vulgar and opprobrious epithets, Mr. Budd and Captain Jefferson for conduct which, had the facts been really as alleged, would have merited the applause and respect ever due to gallantry. Mr. Budd was pushed off the quarter-deck of his vessel by the said commander, forced into a boat without any clothes upon him, (except his shirt and pantaloons,) although it was raining at the time; and, under the charge of four armed men, was conveyed to the brig, where he was joined by the mate, the seamen, and Captain Jefferson, to whom a change of clothes was allowed. On board this vessel they were all thrown promiscuously among the crew, consisting of whites, mulattoes, and negroes, and compelled to sleep on the deck, covered with filth and vermin, and to endure insults, indignities, and privations not easily to be imagined, even had they been enemies. An attempt was even made, one night, to assassinate Mr. Budd while in his bed. In this wretched condition they continued until their arrival in this harbor; and it was not until the day after that Mr. Budd was able to communicate to me his unpleasant situation. At five o'clock in the afternoon of that day I received a very short note from him, written in the morning, begging me to come on board the *Independencia on Morté* as soon as possible, for that delay might be fatal to him. Captain Biddle, who

had not even known that one of the prize vessels which had arrived the day before was an American, (no colors having been shown,) was dining at my house at the time, and immediately went off into the harbor to ascertain particulars, of which we were altogether ignorant. At 6 o'clock Mr. Wright, our consul, came to inform me that the prisoners had been conveyed to the prison ship, called the Prézéganga, from which he had just returned, having only heard of their situation two or three hours before.

"Having a full knowledge of the awful condition of that ship, which I once visited to extricate an impressed American seaman, (crowded as she is with prisoners and criminals of all colors and nations intermingled *en masse*,) I was convinced that a prompt movement and a determined conduct on my part was necessary and demanded by the occasion. I accordingly went, without a moment's unnecessary delay, to the house of the Minister of Foreign Affairs, whom, not finding at home, I traced to a tea party of noble gentlemen and ladies at the Baron of Valenca's, where, in a private room to which we retired, I stated to him the object of my visit in language so earnest that he promised to lay the case, in the morning, before the Emperor, and gave me his word of honor that I should have satisfaction. In this conversation, which was in French, under the excitement of strong feelings, I took upon myself to say to his excellency that the case was an urgent one, calling for immediate attention; that the question of liberty was the one which touched most deeply the sensibility of the Government and people of the United States; that the liberty of a single citizen was valued by them at a greater price than all property; and that if Brazil was desirous of avoiding a war with the United States she must respect that liberty. On the following morning, before 9 o'clock, I went on board the Macedonian, where I learned from Captain Biddle that Lieutenant Calhoun had visited the prisoners on the preceding night, on board the Prézéganga, to which vessel I immediately (as was my intention) proceeded. Here I learned, at some length, from the parties the particulars above briefly sketched, and at the same time had ocular proof of the horrible condition of this ship, where, upon the same deck with Mr. Budd, Captain Jefferson, and his mate, were stretched a mass of wretched objects, prisoners, convicts, and *impressed seamen*, of all colors, some resting under the weight of their chains, some picking oakum, some gambling, and others, indifferent to their degraded condition, wallowing in filth and indulging in obscene and beastly gestures. Mr. Budd had just received a change of clothes from the shore, which enabled him to put off the suit he had worn for 17 days in the den of filth and vice which he had just left, and to which he assured me this Prézéganga was a palace. The crew of the Ruth had not yet been able to change their clothes, and they had had nothing to eat since they arrived on board, twenty-one hours before, except what little they could obtain from their companions in misery. One of them told midshipman Deas, who accompanied me, that he would rather go on shore and be executed than to remain ten days longer where he was.

"At 12 o'clock, after returning to the shore, I called at the Foreign Office, but found that the Minister had not yet been there. I took advantage, however, of the occasion to express to Mr. Lisboa, the chief clerk, in a conversation of half an hour, the abhorrence which I felt at the barbarous and inhuman conduct of the commander of the brig Independencia on Morté. I pronounced it to be the greatest outrage upon civilization that had ever been practiced in modern days, with the single exception of the crime lately committed by his Imperial Majesty's brig Amprehendedor, who captured a Spanish vessel (the Escuderra) on the coast of Africa, and *cut off the left ear of the supercargo close by the head*, after threatening to hang him, from which he was restrained by his own crew. I told him that I had only two hours before saw this victim of piratical barbarity a prisoner on board the Prézéganga, and expressed my astonishment that the Government, instead of making an example of such a monster, and giving him the reward due to his crime against the laws of nations, should actually have sent him to sea again, to cut off other people's ears, on the 26th of August, as commander of the very Spanish vessel which he had captured, and which had never yet been condemned. I told him, moreover, that, if my countrymen were not released from their imprisonment without delay, I should make such a representation to his Government on the subject as they would not like to see; that I would give them a picture of the inside of the Prézéganga which would make them shudder, and that I would leave no stone unturned; that I would go to the end of the world to prove them not to be a civilized people. This conversation, which, as nearly as I can recollect, was in the foregoing words, and certainly in terms not less strong, took place in English, which Mr. Lisboa understands very well. He expressed a proper abhorrence of the conduct of the commander of the Amprehendedor, but thought, as he was a *Frenchman*,* that the disgrace of the transaction would not attach to Brazil—an argument which I admitted would have been sound enough had the barbarian been hanged for his crime, and not received the approval of the Government by a continuance of employment, seeing that the Foreign Department had already been placed in possession of depositions on the subject, which had been shown to me by the Consul General of Spain, placing the matter beyond all doubt. He also expressed a becoming indignation at the conduct of the captain of the Independencia on Morté, and promised to see the Minister at his house, and communicate to me forthwith the result of his deliberations.

"At a quarter past three I received a communication from the Minister of Foreign Affairs, in Mr. Lisboa's handwriting, informing me that the case had been laid before the Emperor, who, out of his consideration for the United States, had resolved that the persons in question should be liberated upon my becoming officially responsible for their appearance in case, upon trial, they should be found guilty of the offence alleged against them, which was an attempt to retake the vessel. I was also informed that, to consummate the affair, I was to refer to the Minister of Marine, to whom I immediately repaired. I afterwards went to the office of the Auditor General of Marine to enter my responsibility, a process which, under a Government possessed of a little more delicacy and highminded views, I might well have been spared. I, however, after a good deal of vexatious delay, during which several attempts were made to procrastinate, accomplished my object, and obtained the order, addressed to the Inspector of the Arsenal, who has charge of the Prézéganga, for the release of all the prisoners. This order I placed, as soon as it was received, which was a little after night, in the hands of Mr. Thomas Bedwell, an American merchant, who volunteered to go off immediately in the harbor to the Prézéganga, bring on shore Mr. Budd, Captain Jefferson, and his mate, and inform the seamen, nine in number, that early in the morning a boat would be sent from the Macedonian to convey them on board that ship, all which was accomplished.

"Thus has terminated the first part of this atrocious transaction. As soon as a detailed protest can be made out, I have it in contemplation to make a formal demand for the punishment of the commander of the Independencia on Morté, as the only means of preventing a repetition by others of such brutality as has been herein detailed. I have brought in the case of the unfortunate Spaniard, a very decent man, with whom I conversed, and whose mutilation I can attest to from ocular inspection, which caused my

* Lewis Clemente Poitiers is the name of this monster.

blood to run cold, and produced a sensation so horrible that I cannot describe it, in order that you may see what cruelties and barbarities, known only to pirates and outlaws, have been sanctioned by this Government, which professes to be within the pales of Christianity and civilization. I see no reason why the ears of American citizens are safer from the knife than those of the citizens of other nations; and I am free to say that, if this Government is to be allowed lawlessly to capture our vessels, and to degrade, oppress, and perhaps mutilate our countrymen, when such atrocities can be prevented by a single word pronounced by me, with the special command of the President, supported by such instructions as will not render the presence of our naval force here a positive nullity and burlesque upon maritime power, it is useless either to maintain a mission at this Court or a squadron on the coast.

"A copy of the Minister's despatch to me, above referred to, will be found enclosed herewith.

"*September* 2. The brig Leonidas has been given up upon bonds, but her case has not yet been adjudicated.

"The case of the Spermo is now before the Supreme Military Council by appeal of the captors, and Mr. Kirkpatrick, agent of the owners, is now here attending to its progress. The decision of the judge at Pernambuco was a restoration of the vessel and cargo, with damages, upon the ground that she entered the port before any official notice of a blockade was given by Captain Carvalho, and was, therefore, not liable to condemnation. The counsel of the appellants, in their pleadings, have now assumed the ground that a blockade, when once officially proclaimed, continues until officially revoked, and they contend that the blockade first instituted by Commodore Taylor, in April, 1824, was in force in August of that year. The facts really are, that not only was the blockade *de facto* raised, but the measure was acknowledged, in June or July, in a proclamation of the Emperor to the people of Pernambuco, which I cannot immediately lay my hands on. It is not improbable that this case will be left for final decision until those of the numerous vessels captured in the river Plate shall be adjudicated, so as to avoid a precedent, which may go to clear some of the English, French, Dutch, Danish, or American property now under process of law.

"The schooners Lafayette and Camilla, I understand, were detained in the river Plate for a short time and given up; but I have not received from Mr. Bond any statement of their cases."

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE OF RIO DE JANEIRO, *August* 31, 1826.

The undersigned, Counsellor, Minister and Secretary of State for Foreign Affairs, having laid before his Majesty the Emperor the verbal request made to him by Mr. Raguet, Chargé d'Affaires of the United States of America, to cause to be set at liberty the supercargo and other persons belonging to the American brig captured by the Brazilian squadron forming the blockade of the river Plate, and who are at present on board the Prézéganga, I have to inform you, that although these persons have been delivered up to the judicial authority upon an accusation of attempting to recapture said brig, yet his Imperial Majesty, wishing to testify all his regard for the United States of America, will direct orders to be given to release the individuals in question as soon as you shall have given official security that they will be surrendered as soon as found guilty; and for this purpose the requisite communications have been made to the Minister and Secretary of State for Affairs of Marine, with whom you may correspond to that effect.

The undersigned renews to you the expression of his esteem and respect.

VISCOUNT DE INHAMBUPE.

Mr. Raguet to Mr. Clay, dated Rio de Janeiro, September 23, 1826.

[Extracts.]

"The extraordinary conduct pursued by this Government, not only in relation to the United States but all other neutral Powers, is not to be reconciled with any of the considerations of justice, policy, or prudence, which are usually supposed to influence statesmen in their intercourse with foreign nations. Reasoning upon general principles founded in common sense, one would suppose that a monarchy so young as Brazil and surrounded by Republics so feeble in physical as well as in moral power, in danger of being weighed down by a heavy public debt and a large annual deficit in her revenue, and waging an expensive war with a sister American State, in which, as the price of much blood and treasure, she has received nothing but dishonor to her arms—one would suppose, I say, that such a nation, and one so circumstanced, would have exerted all its endeavors to attract towards her the favorable opinion and the good feelings of all the States with which she was in amity. This, however, has not been the case. In support of illegal pretensions connected with the right of blockade, which she has embraced without possessing the means to sustain, she has committed acts of the most irregular and unjustifiable character, not only against the commerce and citizens of minor States, who have not the means of redress, but also against the great maritime Powers, and amongst these our Republic, which, from its political position on this continent, is entitled to the *respect* if not the *affection* of the Imperial Government. Our vessels have been captured under pretexts which this Government knows to be wholly inadmissible by ours. Our seamen, sailing under the protection of their country's flag, have been forcibly taken out of American vessels, insulted, and degraded; they have been treated as prisoners of war, or have been obliged to perform duty on board the capturing vessels *under penalty of corporal punishment in case of refusal;* and have even been compelled to stand at quarters prepared to fight against a nation with which their own is in amity. They have been detained on board the imperial squadron, and their surrender has been positively refused by the commanding admiral, or have been compelled to navigate the captured vessels of another nation. But this is not all. American seamen, thus captured in a time of peace, have, *under the very eye of the Government*, been deposited in a floating prison, crowded with convicts, murderers, and pirates, of all colors and languages, and compelled to be witnesses of the most revolting scenes of vice,

profligacy, and misery, which the human mind can imagine, and to be partakers with them of the most filthy and disgusting accommodations; and not only have such atrocities been committed against our common seamen, but even against the master, supercargo, and mate of an American vessel, who have received, at the brutal hands of Brazilian officers, the treatment which could only have been looked for from the buccaneers of the Barbary Powers.

"If you add to all this the recent conduct of the commander-in-chief of the imperial naval forces in the river Plate, who has advanced the monstrous pledge that he will assist the seamen of the United States in the commission of the crime of desertion, and then afford them protection under the imperial flag, you will then, perhaps, be able to judge what we may further expect from the policy and feelings of this Government and its subordinate agents.

"My residence in this country of four years, commencing on the 8th September, 1822, has, as is well known to the President and yourself, presented for the files of the Department of State nothing but a continued record of wrongs inflicted by this Government and its officers upon our commerce, our citizens, and our national honor, in return for numerous acts of kindness and forbearance. My correspondence with this Government exhibits a regular series of complaints and of evasive or unsatisfactory answers; for, in the cases where redress was obtained, it was always so tardily and so ungraciously afforded as to have lost the character of ample reparation; and even, in some instances, the delay was so great as to magnify the offence, as happened in the case of Mr. Rodney's treatment. In support of the rights which I was placed here to advocate, I have exercised the little zeal which belongs to my temperament, and the whole extent of the limited talents which Heaven has been pleased to intrust to my care. My position has been one of much vexation, solicitude, mortification, and pain; but all this I have endured with cheerfulness, because I hoped that my Government would sustain and uphold me, and that it would, sooner or later, give me such positive and determinate instructions as would enable me to speak to this Government in the only language which can cause respect for our rights—I mean language addressed to its fears. In this expectation I have been thus far disappointed. I have not received from your Department a single line of later date than the 16th of April, 1825; and having thus far been obliged to act upon my own judgment, without a single individual to advise with, I almost despair of success in any of the efforts I may hereafter be called upon to make.

"Having, in former communications, recommended a resort to decisive measures with these people, who cannot be reached by the power of reason or an appeal to justice, and being apprehensive that the three ships-of-war now on this station, under existing instructions, cannot prevent the evils which are likely to be most heavily felt, I will take the liberty of suggesting, for the consideration of the President, the advisableness of bringing our relations with Brazil before the public in his message to Congress. A manifestation of displeasure through that channel would be equal to volumes written by me, and the moral effect, I am of opinion, could not fail to be most powerful in restraining future abuses. I would further recommend that I be specially instructed to make a formal demand upon this Government for the immediate surrender, with damages, of all vessels which have been or may be captured in opposition to the laws respecting blockade maintained by us, including the cases of the Spermo and Exchange; that I be instructed to require a total suspension of the practice of taking American seamen out of American vessels, and a formal public notification thereof; and to demand the satisfaction which is manifestly due for the aggressions which have already been committed. Such instructions, however, should be accompanied by an order for my recall in case the demands should be rejected, which, I feel assured, would not be the case, owing to the fears of this Government that the prospect of a breach between the United States and Brazil would given a moral strength to the Republic of Buenos Ayres, which might, perhaps, be fatal to the pretensions of the Emperor. *Now* is the moment to make *our* nation respected by *this*. *Now* is the moment to make this Government *feel* the influence which we are destined to maintain in this hemisphere of liberty; and if it be desirable to negotiate a treaty of commerce, perhaps *now* is the moment when the footing of the most favored nation might be obtained as the price of a reconciliation, particularly in case I should be obliged to proceed to the extremity of giving notice of my recall. Should the President approve of these suggestions, or resolve upon any other measures of a decided character, I would respectfully remark that despatches sent by a fast-sailing public vessel would produce an effect of the most important character. The *manner* in which a thing is done is more regarded by these people than the thing itself; and hence the English and French, in all their dealings with them, find their account in studying the imposing attitude and action; and a negotiation here for redress should always be well supported with ships. Besides, such mode of communicating the President's sentiments would show that he was in earnest, and it would give a notoriety to the dissatisfaction of our Government which would operate favorably here, inasmuch as the nobility and others, whose prospects depend upon the stability of the monarchy, would unite their efforts to avert a common ruin; for such, I conceive, they would anticipate to be the result of an open rupture between this Empire and our Republic.

"In the meantime I shall relax no efforts which belong to my functions; I shall continue to hold the same sort of language as that which I have usually employed; and, although I think it likely that offence may be taken at the harshness of some expressions which I have used, or may use in relation to officers in the service of the Government, yet, as I consider that an affected delicacy is not due to them, I shall not be easily driven off the ground, and shall be prepared to meet all consequences, whatever they may be. Public duty should outweigh all calculations of private interest, and I shall, therefore, not be deterred from uttering any appropriate sentiments, in the strong language of truth, through fear that communications with me may be suspended.

"I have the honor to transmit, herewith, a copy of a representation made by me on the 9th instant to this Government, upon the subject of the treatment of the supercargo, master, and crew of the Ruth, together with the only reply which I have yet received, dated on the 12th. The seven seamen released from the Prézéganga were transferred from the Macedonian to the Boston, which ship has been detained a few days on their account. My knowledge of the character of those with whom I have to deal renders it necessary that I should incur no risk as to the fulfilment of my contract respecting the individuals for whom I entered into bonds; for, although only two of the seven can possibly be implicated in the transaction alleged, yet the release or the escape of the others might be brought against me, in case a similar occurrence at a future time should require a similar remedy. I have no doubt that the delay in cancelling my bond is intentional; and, should it be continued for several days longer, I shall request Captain Hoffman to sail on his cruise, which will not be a long one, with the men on board This, to be sure, will be a hardship for them, but there is no other recourse. I also transmit, herewith, a copy of the protest of Mr. Budd, supercargo of the Ruth, by which you will discover that, in the statement made in

my letter of the 1st instant, there were a few mistakes; not, however, in important particulars, and that the coloring which I gave to the transaction was by no means heightened."

"By an order issued on 17th July, foreign vessels clearing out for the south are required to give bonds, of double the amount of vessel and cargo, that they will not proceed to blockaded ports."

Protest of George K. Budd, Supercaryo of Brig Ruth.

CONSULATE OF THE UNITED STATES OF AMERICA, *Brazil, Rio de Janeiro.*

Before me, W. H. D. C. Wright, Esquire, consul of the United States of America for the port of Rio de Janeiro, personally appeared George Knight Budd, of Philadelphia, supercargo of the American brig Ruth, of the same port Jacob Jefferson, master, who, having been duly sworn, did declare and say as follows, viz: That he sailed from the said port of Philadelphia with said vessel on the 16th day of April last past, for Gibraltar, and from the latter port on the 12th day of June following, with a cargo of wine, cocoa, paper, beef, pork, and other articles, not contraband of war, bound to Buenos Ayres; in case that port should be found to be in a state of blockade on arrival in the river Plate, to Montevideo, a port in possession of the Government of Brazil. That on the 24th of July they spoke an English brig, bound from Rio de Janeiro to Bahia, which informed them that Buenos Ayres was still in a state of blockade; in consequence of which information he ordered that the vessel should proceed direct for Montevideo, and the log-book was accordingly headed for that port. That on the 5th of August, at 2 p. m., in latitude 34° 21′ south, and longitude 52° 28′ west, by account, at the distance of about ninety miles from the land, and off soundings, discovered four sail to windward, distant about six miles, which immediately tacked ship, fired a gun, and stood for the Ruth, which hoisted the American flag, and was hove to, to await the approach of a vessel of war under Brazilian colors. That at 5 p. m. the Ruth was boarded by an officer from the national and imperial brig-of-war Independencia on Morté, commanded by Joaquim Leal Ferreira, a Brazilian, who asked Captain Jefferson where he was bound, and received for answer to Montevideo. That the said officer then demanded the brig's papers, and, upon receiving only the register, asked for a pass. That to this request Captain Jefferson replied, that, as there was no custom-house at Gibraltar, he had not been furnished with any clearance. That upon the officer's insisting upon other papers, the bill of health was handed to him, being the only public document in possession of the master showing the destination of his vessel. That Captain Jefferson was ordered into the boat of the man-of-war, and directed to take his papers on board of her; which demands he complied with. That, after an absence of about half an hour, Captain Jefferson returned on board the brig, accompanied by a prize crew, consisting of one officer and eleven men—negroes, mulattoes, and whites—armed with swords, pistols, and muskets, who took possession of the Ruth. That five of the seamen, viz: W. Spooner, J. Rives, J. Barclay, J. Wilson, and W. Bennet, all Americans, and the steward, J. Baptista, an Italian, were forthwith ordered to proceed on board of the man-of-war as prisoners. That the prize-master immediately took command of the vessel, leaving on board of her deponent; Captain Jefferson; John Wiske, mate; Martin Binder, seaman; and Richard Speed, cook; and, under convoy of the Independencia on Morté, directed his course for Rio de Janeiro. That the said prize-master lived in the cabin of the brig Ruth, and dined at the same table with Captain Jefferson and deponent, and got intoxicated the first evening he was on board. That on the second day after the capture the prize crew asked for liquor, which Captain Jefferson refused to give them, upon the ground that he was not in the practice of giving any to his own crew. That on the 7th of August the mate, Mr. Wiske, was taken from the Ruth on board the man-of-war, and William Bennet was brought back to remain in his place. That from the 7th to the 11th of the month the prize-master and the prize crew were every day more or less intoxicated with liquor served out by order of the prize-master. That at six o'clock in the evening of the latter day the said crew came aft and made a demand for more liquor, when Captain Jefferson told the prize-master that they should not have any more, as they had already had enough; that they insisted on having their demand complied with, when the prize-master ordered the liquor to be given them. That, upon a quart measure full being served out, Captain Jefferson said to the prize-master that the appearance of the weather indicated a gale, and that, in a state of intoxication, the Ruth, in all probability, would run away with the prize crew, or that all her sails would be lost. That at about dusk of the same evening, whilst deponent, Captain Jefferson, Martin Binder, and the prize-master were at supper in the cabin, a great noise was heard on deck, which induced the prize-master, who was at the time so much intoxicated that he could stand with difficulty, to go up. That he was followed by deponent, who found the prize crew all aft on the main deck in high words apparently with the prize-master. That immediately after, while deponent was sitting on a hencoop, a sabre was presented to his breast by one of the prize crew, who at this time were armed with muskets and swords. That during this disturbance Captain Jefferson and Martin Binder remained below, when deponent called the latter to load a pistol for him, as the prize crew were in a state of mutiny and his life was in danger. That a small pocket pistol was immediately brought to him, which he put into his coat pocket. That soon after, whilst standing on the quarter-deck, one of the prize crew charged him with having a pistol about him; and the deponent, judging from the appearance of things, that his life would be more secure than if he should use the pistol, threw it overboard. That hereupon one of the prize crew raised his sword and prepared to aim a blow at the head of deponent, which would infallibly have killed him had it not been stayed by one of his companions, who told deponent he had better go below. That at this moment two muskets were fired on the forecastle, and soon after the man-of-war, which, at the commencement of the mutiny was to windward, distant about a quarter of a mile, ran foul of the Ruth and carried away part of her foretopsail. That at this time the commotion on deck was very great; the prize-master and his crew hailing the Independencia on Morté. That Captain Jefferson, when he heard the firing of the muskets, came to the door of the companion, and seeing the riotous state of the crew amongst themselves went below, where he was followed soon after by deponent and Martin Binder; the cook, during the whole of the affray, having been in the forecastle and Bennet on deck. That deponent, on going below, found Captain Jefferson in his berth, and said to him I am afraid we shall be murdered; to which Captain Jefferson replied, that if so he would be murdered in his berth. That soon after going below the companion door was closed, and in about half an hour afterwards the prize-master came into the cabin, followed by one of the crew, who, brandishing his sword, inquired what hour? After his retiring the companion door was again closed and secured down. That the prize-master took more liquor and went

to bed, notwithstanding the urgent entreaties of deponent that he would sit up all night and protect him and his companions from his lawless crew. That deponent, fearing every moment that the prize crew would rush into the cabin and murder him in cold blood, asked Captain Jefferson if he had pistols; to which he replied in the affirmative, as he said he always at sea carried a loaded pair under his berth. That deponent, with Captain Jefferson and Martin Binder, who had loaded a musket that was in the cabin, did not go to sleep during the night. That at about two o'clock in the morning, the prize-master attempted to go on deck, but the crew would not let him up. That at daylight, after repeated solicitations, he was suffered to go on deck, from which he afterwards returned into the cabin to get his breakfast; after which he retired above, and was not again seen by deponent for two days and three nights, during which time deponent, Captain Jefferson, and Martin Binder were closely confined to the cabin, not being allowed to go on deck, the cook bringing them their provisions; and during the whole of the time the prize crew were continually sending down for liquor. That at six o'clock on the morning the 14th of August, *three days after the life of deponent had been first placed in jeopardy*, the commander of the Independencia on Morté came on board the Ruth, when the companion door was opened and deponent called up, and drawn sabres presented to him; was questioned, through an interpreter, by the said commander as to the cause of the disturbance. That deponent replied that the prize crew were in a state of intoxication, and wished to murder him, (deponent.) That hereupon the said commander said it was a lie; and then calling him (deponent) "English beast," "filho da puta," and using several other scurrilous epithets, pushed him, whilst on the quarter-deck of his own vessel, ordered him into the man-of-war's boat, and threatened to hang him after his arrival at Rio de Janeiro. That at this time deponent was a good deal indisposed from a previous sickness, and having no clothes on but a shirt and pantaloons, having just got up out of bed, he requested that he might be allowed to protect his body from the weather, as it was raining at the time, by getting his hat and coat, the man-of-war being half a mile distant. That this civil request was not regarded, and deponent was obliged to obey the demand, and accordingly left the Ruth in a boat, accompanied by Martin Binder and William Bennet, neither of whom were permitted to take any clothing, except what they had on. That after getting on board the Independencia on Morté, deponent was obliged to stand on the deck with his head uncovered, and in his shirt sleeves, for some time, until one of the American sailors lent him his hat and jacket to protect him from the rain. That Captain Jefferson soon after came on board, bringing with him two or three shirts for deponent and some clothing for himself, which he had been allowed to take, in consequence, as he declared, of refusing to leave his vessel without a change of clothing. That, soon after this, deponent and Captain Jefferson were called aft on the quarter-deck, and questioned relative to the affray on board the Ruth, by the commander, who told them that what they said were lies, and ordered them forward amongst the sailors. That deponent, Captain Jefferson, the mate and crew of the Ruth, (except the cook, who was left on board,) were placed to sleep during the night down the fore-hole, amongst the crew and soldiers of the vessel, composed of negroes, mulattoes, and whites, principally Portuguese and Brazilians, without beds to lie on, and in the midst of filth and vermin. That they were compelled to eat down the said hole, out of a kid, like the crew which surrounded them. That they were each allowed for dinner about a pint of beans, half a pound of beef badly cured, and farina, and for breakfast and supper, bread and tea. That they were obliged to drink water through a pipe placed in a hogshead, which was common to all the crew. That the seamen of the Ruth were compelled to work and stand watch, and, when the men were called to quarters on the appearance of a sail, were obliged to assist in working the guns, and had there been an engagement, would no doubt have been obliged to take part in it. That deponent, Captain Jefferson, and mate were not allowed to go aft of the mainmast, and were treated by the officers and crew of the man-of-war with the utmost indignity and contempt. That after the first two or three days, deponent, being still indisposed, procured a state-room to sleep in, which, although on the same deck with the crew, ameliorated his condition. That some days after the capture, the commander of the Independencia on Morté sent an officer on board the brig Ruth, who returned in about four hours with sundry papers, supposed to be the deposition of the prize crew relative to the affray, which the said commander immediately tore into pieces, and sent the officer again on board. That after his return said commander called Bennet aft, and, as Bennet has assured deponent, read to him the declarations of the prize crew; told him that if he would swear to them he would get him into the Brazilian Navy, which overtures were rejected by Bennet, who pronounced the statements to be false. That on the 29th of August, the Independencia on Morté, with the Ruth and other vessels under her convoy, entered this port of Rio de Janeiro, and came to anchor at about 1 p. m. That during that day no opportunity of communicating with the shore presented, and consequently deponent was unable to make known his situation to any of his countrymen. That during the night of this day, when all hands were asleep on the birth-deck, deponent discovered one of the crew of the Independencia on Morté, whom he had for several days observed to watch and follow him as if with some evil design, approach his bed with a drawn knife, evidently for the purpose of murdering him in his sleep, from which act he was diverted upon observing deponent rise up in his birth. That two approaches were subsequently made by the said individual to the state-room of deponent, the door of which had been left open to admit air, who, in both cases, retired upon observing deponent (who did not sleep during the night) to be awake. That on the 30th the deponent asked permission of the commander of the man-of-war to send a letter to Mr. Raguet, Chargé d'Affaires of the United States, which was granted; but the said commander refused to send it on shore in his boat, which obliged deponent to wait for a chance opportunity that was afterwards afforded by a person who came on board to see the pilot. That at 1 p. m. of the same day, deponent, Captain Jefferson, Mr. Wiske, and all the crew of the Ruth, except the cook, who had never been taken out, were ordered into a boat, along with a number of the crew of the man-of-war, for the purpose of being transported like criminals to the prison ship called the Prézéganga. That deponent went aft and remonstrated with the commander against being placed in the same boat with the crew of the man-of-war, who it seems were going to the prison ship to prevent their desertion, or to be punished for crimes. That to this remonstrance he received for answer that he must go, he, the commander, having no longer any control. That deponent had no remedy but to submit to this degrading mandate, and was thus conveyed, like a convict, with his American companions, to the Prézéganga, where he found himself in a filthy prison, in the midst of hundreds of wretched objects of all nations and colors—whites, mulattoes, and blacks—wallowing in filth and vermin—some loaded with irons, others chained together—some picking oakum—and others, indifferent to their degraded state, playing at cards and other games, or indulging in the most obscene gestures. That the apartment which was allotted to deponent, Captain Jefferson, and the mate, being the after-cabin, was

on the same deck with that occupied by a part of the prisoners above described. That amongst the individuals who shared this cabin with them were several persons confined upon several charges, such as desertion, murder, and piracy; and, notwithstanding the degrading and atrocious treatment which deponent and his companions had received from the commander of the Independencia on Morté, they had abundant reason to felicitate themselves that they had fared so much better than one of the unfortunate prisoners who dined in the same mess with them, the surpercargo of the Spanish schooner Escuderra, captured not long since by the Brazilian Government vessel-of-war Emprehendedor, commanded by Luiz Clementi Poitiers, who, without even the form of a trial, cut off his left ear close by the head, presenting the most horrible spectacle which a civilized mind can imagine. That at 4 p. m. Mr. Wright, consul of the United States, who, having been alongside the Ruth to inquire the cause of their detention, learned of their imprisonment, and came on board the Prézéganga and immediately returned to the shore to communicate the particulars to Mr. Raguet. That at 8 p. m. Lieutenant Calhoun, of the United States frigate Macedonian, came on board by order of Commodore Biddle to offer any assistance which might be in his power, and informed that Mr. Raguet had received deponent's note at 5 p. m., and would take immediate steps for his release. That on the morning of the 31st, at 10 o'clock, Mr. Raguet came on board the Prézéganga with information that he had seen the Minister of Foreign Affairs on the preceding night, and that he had promised an immediate attention to the case. That deponent received this morning, from a friend on shore, a change of clothing, which enabled him to put off the suit he had constantly worn for seventeen days, and which was in so foul a condition as that the sight of it alone was sickening. That from the time of their arrival on board the Prézéganga until noon of this day, a space of about twenty-three hours, the crew of the Ruth received no provisions, except some bread given to them by Captain Jefferson, and a little meat procured from some of the prisoners. That at 8 p. m. an order for the release of the deponent and his companions was brought on board the Prézéganga by Mr. Bidwell, having been procured upon Mr. Raguet's giving his official security for their appearance in case of a trial upon a charge of an attempt to retake the vessel they should be found guilty. That accordingly deponent, Captain Jefferson, and Mr. Wiske, went on shore, leaving the crew to be conveyed on board the Macedonian, which was done early on the following morning; thus being rescued from a scene of the most horrible filthiness, vice, and misery that can be conceived of.

Further this deponent saith not.

GEORGE KNIGHT BUDD.

Sworn to before me this 18th September, 1826.

W. H. D. C. WRIGHT, *Consul U. S. of America.*

CONSULATE OF THE UNITED STATES OF AMERICA, *Brazil, Rio de Janeiro.*

I, W. H. D. C. Wright, consul of the United States of America for the port of Rio de Janeiro, do hereby certify that the foregoing deposition is a true copy from the records of this consulate.

In testimony whereof, I have hereunto set my hand and seal of office this 18th day of September, 1826.

W. H. D. C. WRIGHT, *Consul U. S. of America.*

Mr. Raguet to the Minister of Foreign Affairs.

LEGATION OF THE U. S. OF AMERICA, *Rio de Janeiro, September* 9, 1826.

The undersigned, Chargé d'Affaires of the United States of America, had the honor to receive, on the day of its date, the note addressed to him by the Viscount of Inhambupe, Counsellor, Minister and Secretary of State for Foreign Affairs, on the 31st ultimo, in which his excellency, with a promptness corroborative of the friendly sentiments therein advanced, was pleased to announce that the supercargo, master, and crew of the American brig Ruth would be liberated from their confinement on board the Prézéganga as soon as the undersigned should give his official guarantee that the said individuals should be produced in case they were found guilty of the offence alleged against them, which was that of an attempt to retake their vessel. The undersigned now informs the Viscount that, agreeably to the tenor of the said note, and without delaying a moment after its receipt, he waited upon his excellency the Minister of Marine for the purpose of tendering the security thus required, and was informed by the chief clerk of his Department that he must go in person to the office of the Auditor General of Marine to sign the bond before the order could be issued for the release of his countrymen. Conceiving, upon an occasion where the liberty of ten American citizens was concerned, that it was no time to stand upon questions of delicacy and etiquette, the undersigned complied with the demand of the minister and obtained the order for the release of the parties in the course of the evening.

The haste with which this formality was performed precluded the possibility of explanations by the way, and it so happened that the responsibility of the undersigned was given for the appearance of the *ten* prisoners confined on board the Prézéganga, whereas only *four* of them (viz: the supercargo, George K. Budd, the master, Jacob Jefferson, and two seamen, named Martin Binder and William Bennet,) were on board the brig Ruth at the time of the alleged attempt to recapture her, and could possibly be implicated in the act. The remaining six individuals, viz: John Wiske, mate, William Spooner, John Rives, John Barclay, and John Wilson, seamen, and John Baptista, steward, had been transferred to the Independencia on Morté soon after the capture, and the cook, the only remaining one of the crew, was never removed from the Ruth to the Prézéganga. The undersigned presumes that his excellency could not have intended that the security given by him should extend beyond the number of persons charged with the offence alleged, and as the detention of individuals manifestly innocent is not only oppressive, but expensive, the undersigned hopes that orders will be given to cancel the bond as relates to *them*.

Indeed, the undersigned is not without hopes that, upon a calm and dispassionate view of the case, the Government of his Imperial Majesty will order the whole proceeding to be dismissed upon the simple ground of the entire impossibility of the fact that *five* unarmed Americans should have attempted to recapture a vessel from *twelve* armed Brazilians under the very guns of a man-of-war bearing the imperial flag. The world will not credit the existence of so much heroic bravery as would have been evinced by such an attempt. But should the fears of the prize-officer and his crew have permitted such suspicions to have entered their fancies, it would then, perhaps, be worthy of the attention of his Majesty's Govern-

ment, before it permits a prosecution, which may require months to terminate, to ascertain whether, in case the fact of an attempt to recapture be established, any offence against the laws of nations has been really committed by the parties accused, and especially as it is well known that the right to recapture has been officially admitted by his Imperial Majesty's Government in the case of a Brazilian smack retaken from the privateer Lavaleja by her crew, consisting of slaves, whom, as a reward for the meritorious act, his Majesty, with a generosity which did him immortal honor, ordered to be emancipated from slavery.

The undersigned, however, wishes to be understood that he is not asking favors. He represents a Government which requires from other States justice, and nothing more; and, as he conceives the capture of the brig Ruth to have been wholly unlawful, the treatment of her supercargo, master, and crew altogether unjustifiable and atrocious, and their subsequent imprisonment on board the Prézéganga, the common receptacle of convicts, murderers, and pirates, a positive outrage upon the rights of a civilized nation, he gives notice that his Government will expect, in this case, the exemplary punishment of the persons implicated therein, and a guarantee that such outrageous conduct as has been displayed throughout the whole of this transaction shall not again be repeated upon the persons of American citizens.

The undersigned absolutely denies the right of a Brazilian vessel of war to make prisoners of, and to take forcibly from an American vessel, upon any pretext whatever, any person sailing under the protection of her flag. If such vessel be detained upon legitimate grounds, recognized by the laws of nations, she may be sent into port for adjudication by placing on board a prize crew; and if an equal number of armed men is not deemed sufficient for the purpose, the number may be increased. If it were allowable for a captor to take out of a neutral vessel her master, supercargo, and crew, the act might deprive the ship of all the evidence upon which her non-liability to condemnation was founded. It cannot be unknown to his excellency that the Government of the United States has once waged war in support of the principal that her flag shall protect all who sail under it; and it cannot be supposed that she will tamely submit to have her citizens forcibly dragged from their vessels upon the high seas, under pretences founded upon certain doctrines respecting the right of blockade, which she has never admitted, and never will admit, and compelled, as in a state of impressment, not only to submit to insult, degradation, and hardship, but to perform duty on board the capturing vessel, even so far as standing at quarters to be prepared to fight against a nation with which their own is at peace, as happened in the case of the crew of the brig Ruth. These practices, the undersigned conceives, call for immediate redress; and as he cannot doubt the wish of his Imperial Majesty's Government to cultivate the good feelings of the Government of the United States, he is persuaded that the plain and frank manner in which he has spoken of the transactions herein complained of will be ascribed to the desire by which he is actuated of being instrumental in removing the causes which may be fatal to those feelings.

The undersigned, at the same time, conceives it his duty to say, that the degrading, insulting, and oppressive treatment received by the supercargo, master, and crew of the Ruth, who are citizens of a nation in amity with Brazil, will produce in the United States an excitement with the Government and people of no ordinary character, and, connected, as it will unquestionably be, with the barbarous and revolting cruelty inflicted upon the supercargo of the Spanish schooner Escuderra, belonging also to a friendly nation, by the commander of another of his Imperial Majesty's ships of war, cannot fail to produce impressions unfavorable to a continuance of that friendship which so happily subsists between the Brazilian and American nations, but which can only be perpetuated by a mutual respect for the rights and the liberties of the citizens of each other.

The undersigned knows too well the good sense and liberal sentiments of his excellency to suppose for a moment that the apparent harshness of these remarks will be construed into a reflection upon the Government, the foreign affairs of which he so ably administers. Governments only become liable to imputations when they refuse to redress wrongs committed by their subordinate agents; and when it is recollected how much the peace and harmony of nations may be disturbed by the arbitrary and improper conduct of the latter, it becomes their duty to cause a strict watch over their conduct, and a rigid accountability to be maintained.

The undersigned renews, upon this occasion to his excellency the assurance of his great respect and high consideration.

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

OFFICE OF THE SECRETARY OF STATE FOR FOREIGN AFFAIRS, *September* 12, 1826.

The Viscount de Inhambupe presents his compliments to Mr. Raguet, Chargé d'Affaires of the United States of America, and, in acknowledging the receipt of his note of the 9th instant, enclosing explanations as to the security to be given respecting the release of the persons mentioned therein, has to inform him that he has transmitted his said note to the Minister and Secretary of State for Affairs of Marine, to whom it belongs to decide in this case, of which Mr. Raguet will be apprised in due time.

The Viscount de Inhambupe renews to Mr. Raguet the assurance of his esteem and consideration.

Mr. Raguet to Mr. Clay, dated Rio de Janeiro, October 2, 1826.

[Extracts.]

"The impression which I entertained that this Government would probably take offence at the language employed by me in some of my late communications has been realized; not only is this manifest from a positive withholding of replies to my two notes of 9th and 15th ultimo, calling upon the minister for the cancelling of my bond as relates to the individuals of the crew of the Ruth, against whom no offence could possibly be alleged, and for the surrender of the deserters from an American vessel pro-

tected by Admiral Pinto, but from the style of two communications lately addressed to me upon other subjects."

"The second communication above referred to was one addressed to me on the 25th ultimo, calling for the surrender of two American seamen who had been, as was asserted, taken out of a French prize vessel in this harbor, by force, on the night of 30th of August, by order of Commodore Biddle. To this note, of which document C is a copy, I returned the answer marked D, in which I signified that, until the subjects to which my notes of 9th and 15th September related were disposed of, no explanation could be expected from me.

"That this note was drawn up as a set-off against the unceremonious manner in which I thought it incumbent on me to speak of certain commanders in the imperial service is evident not only from its language, but from the following facts: The occurrence to which it relates was known on the day after it occurred to the Inspector of the Arsenal of Marine, as well as to the captain of the port; and from the avidity with which such transactions are seized upon, and from the blustering indignation displayed by the former, who declaimed that he would communicate the matter to the Government, there is not the least question but that the Minister of Marine knew all about the affair on the 31st of August. Persuaded, however, that the matter could not be made out to be one of positive force, but a mere demand to which the prize-officer, through fear or other considerations, yielded, it was thought best to say nothing about it, whilst Commodore Biddle was in port and could rebut the charge by evidence. That officer, as you have been advised, remained here until the 15th of September, and deeming it probable that after his departure the matter might be brought into discussion by this Government, addressed a letter to me detailing the facts of the case, a copy of which you will find enclosed as document I. Commodore Biddle, as you will observe, admits the demand of the seamen, but denies that any force was used; and he further stated to me, in conversation, that had the demand not been complied with *he would not have resorted to force.*

"It is now proper for me to mention that on the day before the date of the minister's note of the 25th, Mr. Lisboa, chief clerk of the Foreign Department, call upon me, at the request of the minister, as he said, to have some conversation respecting the matter referred to. He informed me that the Minister of Marine had addressed to the Foreign Office a strong representation against the conduct of Commodore Biddle, and, as the Viscount of Inhambupe was desirous to avoid giving much *'eclat'* to the affair, he thought it best to make a verbal request to me to give up the men, upon the promise that they should be immediately discharged in the regular way. In answer to this, I replied that Commodore Biddle denied the use of force, and, in confirmation of it, read him the whole of the letter from that gentleman to me. Mr. Lisboa's manner was, upon the whole interview, so conciliating that I had no hesitation in expressing my regret at the occurrence, happening, as it did, after night; and told him that I would give the subject all due attention upon the minister's addressing me a note in relation to it. I did not make any promise to give up the men, although I thought the matter might be accommodated; but I strenuously urged upon the consideration of Mr. Lisboa that I had received no satisfaction upon the cases represented by me on the 9th and 15th September, and declared to him, very emphatically, (which I felt perfectly assured his Government already knew,) that the *Boston was detained in port solely for the purpose of enabling me to comply with my bond given for the crew of the Ruth.*

"The representation made on the 25th was not in conformity with the spirit of this conversation, nor was it accompanied by any order for the cancelling of my bond, or promise of reparation for injuries seriously sustained, and, accordingly, in my opinion, merited no other answer than the one which I gave. From my present impressions, I do not conceive that in any event should I have surrendered the men; *first,* because they were not taken by force, according to Commodore Biddle's statement; and, *secondly,* because, as they came on board the prize vessel by a wrong, requiring a previous redress, viz: that of being replaced on board the Leonidas, from which they had been illegally taken, they could not be removed a second time without leaving the original offence unatoned for. One of these men has sailed, or is now upon the point of sailing, to the United States in the Leonidas, which vessel has been delivered up upon *bonds,* not having yet been adjudicated, and the other has met with a calamity of a distressing nature. On the 25th or 26th ultimo he was discharged from the Leonidas, and the earnings of his China voyage, amounting to about $100, were paid to him, together with about $190 belonging to one of his shipmates. The money was paid to him in bank notes, which, by the advice of the mate, he got changed into Spanish dollars; and whilst upon the point of embarking in a boat to go on board the Leonidas to execute his trust, and, I suppose, to procure his clothes, he was seized by a custom-house officer as a smuggler; and after having been despoiled of the hard-earned capitals belonging to himself and his comrade, he was dragged to jail, because he could not give security for the additional payment of an equal amount, the forfeit by law if he should be convicted. Mr. Wright is endeavoring to secure his release by appealing to the *humanity* of the harpies who, like rapacious vultures, have fastened upon this unfortunate sailor; and perhaps he may succeed by a compromise, which will leave them in possession of the whole of the plunder. I say *them,* because it is supposed that the seizing officer goes halves with some wretch who, upon witnessing the changing of the money, hastened to give the information. In a suit at law here it is impossible that a foreigner, unsupported by this Government, ever can succeed, unless he has the means of striking the corruptibility of the judges deeper than his adversary; and that you may form an opinion of the awful doom of this victim of voracity, I can assure you, from ocular inspection, that a prison on shore differs from the Prézéganga in its horrors. That you may have, however, higher authority than my assertion for this fact, I will give you the words of a deputy of the Assembly, pronounced in a speech on the 29th of August last, as translated from the Government paper of the 1st of September: 'The greater part of the prisons, (of Brazils,) *or perhaps all,* serve rather as horrible and frightful sepulchres of the living than for the correction and chastisement of crimes.'

"I have also the honor to send you (document F) a copy of the official despatch of the commander of the Independencia on Morté to the Minister of Marine, giving an account of the capture of the brig Ruth, and of the alleged attempt to retake her; from which it appears, sure enough, that the *twelve armed Brazilians* placed on board that vessel were afraid that the *five unarmed Americans,* of whom two were little more than boys, would overpower them. The leading facts correspond with those related in Mr. Budd's protest, omitting, of course, all that concerns the treatment of that gentlemen and his comrades.

"I also transmit (document G) a copy of the official communication made by the Minister of Marine to the Auditor General of Marine, on the 29th of August, the day upon which the Ruth arrived, in which his excellency acknowledges that it was by his order that the supercargo, master, and crew of the Ruth were sent on board the Prézéganga. The words 'that to the Inspector of the Arsenal had been expedited the necessary orders to hold in security the crew of the said American brig,' can have had no other meaning.

The inspector receives his orders from that minister. The Prézéganga is the prison under his immediate charge, in which impressed seamen, criminals, and prisoners are indiscriminately deposited; and if the minister, who had before him such a plain statement of the case as was given to him by the commander of the brig-of-war, did not, in deciding upon the liberty of ten American citizens, take the trouble to discriminate between the supercargo, master, and seamen, nor between those who might be implicated in the offence alleged and those who could not possibly be, he made himself responsible for all the consequences. It was only on the 28th that I became possessed, through Mr. Budd's lawyer, of these documents, and they soon furnished a key to the delay which has taken place in the cancelling of my bond. The minister, having himself been guilty of the offence which I described as a 'positive outrage upon the rights of a civilized nation,' is disposed to wreak his vengeance upon us in the only mode which is in his power—that of detaining a ship-of-war. Of this intentional and spiteful delay, however unworthy of the mind of a Minister of State, you may rest assured. It is within my positive knowledge, but it reaches me in such a way that I cannot render my information available, that, so long ago as the 18th ultimo, the Auditor General of Marine, in answer to an official call made upon him, declared that only those who were on board the Ruth at the time of the alleged attempt to recapture were implicated in the transaction, and that the bond could not embrace the rest. How long the Boston may yet be detained it is impossible to tell. On the 29th ultimo I wrote Captain Hoffman a note, requesting him to proceed to sea, with the men on board, after the 1st instant. It seems, however, he did not wish to take such a responsibility upon himself unless the men would consent; and these, upon being applied to, positively refused, saying that rather than go upon a cruise of forty or fifty days they would return to the Prézéganga, where they thought they could not be detained but a very few days. This want of honorable feeling on the part of these men, who, had it not been for my responsibility and exertions, would have been immured on board that loathsome ship for months, has placed me in a perplexing and mortifying situation. To send them back to that ship would be giving up the whole case. To detain the Boston is keeping her from useful service at the river Plate; and to allow them to come on shore, where they might escape of their own accord, or be impressed *to suit the purposes of others*, would render me liable to a failure in my contract, which would be a complete triumph to these people, who, I am sure, would not, in such a case, hesitate to call upon me even for the *innocent individuals*.

"After the capture of the Leonidas, five of her crew were taken out, in the harbor of Montevideo, and conveyed on board a ship-of-war, where, after being fruitlessly demanded by Mr. Bond, they were detained for a month; and, in consequence of their refusing to do duty, they were threatened to be flogged, and were treated as prisoners of war. They were afterwards placed on board three different prize vessels, which they assisted in navigating to this port, where they are at liberty. We now just learn that the brig Pioneer, Potter, of Salem, on a voyage from Havana to *Montevideo*, has been captured off Cape St. Mary's by Admiral Pinto, and sent as a prize to the port of her destination, after having the chief part of her crew taken out. We may look for many more such detentions as soon as the new crop of wheat, the approach of a northern winter, and the false rumors which have appeared in the American papers of the absence of the Brazilian ships from the river Plate, shall have had time to operate.

"From the contents of this letter and accompanying documents, in connexion with those which I have heretofore transmitted, it will be manifest to the President that our relations with Brazil cannot long stand upon their present footing. An explosion, or a complete reconciliation, must soon take place by some decided act of ours. It is very clear that, with some of the persons in power, there exists a real hostility against our Government; and it is equally clear to me that others in office, who have no such hostility, but who desire to see overthrown the imperial system, avail themselves of this ministerial enmity to foment a misunderstanding between the United States and Brazil, which they are persuaded, and I think with reason, would, if it came to open hostilities, consummate their wishes. It is for this reason, amongst others, that I anticipate a regular and accumulating course of vexations. Our ships of war will be inhospitably received, and all the little annoyances which can be invented will be adopted towards them. Our seamen will be harshly dealt with; the patience of our citizens will be tried by the most endless delays and the most vexatious proceedings in the adjudication of vessels. Our ships will be captured on the most unjustifiable pretexts; and lastly, no pains will be spared to render my residence here as uncomfortable as it can be made. All this will even take place during the continuance of the present war, when there would seem to be a motive for conciliating our Republic. After that war shall have terminated, and especially if it be crowned with success, no such motive will be allowed to exist; and I can see no limits to the arrogancy and insolent deportment which will then be displayed towards us."

C.

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE OF RIO DE JANEIRO, *September* 25, 1826.

The French brig Juno, captured by the squadron of the river Plate, having entered this port on the 29th of last month, and the Brazilian officer who was on board having refused to surrender, without orders from the proper authority, two American seamen to the captain of the brig Leonidas, who claimed them as belonging to him, the latter, instead of applying where he ought so to have done, went to require assistance from the Commodore of the United States frigate Macedonian, who granted it, by sending twice a boat, with officers and men, to take by force the above mentioned seamen, and this was effected on the 30th of said month, at eight o'clock at night, as being the time most convenient for the perpetration of such an act.

The undersigned, Counsellor, Minister and Secretary of State for Foreign Affairs, in communicating to you this scandalous proceeding, which, not having been duly and immediately made known by the commander of the prize or his officer, for which they have been arrested, only came to the knowledge of his Majesty the Emperor through the lively sensation it produced in the public mind. Unable to repress his feeling of regret at this occurrence, expects from the prudent and honorable character of Mr. Raguet, that, after making an unqualified acknowledgment of the irregular and indecorous conduct of the Commo-

dore, whom Mr. Raguet retains at this Court for the purpose of aiding him in his reclamations, will cause him not only to give due satisfaction to the Imperial Government, but also to restore the two seamen belonging to the brig Leonidas, and brought into this port by the prize above referred to, when they will be surrendered in a suitable manner. Mr. Raguet will thereby contribute to preserve that respect and consideration which Governments reciprocally owe one another.

The undersigned renews to Mr. Raguet the expression of his respect and esteem.

VISCOUNT DE INHAMBUPE.

D.

Mr. Raguet to the Minister of Foreign Affairs.

RIO DE JANEIRO, *September* 26, 1826.

The undersigned, Chargé d'Affaires of the United States of America, presents his compliments to the Viscount de Inhambupe, Counsellor, Minister and Secretary of State for Foreign Affairs, and has the honor to acknowledge the receipt of his excellency's note of 25th instant, respecting two American seamen belonging to the American brig Leonidas.

The undersigned, conceiving that the matters which form the subject of complaint should be treated in the order in which they have been represented, takes the liberty of reminding his excellency that no answers have yet been received to the two notes addressed to him by the undersigned, under date of the 9th and 15th instant, excepting a mere acknowledgment of their receipt, and of their having been communicated to the Minister of Marine, although they related to transactions highly worthy of the attention of his Imperial Majesty's Government, and of deep concern to the Government of the United States.

The undersigned takes this occasion to renew to his excellency the assurance of his great respect and consideration.

CONDY RAGUET

F.

Commander of the "Independencia on Morté" to the Minister of Marine.

[Translation.]

ON BOARD THE BRIG INDEPENDENCIA ON MORTÉ, *August* 23, 1826.

MOST EXCELLENT SIR: I have the honor to inform your excellency that, on the fifth instant, being in latitude 34° 10′ south, and longitude 52° 40′ west of Greenwich, I descried a vessel, gave her chase, and, having neared her, commanded Second Lieutenant Martin Hannibal Both to examine her, who returned, bringing with him the captain of said vessel, which proved to be an American brig called Ruth, bound from Gibraltar, with a clearance for Buenos Ayres. Observing that she was destined for a blockaded port of the enemy, I told the captain that he would have to proceed, in company with me, to Rio de Janeiro, and ordered the above named lieutenant to return on board said brig and take charge of her, carrying with him a prize crew consisting of four sailors, two boys, and four soldiers, and to withdraw from her own crew five sailors and the mate, leaving on board the captain, supercargo, and three sailors to seal the hatches and sail in company with this brig. On the eleventh of the same month, at eight o'clock at night, perceiving that the vessel in question was falling back, and hearing, soon after that, the reports of two muskets, I concluded that something had happened, and, proceeding towards her, as soon as I found myself at a suitable distance, I inquired the cause of those reports, and was answered, by all at once, that the Americans had risen in arms against them and attempted to escape with the brig. As the sea was high I did not think it convenient to order them on board, but determined that they should be sent below with all due precautions, and a sentinel be placed over them till the following day, when I would take the necessary measures, should the weather permit it, and I ordered a protest of the whole to be entered. On the fourteenth, the weather having moderated, I ordered the captain, supercargo, and two sailors to be brought on board of my vessel, leaving the cook only on board the prize, and commanded Lieutenant Bernadino de Serra é Aranso, together with my clerk, to proceed on board the prize and minutely to investigate the transaction of the preceding night, and to take the depositions of the crew then on board; and, enclosed, I transmit their proceedings.

God preserve your excellency.

JOAQUIM LEAL FERREIRA.

G.

The Minister of Marine to the Auditor General.

[Translation.]

PALACE, *August* 29, 1826.

The English brig Atlantic, and the French brig Juno, and schooner Le Courier having arrived at this port, as prizes of the blockading squadron of the river Plate, you will, after perusing the acts and other documents enclosed, annexed to the three letters from the commander of said squadron, which are also herewith transmitted, proceed immediately to take the measures usual in such prize cases.

By this opportunity I transmit, likewise, to you the enclosed copy of a letter received from the commander of the brig Independencia on Morté, having said prizes under convoy, and the documents respecting the capture of the American brig Ruth, (which has also arrived at this port,) and the occurrence on board said brig, in order that, possessed of these documents, you may, as heretofore, proceed according to law. It is understood that the necessary orders will be transmitted to the Inspector of the Arsenal of Marine to secure the crew of said brig.

God preserve you.

VISCOUNT DE PARANAGOA.

Commodore Biddle to Mr. Raguet.

U. S. FRIGATE MACEDONIAN, *Rio Janeiro, September* 6, 1826.

DEAR SIR: As some excitement was produced on shore, owing to misapprehension of the circumstances which I am about to relate, I deem it advisable, previous to going to sea, to make you acquainted with these circumstances as they did actually occur; you will thus be furnished with a satisfactory answer, should the subject, during my absence, be brought into any discussion with you by this Government.

On the evening of the 30th ultimo the captain of the American brig Leonidas came on board this ship and acquainted me that two of his seamen were detained on board a French prize vessel in this harbor; that he had endeavored to procure their release, but without success; that the seamen themselves were apprehensive they would be impressed, during the night, into the Brazilian brig-of-war Independencia on Morté; and he claimed my interference in their behalf. Whatever affects the liberty of an American citizen claims and receives immediate attention from me. I therefore sent Lieutenant Bigelow on board the prize vessel to inform the commanding officer that the American brig Leonidas, which had been unjustly seized in the *river*, was since restored to her captain; that the captain required the services of his men on board his own vessel; that, as peace existed between the United States and Brazil, there could be no excuse for his detaining American citizens; and that, therefore, I demanded these two seamen of the Leonidas to be forthwith released and delivered to me; they were accordingly released and brought on board this ship. No force was used, nor was any force threatened to be used.

From my knowledge of the character of Joaquim Leal Ferreira, who commands the Brazilian brig-of-war Independencia on Morté, I certainly felt extremely solicitous to save my countrymen from the misfortune of falling into his power. This Joaquim Leal Ferreira it was who committed at sea the brutal outrage upon the supercargo of the American brig Ruth. This Joaquim Leal Ferreira it was (at least so I thought then, though I learn since that it was Luis Clemente Poitier, who commands another vessel of war in the Brazil Navy) who committed at sea the still more brutal outrage upon a Spanish gentleman, by beating him into a state of insensibility, and, while in that state, cutting off, with his own hand, the Spanish gentleman's ear. Under these circumstances of indignant provocation, and when so much was hazarded by delay, it cannot but be regarded as great moderation on my part that I sent an officer to demand these American seamen, and without sending the force necessary to take them, or the orders to do so, in case my demand was refused.

I purposely waive the inquiry why these American seamen were put on board the French prize vessel; although, as you well know, such inquiry would result in showing additional wrong done to them by the officers of the Brazil Navy.

I remain yours very truly,

JAMES BIDDLE.

CONDY RAGUET, *&c., &c., Rio.*

K.

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE OF RIO DE JANEIRO, *September* 30, 1826.

The undersigned, Counsellor, Minister and Secretary of State for Foreign Affairs, in replying to the note addressed to him by Mr. Raguet, Chargé d'Affaires of the United States of America, under date the 12th [9th] instant, by which he requested me to cancel the bond given by him to procure the release of the persons who formed part of the crew of the American brig Ruth, captured by the brig "Independencia on Morté," and who were accused of having attempted to retake the said brig, has the pleasure to inform him that, having seen the opinion given by the Auditor General of Marine, he does not hesitate to release him of that bond, since, according to the reasons deduced from that opinion, all the motives of such a measure of security and precaution have ceased to exist.

In replying further to your note, the undersigned, however, thinks it his duty not to admit the assertions it contains in reference to this subject. The first is, that the accusation brought against the five Americans, of attempting to retake the brig from twelve armed Brazilians, they being without arms, is predicated upon a fact whose existence is impossible.

Surely you cannot be ignorant of the case which has recently occurred, of the English brig "Monarch," which was retaken by three Englishmen, joined by two infamous Brazilians, from a crew of seventeen men, commanded by an American, a lieutenant of the Navy, in the service of the Empire, whom they secured with ropes, and, placing them in a small boat, abandoned them to the dangers of the sea and winds, where they must have perished had not Divine Providence sent to their relief, a few days after, a vessel, by which they were saved. You will perceive that it is not improbable that a similar occurrence might have taken place on board the brig Ruth.

The second assertion you make, that the right of recapture has been recognized by his Imperial Majesty, when he rewarded with liberality the slaves who took the Brazilian sumaca, captured by the privateer "Lavallega," is not entitled to more weight. It is only necessary to reflect that this privateer had been

armed by subjects of his Majesty the Emperor, who had rebelled, and that, for this reason, she was to be considered as a pirate or freebooter, against which all have a right to rise as against a public enemy; while, on the other hand, neutral vessels, detained by the Brazilian squadron, are sent in to be judged by the competent tribunal, where they are allowed to defend themselves, and where they continue to be protected by their flag—a privilege which ceases only when they have been sentenced as lawful prizes. Besides these weighty reasons, there is another deserving still greater consideration; that is, the consequences which would result from the admission of the right of recapture on the part of the neutrals, since it would give to the captors that of using all such precautions as they might think necessary to avoid such occurrences.

Finally, as respects the ill treatment to which you state that the persons belonging to the brig Ruth have been subjected, the undersigned transmits to you, enclosed, an extract from a letter of the commander of the Brazilian naval forces, by which you will see the manner in which he proceeds in the detention of neutral vessels attempting to enter Buenos Ayres, and from which it does not appear that their crews are ill treated. You may rest assured that the Imperial Government has issued the most positive orders to prevent abuses in this respect, which, it is hoped, will be fulfilled as scrupulously as possible.

The undersigned renews to you the expression of his respect and esteem.

VISCOUNT DE INHAMBUPE.

[Documents referred to in the letter marked K.]

Extract from a letter dated September 2, 1826, *from Admiral Rodrigo Pinto Guedes, commanding the Brazilian naval forces in the river Plate.*

[Translation.]

"Upon the arrival of a vessel detained in consequence of the blockade the crew was withdrawn, with the exception of the captain, mate, and cook; prize crew sent on board, consisting of a prize-master, sailors, boys, and soldiers; and the former crew taken to some vessel in the squadron until the sailing of the prize, in order to prevent their return on board said prize, and to avoid unpleasant occurrences, and until they could be sent, in some vessel of war, wherever their ships might be, for the purpose of giving their testimony and claiming their wages. But, in consequence of continual applications from the consuls and commanders of ships-of-war, I determined, and have practiced it ever since, to set on shore, at liberty, all the seamen belonging to prizes, leaving only the three above mentioned persons—the captain, mate, and cook, or, in lieu of the two first, the supercargo, where neither of them was acting in that capacity.

"None of those seamen, while detained, were ever compelled to work, unless paid for it, in the absence of the superior officer."

BENTO DA SILVA LISBOA.

Mr. Raguet to Mr. Clay, dated Rio de Janeiro, October 31, 1826.

[Extracts.]

"To my communication marked C, of October 23, I have received no reply, but Farris was released on the following day. I have no idea that the money will be given up; and, as neither he nor his comrade can possibly find the means to support themselves for the many months or years which it is in the power of the prosecutors to prolong the suit, they will be obliged to abandon their property to the Judge of Contrabands and the unprincipled wretches who partake with him in the division of the spoil. I confess that my patience has been most fully put to the test by the treatment displayed towards this injured man, which has afforded an example, in addition to the hundreds I could relate, confirmatory of the fact admitted almost universally by the foreigners here that *this is not a civilized people.* I have reason to believe that this Government is highly incensed at my late correspondence; and it would not at all surprise me if I should be notified that no further intercourse would be held with me. Should such an event take place, I would leave the country immediately; and, as I could not venture upon our coast in the winter season, I should probably go to Buenos Ayres, and there await your orders. I mention this as a possibility.

"In relation to the minister's two notes of September 30, in answer to mine of the 9th and 15th of that month, I have not replied to them. All discussions upon abstract questions with a Brazilian ministry are nothing but a waste of time and labor. The argument to prove that it was not *impossible* that *five* unarmed Americans should attempt to retake a vessel from *twelve* armed Brazilians, which was that *three* Englishmen, aided by two disloyal subjects of his Majesty, had retaken one from *seventeen* of them, I must admit to be unanswerable. As to the right of recapture by a neutral vessel detained by a belligerent, I am aware of the opinions pronounced by our Secretaries at Washington, in 1800, in a case somewhat similar, (State Papers, Volume IX, pp. 5 to 23,) and am disposed not to touch the subject until a case occurs. In regard to the taking out of seamen from our vessels, I shall press that point when it becomes *convenient* to make a fresh representation against such improper conduct, which can hardly be long first. I confess, however, that I have not the most distant expectation that any change of system will result from any appeal that I can make."

"Since the date of my last I have received letters from Mr. Bond, our consul at Montevideo, down to October 7, from which I collect the following particulars:

"'Another American vessel, the brig Sarah George, of Portland, Captain Gordon, bound from Lima to Montevideo, has been captured and sent into the latter port, *where her crew has been turned ashore.* This vessel, as well as the Pioneer, of Salem, has been dismantled of her sails and topmasts. The crew of the Pioneer, all of whom, except the master, supercargo, and a boy, were taken out on the 3d of September, the day of the capture, still remained on board the Piranga. It was said that the prize agent had orders to appeal to the Superior Court at Rio de Janeiro, *in every case* where a vessel was cleared. No decision had yet been made in either of these cases.'

"Mr. Bond relates three instances of recent impressment of American seamen, and says: 'I am well convinced that there are others on board the fleet who have been impressed, but they are prevented from coming ashore.' 'I have understood that those who have been impressed, and who refuse to enter the service, are compelled to do heavier duty than the rest, are sometimes put on short allowance, and are paid less than the others, in order to induce them to accept of the bounty, in consequence of which some have entered after refusing to do so for a long time.' He states one case of an American being severely beaten by a press gang and carried off, after having been released from a former impressment a few days before. Matters are certainly getting worse and worse; and, unless some chastisement is applied to these people, their insolence and arrogance will become unbounded.

"The brig Homer, of Baltimore, sold here to Samuel Clapp, an American citizen, sailed hence for Buenos Ayres about three or four months ago, where, I lately learn, her register was, by contract, to have been surrendered. This was not done; and she was sent back to Santos, a small port to the southward of this, where she arrived, and has been seized by the authorities for a breach of blockade.

"The property on board the Leonidas, in the name of certain Buenos Ayrean merchants, has been condemned by the inferior court, amounting, probably, to the value of $30,000 cost. I understand that nobody has ever appeared on the part of the owners. No decision has yet been made on the case of the vessel and her freight. Her cargo has been very much overrated.

"The case of the Ruth, which has now been here for two months, remains without a decision. It is probable that she will be given up *on bonds.*

"The ship Spermo was given up on bonds in July, and, I perceive by the papers, has arrived at New York. Her case remains here without a decision, as does also that of the brig Exchange, as relates to damages. These suits have now stood for upwards of two years."

Mr. Raguet to Minister of Foreign Affairs, dated Rio de Janeiro, October 5, 1826.

[Extract.]

"As the brig Leonidas left this port for Boston on the 1st instant, as appears by the gazettes, the affair, as relates to the seamen belonging to her—one having sailed, and the other being here in prison, where he was lodged on or before the 26th ultimo, (after being deprived of two hundred and ninety Spanish dollars, the hard-earned wages of himself and a shipmate during a voyage to China,) because he could not find security for the payment of an equal amount in case he should be convicted, after a trial of perhaps many months, of an *intention* to defraud the revenue of Brazil of two per cent. by taking this *foreign coin* on board the vessel which constituted his only *home*—the affair, it is repeated, can now be no other than a mere discussion upon abstract points, depending upon questions of fact. The undersigned will, however, in a future communication, present his particular views upon this subject, unless he should be previously advised that the Government of his Imperial Majesty considers the matter to be of sufficient importance to be specially represented, through the Brazilian minister at Washington, to the Government of the United States."

Mr. Raguet to Minister of Foreign Affairs, dated Rio de Janeiro, October 13, 1826.

The undersigned, Chargé d'Affaires of the United States of America, in a note addressed to the Viscount of Inhambupe, Counsellor, Minister and Secretary of State for Foreign Affairs, on the 5th instant, had the honor incidentally to mention to his excellency the case of a seaman lately belonging to the American brig Leonidas, who was then in confinement in the common jail of this city. The undersigned had flattered himself that the bare mention of a transaction so disgraceful to the prosecuting party, and so calculated to reflect discredit upon the reputation of Brazil, seeing that it is from the acts of individuals (of individuals) that an estimate of a nation's character is formed, would have attracted the attention of his Imperial Majesty's Government, and have led, ere this, to the discharge of the prisoner. Being, however, disappointed in this expectation, the undersigned now deems it his duty to make a formal representation on the subject, reserving for a future occasion a detail of circumstances connected with the most unjustifiable treatment displayed towards this same individual, on board the French prize vessel which conveyed him to this port, by the Brazilian prize-master.

Watson Farris, the seaman referred to, being entitled to the sum of upwards of 100 milreas, the balance due him for services on board the brig Leonidas, during a voyage to China and back, that amount, together with about 200 milreas due to Peter Nardle, one of his shipmates, was paid to him, on shore, in the bank paper of this city, on 26th ultimo. Having converted the amount into 292 Spanish dollars, the money with which he was best acquainted—having never heard in his own country that it was unlawful to export *foreign coin*—and never having imagined that it was a crime for a sailor, in a strange land, where he was destitute of friends or acquaintances, to convey what belonged to him to the vessel, *which constituted his only home*, he very naturally resolved to return thither with the hard-earned fruits of the toil of himself and comrade. On his way to embark, whilst on the wharf, and before he had put his foot into a boat, or even had engaged one to convey him, he was seized by a custom-house officer, who, probably, had been set upon the watch by some person who had seen the unsuspecting seaman exchange his money, and conveyed to the common jail, after being deprived of the whole sum which he had in his possession in coin. On the following day he was taken before the Judge of Contrabands, who demanded of him security for the payment of another equal amount in case he should be convicted of the offence alleged against him, which was that of smuggling. The unfortunate seaman not being able to meet this requisition, was sent back to prison, where he now lies. The consul of the United States has in vain endeavored to secure his release. The Judge of Contrabands, who is entitled to a share of all property thus seized and condemned in his court, has expressed his willingness to discharge him, provided that the prosecutor and the two informers, who are interested in the result, would also give their consent. These individuals, whose anxiety to get possession of this unprotected stranger's money was so great

that they had not patience to wait until his *intention* had assumed the form of a *positive act* of embarkation, which would have given a pretext for their proceedings, of which they are now destitute, have refused to accede. Having the power to hold their victim, and being still resolved to secure the ill-gotten spoil, they have prescribed us the sole condition of his discharge, that *he shall execute a written instrument abandoning to the prosecutors all claim to the two hundred and ninety-two dollars found in his possession.*

It is needless for the undersigned to say that no citizen of the United States shall, with his approbation or advice, consent to the purchase of his liberty by an act so base and ignominious as that of confessing himself to be guilty of a crime of which he is wholly innocent, and of giving up his just claim to a sum of money belonging to another individual, which he has not the means of replacing, and which, from the very nature of a sailor's life, he may never be able to repay. If such bargain and sale of justice is at this day tolerated in the Empire of Brazil, it shall never be said that the representative of the American Republic has given it his sanction. Let the principle be once admitted, that an individual found with foreign coin in his possession in the neighborhood of water is liable to arrest as a smuggler, and to imprisonment for an indefinite term, unless he can give security for the payment of an equal value in case he should be found guilty, it will follow that justice may be wholly beyond the reach of poor and destitute strangers. A foreigner who, like this American seaman, possesses no property except that of which he has been deprived, who has not the means to employ a lawyer, or to maintain himself during the many months or perhaps years which it is in the power of the prosecutors to prolong the suit, has no remedy but to lie and rot in jail, or to buy his ransom, by yielding to the extortionate and inhuman demands of the unfeeling and rapacious wretches who have despoiled him of his property, and deprived him of his liberty.

The undersigned cannot doubt but that the case here represented will be considered in the light of one which deeply concerns the honor and the character of the Brazilian nation. A citizen of the United States, who has been guilty of no crime, to whom no offence can possibly be imputed, greater than that of an *intention* to deprive the revenue of Brazil of *a sum less than six Spanish dollars*, a duty of two per cent. upon the export of foreign coin, has been languishing for *seventeen days* in an odious jail, confined in the same apartment with criminals and convicts of all colors, who are fed by the charity of the Miseracordia hospital. And not only this, but he is under the same roof with prisoners who are sick and dying of the smallpox, a disease which he has never had, and for the prevention of which he had never been vaccinated, until it was done on the 11th instant, by the direction of the undersigned, who has visited him in his awful abode, and is able to pronounce, from personal inspection, that the place of his confinement is not such a one as is called for by the constitution of the Empire or the lights of civilization.

The undersigned offers to his excellency, on this occasion, the renewed assurance of his respect and consideration.

CONDY RAGUET.

F.

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

DEPARTMENT OF STATE, *October* 17, 1826.

The Marquis de Inhambupe presents his compliments to Mr. Raguet, Chargé d'Affaires of the United States of America, acknowledging the receipt of the note which he addressed to him, under date the 13th instant, in relation to the seizure of a number of Spanish dollars from a seaman of his nation. All he can do at present is to inform Mr. Raguet that information has been asked from the Minister and Secretary of State for Affairs of Justice, and that the decision in this transaction will, in due time, be communicated to him.

The Marqnis de Inhambupe renews to Mr. Raguet the expression of his esteem and respect.

F.

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE OF RIO DE JANEIRO, *October* 20, 1826.

The undersigned, Counsellor, Minister and Secretary of State for Foreign Affairs, having, by his note of the 25th ultimo, called upon Mr. Raguet, Chargé d'Affairs of the United States of America, for a suitable satisfaction for the irregular proceeding of the Commodore of the frigate Macedonian, in taking from the French prize Juno, two American seamen belonging to the brig Leonidas, and whose surrender was also demanded by the undersigned, Mr. Raguet has not, as yet, given the satisfaction demanded, which cannot be considered as contained in his notes of the 26th of the same month and 5th instant, of which one merely confines itself to an acknowledgment of the receipt of that which had been addressed to him, and the other to announcing the departure from this port of said brig, which fact had already been communicated by the Department of Marine, carrying away one of the seamen in question, and that the other remained a prisoner at this place.

It is, therefore, the duty of the undersigned to signify to Mr. Raguet that the Government of his Imperial Majesty still persists in its reclamation, expecting that Mr. Raguet will not delay giving a determinate answer on the subject in question. The undersigned renews to Mr. Raguet the expression of his respect and esteem.

MARQUIS DE INHAMBUPE.

Mr. Raguet to the Minister of Foreign Affairs.

RIO DE JANEIRO, *October* 23, 1826.

The undersigned, Chargé d'Affaires of the United States of America, has the honor to acknowledge the receipt, on the day of its date, of the note addressed to him on the 20th instant by the Marquis of Inhambupe, Counsellor, Minister and Secretary of State for Foreign Affairs, signifying that the Government of his Imperial Majesty insists upon the demand (reclamacao) made by his excellency in his note of the 25th ultimo, and intimating that the undersigned had been tardy in giving the "satisfaction" which had been required of him.

The undersigned is now, for the first time, made acquainted with the fact that any satisfaction had been demanded of *him*, further than the surrender of the two seamen in question, one of whom is already in the power of the Brazilian Government, and the other has been represented to his excellency to have sailed for the United States. It is true that his excellency, in his note of the 25th December, did express his assurance that the undersigned would be instrumental in procuring from *Commodore Biddle* "the due satisfaction;" but as that officer has not been in port since the 15th of the same month, a fact with which his Imperial Majesty's Government could not but have been acquainted, it has been, up to the present moment, altogether impossible for the undersigned to have acted upon that suggestion. This explanation, it is hoped, will exonerate from any imputation the conduct of the undersigned, who has never unreasonably delayed in his correspondence with his excellency or any of his predecessors, and who has never attempted to avoid meeting any question which has been the subject of discussion between any of his Imperial Majesty's ministers and himself.

The affair, however, having now assumed a new aspect, and a formal demand having been made for satisfaction upon the undersigned, he has no hesitation in replying, that, as he is not accountable for the actions of any of the naval commanders of the United States, who, like others, act under the instructions and responsibility of their Government, he is not aware of any reparation which is due from him, or which the Government of his Imperial Majesty has a right to require. All that could have been expected of him is that he should state the case to his Government, which he has already done, and leave the matter to its decision; not doubting but that his excellency would give to the Brazilian minister at Washington instructions to make such representation as the affair might seem to demand.

As the undersigned, however, has no disposition to withhold his particular views in relation to this subject, he will, agreeably to the promise contained in a former note, take the liberty of stating them.

The circumstances of the case, as collected from the testimony of the two men, and other sources, are these: In the month of June last the brig Leonidas, of Boston, bound from China to Buenos Ayres, was captured by the Brazilian squadron in the river Plate, and sent into Montevideo. At that port five of her seamen, in violation of the immunity of the flag of their country, were forcibly taken out of the vessel and conveyed on board the imperial frigate Piranga, wheret hey were required to perform duty, and, in consequence of refusing so to do, were put upon short allowance and treated as prisoners of war. After a detention of about a month, they were placed on board different prize vessels, of *nations other than their own*, for the purpose of assisting to navigate them to Rio de Janeiro. Two of them were placed on board the French brig Juno, where one, named Watson Farris, in consequence of refusing to do duty, which the prize-master had no right to require of him, was severely beaten. In that vessel they arrived at this port, in company with the American brig Ruth, captured by, and then under convoy of, the imperial brig-of-war *Independencia on Morté*, on the 29th of August. On the following day the master of the Leonidas, who had previously arrived, and had obtained possession of his vessel under bonds, hearing of the situation of his two seamen, whose services he needed, went on board of the Juno and requested their release, which was refused by the prize-master. The matter being then represented by him to Commodore Biddle, who had just heard that the supercargo, master, and crew of the Ruth, after a long confinement as prisoners on board the Independencia on Morté, had been sent, like a gang of convicts, from that vessel to the common depot of criminals, the Prézéganga, and having understood that the two men in question were fearful that they would be that night impressed on board the said brig-of-war, immediately sent an officer in a boat to demand their discharge; the time happened to be eight o'clock in the evening. This demand, as will appear from the accompanying extract from a letter addressed by Commodore Biddle to the undersigned on the 6th of September, to which the undersigned is bound to give credit, although it differs from the statement which appears to have been made to his excellency, was not accompanied by the employment of force, or the threat that any force would be employed. Indeed, the silence of the prize-master on the subject is entitled to great weight, as it is hardly probable that, in a harbor protected by the forts and ships-of-war of his nation, he would have complied with the demand as he did, had it been accompanied by force.

The abstract question now is, whether the surrender of American seamen, under the circumstances here represented, would be allowed by the Government of the United States without any offer of a previous redress for the injuries previously inflicted upon the said seamen by unlawfully taking them from on board of an American vessel by an armed power, and subsequently forcing them on board a foreign vessel, to perform, under pain of corporal punishment, services which, as neutrals, they were not bound to render to a belligerent. The undersigned does not hesitate to say that, upon the reflection which he has given to the subject, he is clearly of opinion that, without the express command of his Government, *he* would not be justified in making such surrender. This opinion, however, is advanced with all deference, and cannot affect any claim for reparation which may be supposed to be due from the Government of the United States for the acts of its officers.

The undersigned cannot close this note without expressing the satisfaction he has derived from the warm and zealous manner with which this subject has been treated by his Imperial Majesty's Government. If so much sensibility has been awakened by a transaction which the prize officers who witnessed the act never considered to be a ground of complaint, or of representation to their superiors, his excellency will be able to form some opinion of the feeling which will be experienced by the Government of the United States when the President shall have learned that the wrongs and indignities experienced by the supercargo, master, and crew of the Ruth, who have been pronounced by a judicial tribunal to have been wholly innocent of the offence which formed the pretext for their degradation and oppression, have been considered by his Imperial Majesty's Government as amply atoned for by the mere restoration to liberty of the injured individuals.

With this exposition the undersigned begs leave to correct two errors which occurred in his note of

5th instant. It appears that the Leonidas sailed from this port on the morning of the 2d instant, and not on the 1st, as was supposed; and it seems, by a reference to the American consulate, recently made, that the seaman named Christian Brehan, who was supposed, until then, to have departed in that vessel, did not so depart, but has never since been seen by the consul or heard of by the undersigned. These facts, however, not affecting the principle of the question as it is viewed by the undersigned, are merely submitted, in order that the whole case may be laid open to the two Governments, to which the adjustment of the affair belongs.

In making this first communication to the Minister of Foreign Affairs since his elevation to the distinguished rank of Marquis, the undersigned begs his excellency to accept of his congratulations upon this mark of the sovereign approbation, and of the assurance of his great respect and consideration.

CONDY RAGUET.

Mr. Bond to Mr. Raguet.

CONSULATE OF THE UNITED STATES, *Montevideo, October* 16, 1826.

MY DEAR SIR: I had the satisfaction of receiving last evening your favor of the 4th instant, by the United States sloop-of-war Boston, enclosing a letter from Mr. Forbes, which will be forwarded by the English packet that is now daily expected.

By the English frigate Doris I sent you the correspondence with Admiral Pinto, referred to in a former letter, and at the same time I informed you, in a short note, of the seizure and detention of the brig Sarah George, of Portland, M. S. Gordon master, from Callao, bound to Montevideo and Rio de Janeiro. The captain, supposing himself to be near Point Indio, and not having seen land after passing Cape Horn, bore down to speak a vessel which was seen at a distance to inquire his situation, when he was taken possession of by the Brazilian brig-of-war Caboclo, the crew and papers taken out, and the vessel ordered (in charge of a prize-master) to the squadron under the command of Commodore Norton, then lying at anchor between Cusenada and the outer roads of Buenos Ayres, by whom, after a short detention, she was sent to this port. Commodore Norton informed Captain Gordon that his vessel would be liberated upon arriving at Montevideo; but that his orders compelled him to send in every vessel under similar circumstances. Soon after the arrival of the Sarah George I called upon the Commandant of Marine to inquire the cause of her detention, but he was not able to give me any information concerning it; at the same time referred me, as in the case of the Pioneer, to the Judge of Prizes, in whose possession the papers had been placed. Upon making inquiries of him, I was informed that there appeared no legal cause for her seizure, but that, according to the orders he had received, he was obliged to proceed in the trial of the vessel, as well as in that of all the others; that he had no discretionary power to order her release; that his decision, whether favorable or not, would not be conclusive; and that the papers must be sent, from the nature of his instructions and limited powers, to Rio de Janeiro for a final sentence. Under these circumstances, seeing they have no authority to liberate the vessels detained, and that the papers will have to be forwarded to Rio, I have only been able to hasten, as much as possible, the decision of the Judge of Prizes, who has most unaccountably delayed the business of the Pioneer, as well as that of the other vessels.

By the Boston I purpose to forward to you copies of the protests of the masters of the Pioneer and Sarah George, as well as copies of the charter parties, instructions, &c., and of the notes which have passed between the authorities here and myself.

For information concerning local news of this place I beg to refer you to Mr. Cornelius Dow, who will present you this.

I have the honor to be, &c.,

J. BOND.

Mr. Raguet to Mr. Clay, dated Rio de Janeiro, November 27, 1826.

[Extracts.]

"Watson Farris took the smallpox in prison before his release, but has, fortunately, recovered. He has not, however, the most distant prospect of getting his money, and may even consider himself lucky to have escaped with his life."

"The cargo of the Leonidas has been *sold* for about 60,000 milreas; but it has not yet been formally condemned, as I supposed in my letter of 31st ultimo."

A.

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE OF RIO DE JANEIRO, *October* 31, 1826.

The undersigned, Minister and Secretary of State for Foreign Affairs, has to inform Mr. Raguet, Chargé d'Affaires of the United States of America, that the Minister and Secretary of State for Affairs of Justice, to whom have been communicated the contents of his note of the 13th October, 1826, respecting the American seaman who has been arrested with a quantity of Spanish dollars for which he had not paid the export duties, has just informed him that, from the investigation made by the Superintendent General of Customs, it appears that the arrest in question was made while the said seaman was in the very act

of embarking, accompanied with many sufficient proofs of irregularity, since the money was concealed in boots. That your request to that officer for the release of the seaman cannot be granted, unless security be given; but suggesting that, as it is declared that the man is poor, you should request that the persons who arrested him be required to institute legal proceedings against him; with this view, this magistrate has delayed the release asked for since the 6th or 7th instant, and it remains now with you to make the application.

Seeing, therefore, the situation of this affair, already in possession of the judicial authority, over which, as you well know, the Government has no control, and, moreover, involving the lawful interests of private individuals, the Government has dispensed with the application mentioned above, and given orders to proceed in the case, with all possible despatch, to its final decision.

The undersigned cannot refrain from remarking to you that, having always endeavored in the course of his correspondence with you to treat you with all due courtesy, he has seen, with much regret, that, in your note above referred to, you have used the most acrimonious language, regardless of the harmony and friendship happily subsisting between the Empire of Brazil and the United States of America. It is to be hoped that in your future communications you will use more moderation.

The undersigned renews to you the expression of his respect and esteem.

MARQUIS DE INHAMBUPE.

Mr. Raguet to Mr. Clay, dated Rio de Janeiro, December 4, 1826.

[Extracts.]

"You will have observed in the note addressed to me on the 31st October by the Minister of Foreign Affairs (of which a copy has been transmitted) relating to Watson Farris, a positive refusal of the Government to interfere in the case, an argument to justify his imprisonment, an attempt to throw upon me the odium of his long detention, as well as the consequence of his exposure to the smallpox. This sort of management is entirely characteristic of the mode of thinking and acting *uniform* with this people. It is true that Farris at the time of his arrest had his money in a pair of boots which he was carrying on board for the mate. He had put it there because fifteen or sixteen pounds of silver could be more conveniently carried in that way than in the pockets of a sailor's jacket. It is, however, not true that the Judge of Contrabands would have discharged the man in any other event than that of bail being given, or than with the consent of his copartners in the distribution of the property. This he explicitly declared to Mr. Wright; and my note of the 13th October to the minister was not written until after this assent was refused by the parties. It is, however, on the other hand, a fact that the judge endeavored to induce Mr. Wright to become security, by assuring him *that it was a mere matter of form.* To this note I returned no answer. The man had been released a week before it was written, (unquestionably by order of the Government, and probably on finding him with symptoms of disease,) and that was all I had expected. In relation to the latter part of the note, charging me with using a style of acrimony, the remark was too true to be controverted; and as one of my colleagues learned from the Foreign Office that this note was considered there as a severe dressing for my want of moderation, I had no objection to let it stand as a set off."

"The brig Flora, of Philadelphia, bound to Buenos Ayres, was detained in the river Plate in October, sent into Montevideo and liberated. The brig Constitution, of Philadelphia, bound to Montevideo, was detained off the island of Lobos by a schooner, and sent into that port on the 11th instant, where she was soon after liberated; but her crew, which had been taken out by the schooner, had gone upon a cruise in her, and consequently could not be given up until her return into port. I shall renew my remonstrances against this unlawful practice."

"I learn, not however with certainty, that the inferior tribunal decided on the 29th ultimo in favor of the release of the Ruth; and Captain Elliot informs me that, on the 21st ultimo, the Minister of Marine, whom he visited, stated to him that it was the intention of his Government to adopt our rule of not capturing neutral vessels, except in cases of previous warning. In my note of 30th November I used the term 'authorized' upon the strength of the following paragraph in Captain Biddle's instructions: 'The letter of Mr. Raguet to the Government of Brazil contains the views of your Government.'"

Mr. Raguet to the Minister of Foreign Affairs.

LEGATION OF THE UNITED STATES OF AMERICA, *Rio de Janeiro, November* 14, 1826.

The undersigned, Chargé d'Affaires of the United States of America, presents his respects to the Marquis of Inhambupe, Counsellor, Minister and Secretary of State for Foreign Affairs, and has the honor to invite the attention of his excellency to the following cases of the capture of American vessels:

The brig Leonidas, of Boston, Bartlett master, on a voyage from Canton to Buenos Ayres, was captured in the month of June last, by the Brazilian blockading squadron, on her entrance into the river Plate, sent into Montevideo, and subsequently ordered to Rio de Janeiro, upon the ground of being destined to a blockaded port, and of having on board enemy's property, as announced in a note of his excellency dated on the 14th of August. At this port, where she arrived on the 10th of July, her cargo was discharged, and after a detention, from the time of her capture, of upwards of three months, the vessel was liberated upon bonds given for the amount of her estimated value, but without the payment of her freight or damages for her detention. The property reputed to belong to citizens of Buenos Ayres has been sold, without condemnation, for about 60,000 milreas, but no decision has yet been made in the case of the vessel.

The brig Ruth, of Philadelphia, Jefferson master, was captured on the 5th of August, at sea, by the imperial brig-of-war Independencia on Morté, and sent to this port, where she arrived on the 29th of same month, and where she still remains without a decision. This vessel was bound from Gibraltar to Buenos

Ayres, with the intention of proceeding to Montevideo, in case, upon arrival near the river Plate, the blockade should be found still to be in force, and was, at the time of capture, actually destined to the latter port, as appears by her log-book, in consequence of having received such information on her voyage.

The brig Pioneer, of Salem, Potter master, bound on a voyage from Havana direct to Montevideo, with a stipulation in the charter party to proceed to Buenos Ayres in case the blockade should, on arrival in the river Plate, be found to be raised, was captured on the 3d of September, off cape St. Mary's, by the squadron under the command of Admiral Pinto Guedes, and sent to the port of her destination, where she arrived on the 8th of that month, and where she still continued without a trial, as late as the 28th of October.

The brig Sarah George, of Portland, Gordon master, bound from Lima to Montevideo, was captured on the 23d of September, in or near the river Plate, by the imperial brig-of-war Coboclo, and sent into the latter port, where she arrived on the 26th of the same month, and where she still remained without a decision, on the 28th ultimo, the date of the last advices.

The undersigned, in a note addressed to his Imperial Majesty's Government under date of the 13th of December, 1825, had the honor to state the rules which the Government of the United States would expect to be observed in the conducting of blockades as regarded American vessels; one of these rules was distinctly declared to be that the United States did not acknowledge general and diplomatic notifications as binding upon their citizens; they would not admit the validity of any capture except that of a vessel arrested in the attempt to enter a blockaded port *after having been warned off by the blockading force.* In answer to the said note, dated on the 23d of December, the minister then occupying the Foreign Department having made no objections to that rule, nor indeed to any of the others advanced, but having, on the contrary, declared in general terms, on the part of his Government, that "the sentiments of justice and impartiality expressed in the said note corresponded with those which his said Government had manifested," the United States had a clear right to expect that no departure from the rule would have taken place in the conducting of the blockade of the river Plate. Such has been their impression up to the present moment; and the President will learn with surprise, as well as regret, that, in the cases of the Ruth, the Pioneer, and the Sarah George, the captures were made without any previous warning, and upon grounds which the undersigned is warranted in asserting will never be assented to by the American Government as justification of their detention.

The undersigned is extremely gratified to observe the satisfaction with which his excellency, in his note of the 31st ultimo, received on the 1st instant, seems to speak of "the harmony and friendship which happily reign between the Empire of Brazil and the United States of America," inasmuch as he has a right to anticipate from this gratuitous profession of amity an early and a favorable decision in regard to the matters herein represented. He, therefore, with great confidence, relies upon the expectation that his Imperial Majesty's Government will order the restoration of the said three vessels and their cargoes, with damages, and an adequate indemnity for the injuries and losses they will have sustained by their detention.

In regard to the Leonidas, the undersigned also feels assured that the bonds given in her case will be cancelled, and that the agent of her owners will be paid the amount of her freight and damages. He also respectfully submits to the consideration of his Imperial Majesty's Government the advisableness of detaining in the public coffers the proceeds of the property condemned* as belonging to the enemy until an opportunity shall be afforded for the Government of the United States to present to that of his Imperial Majesty the arguments and reasoning which have induced it to adopt the doctrine of the flag's covering the property—a principle which, it is confidently expected, will be embraced by all the Powers of America as essentially connected with their true interest and prosperity. In making this request the undersigned conceives that he is asking nothing unreasonable. The case in point is probably the only one which has arisen during the present war; and the advantages resulting to the captors by a hasty distribution of the fund are not, by any means, sufficient to counterbalance the benefits which the nation may derive from the delay solicited.

The undersigned has the honor, herewith, to transmit to his excellency authenticated copies of the protests of the masters of the Leonidas, the Pioneer, and the Sarah George, and of an extract from the protest of the master of the Ruth.

The undersigned offers, upon this occasion, to the Marquis of Inhambupe the expression of his esteem and consideration.

CONDY RAGUET.

Mr. Raguet to the Minister of Foreign Affairs.

LEGATION OF THE UNITED STATES OF AMERICA, *Rio de Janeiro, November* 30, 1826.

The undersigned, Chargé d'Affaires of the United States of America, had the honor, under date of the 14th instant, to address a note to the Marquis of Inhambupe, Counsellor, Minister and Secretary of State for Foreign Affairs, relating to the American vessels recently captured by the blockading squadron of the river Plate. As the undersigned has not yet been favored with a reply to the same, he takes this occasion to call the attention of his excellency to the case in order that the Government of the United States may have the earliest advice of the intentions of his Imperial Majesty's Government in relation to neutral vessels captured for breach of blockade without previous warning. It is hardly necessary for the undersigned to state that this point is regarded by the American Government as of vital importance to the peace and prosperity of all the States of this continent, and that the President would learn with the greatest satisfaction that the Government of Brazil had decided, in relation thereto, in conformity with the views which were advanced by the undersigned in his note of the 13th December last, and which he is authorized to assert are those which his Government will maintain.

The undersigned renews, upon this occasion, to his excellency the Marquis of Inhambupe the assurance of his great respect and consideration.

CONDY RAGUET.

* *Note by Mr. Raguet, attached to the copy transmitted to the Department.*—"This word should have been '*considered.*'"

Mr. Raguet to Mr. Clay, dated Rio de Janeiro, December 5, 1826.

[Extract.]

"The delay of the Sylph for another day enables me to add a few lines in addition to my letter of yesterday, and to transmit to you a copy of a short note from the Minister of Foreign Affairs, dated on 4th instant, but not received until to-day, acknowledging the receipt of my communications of the 14th and 30th November, respecting the captured vessels, and promising a full reply. I understand that the decision of the lower court has been in favor of the restoration of the Ruth, *without damages, and the claimants paying costs.* No appeal, I have reason to think, will be made by the captors; and I am inclined to the opinion that this decision has been made by the positive order of the Government, which, *it is said,* has issued instructions to Admiral Pinto not to capture any more *American* vessels without previous warning. It is probable that the other three vessels will be restored in the same way; that is, that damages and costs will not be awarded, the Government calculating that the injured claimants will prefer to submit to the losses they have sustained rather than enter appeals, which may prolong the suits for years, as in the cases of the Spermo and Exchange, which remain yet undecided. The sentence in the case of the Ruth requires the confirmation of the Superior Court, and the lapse of some days, perhaps weeks, to render it final."

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

OFFICE OF FOREIGN AFFAIRS, *December* 4, 1826.

The Marquis de Inhambupe presents his compliments to Mr. Condy Raguet, Chargé d'Affaires of the United States of America, and has to inform him that he has applied for further explanations to the Minister and Secretary of State for Affairs of Marine, in order properly to answer his two notes of the 14th and 30th November.

The Marquis de Inhambupe renews to Mr. Condy Raguet the expression of his esteem and respect.

Mr. Raguet to Mr. Clay, dated Rio de Janeiro, December 22, 1826.

[Extracts.]

"Mr. Bond, whose intelligence and attention to the interests of our commerce and seamen at Montevideo deserve my warmest thanks, has advised me, under date of 30th November, of the capture of the brig Matilda, of New York, and of a Swedish brig from Malaga, with an American cargo, by the blockading squadron, both of which vessels are expected daily at this port, with several other neutrals, English, French, &c. From his letter I extract the following: 'The cases of the Sarah George and Pioneer remain in pretty much the same condition as before, but very little progress having been made in the trial of these vessels. It is my opinion, from what I can hear, that they will be condemned by the judge at this place.'

"The definitive decision in the cases of the Ruth, the Leonidas, and the Spermo, have not yet been given, and I am of opinion will not be given until it be ascertained what course will be pursued by the British Government in relation to their vessels. Mr. Gordon told me on the 11th instant that his Government would not claim the restoration of British vessels upon the ground of a want of a previous warning; and he had in a former conversation signified to me that there was some force in Admiral Pinto's reasoning in the letter addressed by him to Mr. Hood, of which a copy accompanies this. I am of opinion that, upon that ground, he has made no movement. A decision for damages in the case of the Exchange has been lately given against the captor, who is *non est inventus;* and the master, whose patience is untiring, has now commenced an action against *the crown,* which may possibly occupy him a couple of years more.

"The document E is an answer to my notes of 14th and 30th November respecting the captured vessels, accompanied by a copy of new instructions given by this Government to Admiral Pinto under date of 29th November, as also by a copy of a letter respecting the brig Pioneer addressed by that commander to Mr. Hood, British consul at Montevideo, on 24th October. It is proper, however, here to remark, that this latter document, having already appeared here in the Spectator of 20th November, I send you the printed copy instead of a manuscript one.

"In perusing these documents you will discover that, although the doctrine of previous warning by the blockading force is not admitted in the minister's note, yet that the instructions given to the admiral are calculated, considering the actual locality of Buenos Ayres, to remove a great part of the difficulties heretofore resulting from the mode of conducting the blockade, inasmuch as it is ordered 'that only those neutral vessels shall be detained which it is manifestly known intend to infringe the blockade, directing themselves towards it, and not those which may be fallen in with on the high seas, or may be entering Montevideo, even though their passports be for the said ports,' (*i. e.,* the blockaded ports.) The point now to be ascertained is, whether, after abandoning so much of the original ground, the vessels which have been detained in opposition to the new rule will or will not be released. The Christmas holidays will suspend all public business. The absence of the Emperor will preclude the possibility of procuring any new concessions, and some time must elapse before any step which I can take would be likely to be efficacious. I sent to Mr. Bond, without delay, a copy of the new instructions to the admiral, that he might exhibit it to him in case the original should not have arrived."

Admiral Pinto to Mr. Hood.

ON BOARD THE FRIGATE PIRANGA, *October* 24, 1826.

In acknowledging the receipt of the letter addressed to me, under date the 22d instant, by Mr. Thomas Samuel Hood, his Britannic Majesty's consul at Montevideo, on the question of the legality of the capture of the cargo of the United States brig Pioneer, (the brig itself being judged free,) I shall state, in reply, that, as the settlement of this question of validity belongs to the judicial power, it is to that that arguments, explanations, and proofs should be addressed: my business is simply to declare what I claimed as being, in my opinion, a good prize, and what I left at liberty, whether because no express law was recognized, or in consequence of the compromise which the laws of the Empire of Brazil permit me to make in such cases.

In order to make this matter more clear, I will transcribe here an article of the decree of the 21st February, 1824:

"5th. If it should happen that, at the time of the search and examination made on board, the capturer relinquishes the prize, or by agreement, * * * * * *in order that the prize may be released, all which may likewise take place in the case of the parties coming to a compromise, or making any agreement.*"

The consul will find that I am here empowered to enter into an agreement in favor of some, which the law does not permit with regard to others, and it is easy to conceive the justice of that power which every one has of disposing of what belongs to him, or waiving the rights which he believes himself to possess. But, as the consul wishes to rest his doubts upon the explanation and distinction which I made between the circumstances of the captain and of the supercargo, and requests of me the reasons of that distinction, I am glad to have this opportunity of gratifying the consul, whose intelligence and transcendent talents are far above matters so plain as that which he desires to have more elucidated. However, I shall proceed to satisfy him.

The brig Pioneer was bound to Montevideo; she took her passport for that place, and did not pass to the westward of it, and therefore I do not consider her a good prize. The supercargo brought two sets of papers—one for Montevideo and one for Buenos Ayres, (two neighboring ports of belligerent Powers.) Therefore he is subject to lawful capture.

Mr. Bayard, the supercargo, uses the natural argument, how could I seize the cargo and not the vessel? I will answer this plain objection.

It is easy to comprehend and believe that the vessel was under engagement to go to Buenos Ayres, but presumptions and indications still stronger do not determine me to act. Believing, therefore, that the brig Pioneer intended to proceed with her cargo to Buenos Ayres, I exercised the authority given to me by the article above quoted, and released her, because I had no legal evidence against her. As to the cargo, without wishing to penetrate the mystery of the means by which Mr. Bayard would have conveyed it to Buenos Ayres, I will confine myself to the consideration that Mr. Bayard had committed an illegal act, by which he risked the loss of his property, without having any claim, in such case, to the protection of his Britannic Majesty, although the merchandise belonged to subjects of his said Majesty. I proceed to demonstrate this proposition.

The Government of his Britannic Majesty declared its recognition of the blockade decreed by his Majesty the Emperor of Brazil against Buenos Ayres. Any subject of his Britannic Majesty who, after this, engages in any enterprise hostile to the right acknowledged by his Government is thereby thrown out of its protection; for, in committing the act which is declared unlawful, he commits hostility against the power offended by it.

As soon as Mr. Bayard took out his clearance for a port blockaded with all the formalities prescribed by the law of nations, he incurred the risk of the penalties resulting from the law of war. That the papers comprised the port of Buenos Ayres there is no question; that it was not lawful to clear for a blockaded port there can be no question; that it is not lawful to go to the blockaded port to ascertain whether the blockade is in vigor; and that the information or certainty of its non-existence should be obtained from the same quarter whence its existence was made known, and that the English courts have condemned prizes on such grounds, no one will doubt. Here, then, we have the law established with regard to the cargo of the brig Pioneer, without entering into any arguments as to the probability of bad faith in the destination of the brig. As to the latter, there are presumptions, and perhaps very strong ones, but there are no legal proofs, and therefore I desisted. Against the cargo, destined for a port blockaded more than six months, there are facts, there are documents, and therefore I shall prosecute the affair until it is determined in the Council of Justice of the Admiralty in Rio de Janeiro. According to good faith, the papers ought to have been for Montevideo alone; and if, upon arriving there, the blockade should have been found not in vigor, another direction might have been given to the merchandise, if convenient. But its direction was already to Buenos Ayres.

It will not be irrelevant to state some facts which show the good faith of Mr. Bayard in directing his cargo to the port of Montevideo.

By the 9th article of the decree above cited, both the captor and the captured are authorized to demand that the cargo shall be discharged, and even sold, in case it should be liable to damage from delay of judgment, and no one can object to this unless he binds himself in sufficient securities to pay the losses which may result from keeping the merchandise and cargoes in their original condition. The prize agent demanded that this should be done in the case of the cargo of the brig Pioneer, but Mr. Bayard opposed it, and, until now, successfully, although the 10th article of the said decree imposes this duty upon the officers of ports where prizes may be carried. As to the place of deposit, the custom-house is the proper place, especially as this is the port to which Mr. Bayard protests that he was, in good faith, destined. So that he comes with a cargo to Montevideo, and yet refuses to enter it at the custom-house. It is not possible that there could be a stronger proof of good faith.

The objection made by Mr. Bayard, according to his own statement of it to me, is, that he had not the means of paying the freight; to which I replied, that, as the brig was considered free, the freight could not be denied to her, and that the cargo was liable to it, whether belonging to the original owners or to the captors. Mr. Bayard was not convinced. But why? The question is so easy to answer that I shall conclude with assurances of the respect, &c., &c.

PINTO GUEDES, *Admiral.*

Mr. THOMAS SAMUEL HOOD, *his Britannic Majesty's Consul at Montevideo.*

Minister of Foreign Affairs to Mr. Raguet.

PALACE OF RIO DE JANEIRO, *December* 10, 1827.

The undersigned, Counsellor, Minister and Secretary of State for Foreign Affairs, having received from the Secretary of State for Naval Affairs the information necessary to enable him to reply to the note addressed to him on the 14th November last by Mr. Condy Raguet, the Chargé d'Affaires of the United States of America, in which he protests against the detentions made by the Brazilian squadron blockading the river Plate of the vessels of his nation called the Leonidas, the Ruth, the Pioneer, and the Sarah George, and demands that they be restored, and compensation made for the losses and damages which they may have sustained, informs Mr. Raguet that the trials of the first two vessels are still pending before the competent tribunal at this place; and that, as to the latter two, they are in Montevideo, where their respective trials have probably already commenced before the Chief Judge, acting as Auditor General of the Navy, and will afterwards be carried by appeal to the Supreme Military Council, in case the admiral commanding the said squadron should not, as he intended, send the last prizes that have been made to this place, to be tried, in the first instance. In the meantime the said admiral has been commanded to render an account of his reasons for these captures, it appearing that the brig Pioneer has been released, and her cargo only brought to judgment, upon the ground of the supercargo having been possessed of two sets of papers, and thus committed an unlawful act, which renders the cargo liable to confiscation, as you will see more fully by the annexed copy of a letter addressed by the said admiral to his Britannic Majesty's consul in Montevideo.

With regard to the previous notice which Mr. Raguet requires to be made to the vessels of his nation of the existence of the blockade, the undersigned has to inform him that the blockade existed as soon as adequate notice of it was given to all nations, and that a sufficient space of time was allowed for all to be informed of it. Neutral vessels, therefore, cannot be allowed to attempt a violation of the blockade upon the pretence of being ignorant whether it existed or not; for they may ascertain this fact by proceeding to the nearest neutral port, and a contrary course to this would be an unequivocal indication of sinister purposes. However, as vessels have been detained, even on the high seas, in consequence of their having passports for the blockaded ports, his Majesty the Emperor has determined, as you will see by the enclosed copy, that those vessels only shall be detained which evidently intend to violate the blockade.

The undersigned renews the assurances, &c.

THE MARQUIS DE INHAMBUPE.

[Documents referred to in the foregoing.]

PALACE OF RIO DE JANEIRO, *November* 29, 1826.

MOST EXCELLENT SIR: Repeated protests having been made to his Majesty the Emperor by the ministers of foreign nations residing in this place against the detentions of the vessels of their respective countries made by the squadron under the command of your excellency upon the ground of their sailing with passports for the blockaded ports, and his Majesty wishing to avoid such disputes as that which exists with respect to the brig Ruth, which was detained upon the high seas, he has resolved that those vessels only shall be detained which manifestly evince an intention to violate the blockade, and not those which may be found upon the high seas, or which may enter the port of Montevideo, even though they should have passports for blockaded ports. In addition to this, your excellency will enforce a compliance with the regulations contained in the orders of the 17th and 24th of December last year, which were transmitted from this Department to your excellency's predecessor in the command of the squadron.

God preserve your excellency.

THE MARQUIS DE PARANAGUA.

BARON OF RIO DA PRATA.

OFFICE OF SECRETARY OF STATE, *December* 6, 1826.

JOAQUIN FRANCISCO LEAL.

Mr. Clay to Mr. Raguet.

[Extract from a despatch dated Department of State, Washington, October 22, 1826.]

"The President has seen, with approbation, your zealous exertions to prevent, in the existing war between the Brazils and Buenos Ayres, an abuse of the law of blockade. The principles of that law are so well expounded and explained in our correspondence with European Governments that they are familiar to you and to all. You will, on every suitable occasion, insist upon those principles, and whenever any instance shall present itself of their violation, promptly and firmly remonstrate against it."

Mr. Raguet to Mr. Clay, dated Rio de Janeiro, January 9, 1827.

[Extracts.]

"On the 27th ultimo I had the honor to receive, by the hands of Mr. Oliveira, who arrived in the new Brazilian frigate from Baltimore on the 25th, your communication of 22d October. It is highly gratifying to me to be informed that my feeble exertions for the protection of our commerce against abuses arising

from a violation of the law of blockades have received the approbation of the President. It would have added much to that gratification were I able to announce in return that those exertions had been successful.

"On the 26th ultimo the brig Matilda, of New York, arrived here under convoy, with seven other neutral vessels, detained in the river Plate, amongst which was the Swedish brig Anders, Haeger master, from Malaga, with a cargo belonging to Mr. George Loring, an American merchant residing there. The former vessel was cleared out for Montevideo, and was captured about 15 or 20 miles from Buenos Ayres, towards which she was driven in distress, having been a long time out from New York. The Anders was chartered for Buenos Ayres, and, in case the blockade should be found to be still in existence, she was to go to Montevideo, but was captured before reaching the latter port. The Chargé d'Affaires of Sweden has made a representation in this case, the result of which I shall wait to see before I make one in relation to the cargo.

I have the honor to enclose herewith a copy of a note addressed by me, on the 3d instant, to the Minister of Foreign Affairs, in answer to his note of 10th ultimo, which refused to admit the doctrine of previous warning. Upon the ultimate decision on this point will probably depend the case of the Matilda; for, let the evidence of her distress be ever so strong, I doubt if it will be allowed to weigh against the fact of her having passed the port of Montevideo. I shall not relax my efforts in any of the cases of capture; but I have no hopes that anything I can say will make any impression.

Mr. Raguet to the Minister of Foreign Affairs.

RIO DE JANEIRO, *January* 3, 1827.

The undersigned, Chargé d'Affaires of the United States of America, in presenting to the Marquis of Inhambupe, Counsellor, Minister and Secretary of State for Foreign Affairs, the compliments of the season, cannot permit the occasion to pass without offering to his excellency his sincere condolence upon the late mournful event which has deprived the people of Brazil of an Empress beloved by all, and his Imperial Majesty of a consort so distinguished for her exalted virtues and benevolence of character.

A becoming respect for the memory of the august deceased has induced the undersigned to delay, until the present moment, a reply to the note with which he was honored by his excellency, under date of the 10th ultimo; and it would have afforded him peculiar pleasure had he been able to enter upon the duties of the new year with the cheering prospect that the relations between his Government and that of Brazil were likely to be placed upon a footing calculated to conciliate the interests of the two nations, and to strengthen the harmony which it is so manifestly the true policy of both to cultivate. It has, therefore, been with concern that he has not discovered in the note just referred to a willingness on the part of his Imperial Majesty's Government to acquiesce in the admission of a principle respecting the law of blockade for which the United States have unceasingly contended, for which they ever will contend, and against every infraction of which, as relates to American vessels, they have commanded the undersigned promptly and firmly to remonstrate.

In expressing this regret, however, it would not be just in the undersigned to omit to mention the satisfaction which he feels assured will be experienced by the Government of the United States on learning that the Government of his Imperial Majesty has been pleased to modify its instructions relative to the mode of conducting the blockade in such a way as that neutral vessels shall not be detained either upon the high seas or in proceeding to Montevideo, even though their passports be for the blockaded ports. This new determination cannot fail to be regarded by the American Government as an evidence of a friendly disposition, inasmuch as, whilst it removes the ground which has hitherto given occasion for *all the complaints* which the undersigned has found it his duty to make in relation to the capture of American vessels, it holds out the assurance that those vessels will be speedily released from their actual detention.

The principle above referred to, the admission of which has not been acceded to by his excellency, is, *that a neutral vessel is not liable to detention for a breach of blockade, unless arrested in the attempt to enter a blockaded port after having been warned off by the blockading force.* It would have been gratifying to the undersigned had his excellency deemed it expedient to combat this proposition by the reasoning upon which he no doubt forms his opposition to it. Free and argumentative discussion is the only practicable mode of arriving at truth; and if the undersigned has not, in his former communications, been so successful as to establish the correctness of his positions, he would have been pleased to have seen the errors of his arguments pointed out.

Nor has, indeed, his excellency, in support of the opposite doctrine—*that a general notice of a blockade in a foreign country is alone sufficient*—advanced any arguments, it being merely contended that neutral vessels can ascertain whether a blockade be still in existence by calling for information at "the nearest neutral ports." Whatever force such a suggestion might possess if applied to the States of Europe which are proximate to each other, it certainly can have no weight as applied to most of the nations of America, and particularly to the parties engaged in the present war. The whole inhabited territory, from the river Amazon to Cape Horn, is in possession of the belligerents. The nearest neutral frequented ports are Valparaiso and the Cape of Good Hope; a voyage to either of those places would render the inquiring party, as to time in one case, and as to recency of information in the other, as far from the scene of the blockade as when he commenced his voyage. In a war between the United States and any other Power, where could a neutral vessel, destined to the former country, find a neutral port at which to call for information respecting a blockade? Certainly nowhere but in Europe, or British America, or the ports of the West Indies, or Mexico. And would it not appear extraordinary, even to the most unenlightened citizen of this Empire, were he to hear it asserted that a Brazilian vessel, bound from Maranham to New York, which would occupy a passage of twenty days, must go to Lisbon or Liverpool, or encounter the frigid climate of Halifax, or the unhealthy one of Vera Cruz or Havana, to inquire concerning a matter of which the inhabitants might not possess as recent information as had been received at the port of her departure? And yet this is what may happen, and against which Brazilians yet unborn may have to complain, because their Government did not unite with its sister Governments in putting an end to an absurdity so inconsistent with the interests and the geographical positions of the nations of this hemisphere.

If, however, his excellency had used the term "belligerent ports," the force of the position would not have been more convincing to the undersigned. By the chances of war each belligerent is liable, in turn, to have his ports blockaded; and the inquiring neutral, on reaching his destination, might find himself in

danger of capture by the other party, or, at least, of having the object of his voyage defeated. In truth, however, neutral vessels, during the actual war, have usually adopted the course of proceeding to a neighboring port for information. They have gone to Montevideo, or have attempted to go there, but what has been the consequence? A number of them, and amongst them several Americans, have been seized on their way, upon the ground that a destination to a neighboring port was presumptive evidence of an intention to violate the blockade. In some cases it is true that the vessels detained had clearances for Buenos Ayres; but these documents, so far from strengthening suspicions against them, should have produced the opposite conclusion. In no part of the world is a vessel under any obligations to proceed to the port for which she obtained her clearance. The violators of blockades understand too well the risk of declaring their intentions to be guilty of the indiscretion of proclaiming them in a custom-house and in a gazette, and much better that of carrying with them the evidence of their designs. It is the fair and honest trader alone who clears out his vessel direct for a blockaded port, relying upon his own innocency and the justice of others; and it is, no doubt, a conviction on this point which has recently induced his Imperial Majesty's Government to modify its instructions relative to the blockade in the manner above noticed.

The undersigned cannot but think that the suggestion of his excellency relative to the neutral vessels stopping at an intermediate port for information is a partial abandonment of the original ground, which maintains the all-efficiency of the general notification, inasmuch as it admits the justice of the neutral's claim to information of a later period than that first received. The point contended for is, that he shall receive *the latest possible information* before he shall be driven to the extremity and sacrifice of giving up his voyage.

The undersigned cannot persuade himself that there is any substantial reason why Brazil, upon the doctrine of blockades, should embrace a system different from that which is maintained by the United States and all the nations of Europe, *one only excepted*, and which, in all probability, will be adopted as a leading feature of what may be emphatically styled *the American policy* by the great Congress of American plenipotentiaries now assembling at Tacubaya, near Mexico, at which it is expected his Imperial Majesty's Government will be represented, in order to participate in the discussions connected with neutral rights, navigation, and commerce, and the general interests of America which will there be brought forward. He therefore conceives it to be his duty to sustain the policy of his Government, as regards the question at issue, by the production of every argument which he can call to his aid, and, in addition to those contained in his note of the 13th of December, 1825, begs leave to submit the following:

The Government of the United States, as above asserted, maintains that no notice of the existence of a blockade is valid, as relates to neutrals, except one given on the spot by the blockading force, which is called a *warning*, and is usually expressed by endorsement on the register of the neutral ship for the information of other vessels which may fall in with her. This sort of notice is the only one which is consistent with the just and indefeasible rights of neutrals. It is the only one by the demanding of which the neutral is enabled to have positive evidence of the existence of such a blockade as is called for by the law of nations; and it is the only one by which the belligerent is restricted to the true and legitimate exercise of his belligerent rights, which do not authorize him to exclude neutral vessels, not laden with articles contraband of war, from the port of his enemy, even for a single moment, *when no efficient blockade exists*. If general and diplomatic notifications made in foreign and distant countries were to have the validity of an actual warning, weak nations would be invested with an artificial power to distress their enemy and to disturb the commerce and industry of the world, (the fatal effect of blockades,) which they do not physically possess; for, in relation to distant countries, the fact of the efficiency of the blockade, and of its uninterrupted continuance, *upon which its legality depends*, could not be known, and, in relation to others, it could not be proved. Under the impression that the blockade would be sustained by a competent force, the commerce of neutrals would be suspended, and many months might elapse before it was ascertained that the real blockading force was not adequate to accomplish half the injury which resulted from an acquiescence in the notification. But this is not all. Notifications might be given of blockades which might never be laid, or which might be continued but for a very short period, and thus the neutral would be visited by an evil to which he ought not to have been subjected. Such instances have already occurred; and, in regard to the United States, the absurdity of the doctrine of general notifications was once displayed in the case of a blockade of a port in Europe, wherein the notice was not received until after it was known that the blockade had been raised!

In every case, too, the distant nation which submits to the rule of general notifications must needs be deprived of its fair and legitimate commerce for a considerable time after the blockade is at an end, and this, in proportion to the distance, is more or less oppressive. She has not even, as a set-off against this hardship, the reflection that she has suffered no more than other neutrals; for, as the blockade begins with all at the same moment—that is, when it is actually laid—it terminates, as to its effects, at different periods, according to distance from the spot. It can neither be just nor generous in a belligerent, even if he had the right to impose upon his distant friends so great a sacrifice; nor can it be humane in him to entail upon a nation with which he has just concluded a peace all the privations and sufferings originating in a siege *now at an end*.

The history of Europe for the last twenty years, which may be styled the era of maritime aggressions, affords abundant examples of the injustice of the belligerents, in violating the established law of blockades, and from the unexampled series of outrages and lawless spoliations committed against the commerce of the United States. Brazil, destined, as she is, to become a great agricultural and commercial nation, might take a profitable lesson. If the evils resulting from a departure from the sound maxims taught by that law have been severely felt in the intercourse between Europe and North America, how much greater will not be their extent if false principles be introduced into the practice of South America? From the river of Plate to Europe or the United States, sixty or ninety days are requisite for a passage. Admitting the doctrine of a general notification, all who submit to it consent to part with the natural right they possess to trade with a friendly port for double that time after the blockade shall have been raised; and if the rule were to be considered in relation to the ports of Chili, or others more distant, eight months or a year of fair and profitable intercourse would be lost without an equivalent.

The undersigned cannot but flatter himself with the hope that a more minute examination of this principle, regarded by the United States as one of vital importance to the interests of America, will induce his Imperial Majesty's Government to give it a more favorable reception. The Government of Colombia has already adopted it, and it is believed that the Government of Mexico has imitated the example. The actual and temporary state of war in which Brazil is engaged is certainly not a sufficient

reason for embracing a system so injurious to her friends, and so adverse to the sound and philanthropic rules which are clearly pointed out by an enlightened policy. Although to-day a belligerent, she may to-morrow be neutral; and it can scarcely be doubted but that, like her sister States of America, she must ultimately seek her true interests and prosperity in the paths of peace. A single departure from the just maxims which are to guide her general and permanent policy may occasion, at a future time, a motive for an oppressive retaliation, which cannot be opposed by the irresistible argument which is presented by a wise and uniform conduct.

The benefits which belligerent nations derive from their general notifications of blockade are, of themselves, of sufficient magnitude. The ordinary cautious calculation of merchants leads them to abstain from voyages to blockaded ports, where the chances are that the blockades will not have been raised prior to their arrival; and thus, by a voluntary act of the neutral, the belligerent is aided in his endeavors to distress his enemy. The operation of this silent acquiescence has been conspicuously displayed during the existing war, as relates to American commerce. In a former year as many as 160 American vessels have visited the ports of Buenos Ayres. During the last twelve months, it is believed that not half that number has entered the river Plate, including all which have arrived at Montevideo. This fact, whilst it establishes the truly prudent conduct of the merchants of the United States, presents, however, a sad picture of the losses they have sustained from a diminution of their trade. Of this their Government does not pretend to complain; but it does complain that a practice should have been adopted which is calculated to increase, instead of mitigating, the evils, already sufficiently great, resulting to neutrals from a state of war.

The undersigned trusts that, in this representation, his excellency will discover the evidence of a true desire on his part to assist in the establishment of those firm and sincere relations of amity between Brazil and the United States, which can best be perpetuated by a conviction that identity of interests should lead to identity of policy.

The undersigned offers, upon this occasion, to his excellency, with his best wishes that he may enjoy many happy years, the assurance of his esteem and high consideration.

CONDY RAGUET.

Mr. Raguet to Mr. Clay, dated Rio de Janeiro, February 7, 1827.

[Extract.]

"I have now the honor to inform you, and I do it with great satisfaction, that I have reason to believe that our affairs with this Government are in a train of adjustment; and I flatter myself that much time will not elapse before I shall be enabled to advise you of the restoration of all the captured vessels belonging to citizens of the United States, with adequate damages for their detention. A new ministry, which entered into office about the middle of January, immediately after the Emperor's return from the south, appears to be resolved upon a change of the system pursued by their predecessors; and from the actual Minister of Foreign Affairs, the Marquis of Queluz, I have received such strong assurances of his Imperial Majesty's friendly disposition towards the United States, which he is declared to regard as his 'natural ally,' that I can have no doubt of the most favorable result to our just representations.

"You are already in possession of the copy of my note of 14th November to this Government, claiming the restoration of the Leonidas, the Ruth, the Pioneer, and the Sarah George, as well as of that of the 30th of the same month, calling for a reply thereto, and urging a definitive declaration of his Imperial Majesty's intentions in regard to neutral vessels detained without previous warning. You have also been furnished with the answer received by me under date of the 10th of December, wherein the right to a warning by the blockading force was refused to be admitted; whilst, however, at the same time I was advised that orders, under date of the 29th of November, had been transmitted to the admiral commanding the naval forces in the river Plate, by which he was instructed only to detain neutral vessels which appeared resolved to violate the blockade by proceeding towards it, 'and not those which may be fallen in with on the high seas, or may be entering Montevideo, even though their passports be for the blockaded ports.' With a copy of the said orders you have also been furnished, as also with one of a note addressed by me, on 3d of January, to the Minister of Foreign Affairs, entering more minutely than upon any prior occasion into an examination of the doctrine of previous warning.

"That note was particularly intended to prepare the way for the case of the Matilda, captured, subsequently to my representation of the 14th of November, under circumstances which in a manner shut her out of the new rule; and, after giving time for the requisite deliberation upon the abstract principles therein discussed, I claimed the restoration of that vessel, as well as of the cargo of the Swedish brig Anders, belonging to an American citizen, in a note dated on the 17th of January, of which a copy is enclosed, marked A.

"Having found it impossible to persuade myself that, after the abandonment of the original system respecting the blockade, any condemnation of vessels could take place in opposition to the principles assumed in the new instructions, I foresaw that the chief difficulty in the way of a speedy decision was the idea that, in a constitutional Government, the Executive Department had no power to interfere in matters pending before the judiciary. This opinion had been advanced, in correspondence with me, by different ministers of this Government, and had been recently urged with great force in reply to remonstrances made against the capture of vessels by my colleagues of France and Holland. Although it was a subject of which I did not consider myself master, yet I thought it worth while to attempt its refutation; and, in the best manner of which I was capable, offered my sentiments in relation to it in the note last referred to.

"On the 19th of January I received from the Marquis of Queluz, who had taken the portfolio of the Foreign Department on the 17th, three notes dated on the 18th, of which copies are enclosed, marked B, C, D.

"The first of these merely states that amongst the papers of his predecessor he had found the minutes of an intended answer to my note of 3d of January, which he considered it his duty to transmit to me, signed by himself, expressing, at the same time, his assent to the reasoning therein contained.

"The note marked C is the answer thus referred to. In this document was I first officially made acquainted with the fact that, with the orders of 29th November, transmitted to Admiral Pinto, instructions of a more liberal character than those communicated to me had been also furnished to him, by which he was, in substance, commanded *not to capture neutral vessels without previous warning.* This modification, however, of the rigor of the original system is pronounced to be matter of favor rather than of strict obligation; although it is admitted that the instructions originally given to Vice Admiral Lobo were of a general nature, and that those given to Admiral Pinto were for the purpose of preventing him from giving a construction to them more in conformity with his own doctrines than those of his Government. In this note it is expressly declared, as the sentiment of the Government, that the executive power is prohibited, by the constitution and the laws, from interfering in matters which are of the legitimate competency of the judiciary.

"The paper D is an acknowledgment of the receipt of my note of the 17th, addressed to the late minister, promising a more full reply after the Emperor should have been consulted; professing much friendship for the United States on the part of his Imperial Majesty; repeating that the modification of the blockade was an act of condescendence; and signifying that the prize cases must take their course before the ordinary tribunals of law. By the language of this note, however, it is observable that the minister's opinion respecting the non-interference of the executive with the judiciary had been somewhat shaken; that is, if the one pronounced by his predecessor in the note C was included amongst those deemed by his excellency as 'conclusive.'

"In this state of things matters stood, when all at once the sudden and unexpected news was divulged that the Superior Court (Conselho Supremo Militar) had decided definitively in the case of the ship Spermo, of New York, *by condemning vessel and cargo, and sentencing the claimants to pay the costs.* A copy of the sentence was shown to me on the 19th of January by Mr. Kirkpatrick, the agent of the owners, who sailed with it on the next day for New York, and I have not yet procured another. It was dated on the 10th, but no knowledge of its existence was public until the 18th. Knowing the case to be one of the most palpable injustice, I lost no time in preparing a representation in relation to it. This I did on the 24th in a note, of which a copy is enclosed, marked E, and in which I contented myself with a simple statement of the facts of the case, and the expression of my conviction that his Imperial Majesty would order this sentence to be reversed, and that of the inferior court, which had restored the ship and condemned the captors in costs and damages, to be affirmed. In this note I also took occasion to call the attention of the new minister to the numerous causes of complaint which had formed the subjects of my prior correspondence, and to express my hopes that the recent change of ministry was ominous of change of measures. To this note I received on the 26th a reply, dated on the day preceding, in which I had the satisfaction to perceive it to be admitted, as the opinion of his excellency, that the Executive Department not only had the right to interfere with the courts in prize cases, but that it was its duty to do so, and that that duty would be performed in a manner, it was hoped, which would put an end to complaints. In regard to the Spermo, it was promised that, after the minister had procured a copy of the decision complained of, to compare it with the first one, a specific answer should be communicated to me; and this answer I cannot imagine will be other than a favorable one.

"Since the date of the last mentioned note (of which a copy is inclosed, marked F,) I have not seen or heard from the Minister; but I have reasons for believing that on the 29th ultimo a council was held for the purpose of deliberating upon some general and definitive measures in relation to the prize cases of all nations, and that the Government is now occupied in maturing arrangements for the termination at least of our difficulties. In the meantime I learn by the Boston, which arrived on the 26th ultimo from Montevideo, that Admiral Pinto had, in December, begun to act upon his new instructions. The American schooners Homer and Armstrong, which sailed for Santos, a Brazilian port, early in that month, were captured by the blockading squadron near Buenos Ayres and sent to Montevideo, where they were instantly given up. The ship Pactolus, taken at sea, was also immediately released by the admiral on reaching Montevideo. Commodore Biddle writes me from that port, under date of the 11th of January, 'There is nothing to be asked or desired by us in regard to the blockade.' With respect to the practice of taking out the seamen from our vessels, which has been pursued in every case of detention, that must now cease. I learn from the master and supercargo of the Matilda that, on board the ship of war which conveyed them to this port, they were treated with great civility, and that they had nothing to complain of on their own account or that of their crew.

"By the brig St. Thomas, from Boston, we received, on 22d ultimo, the President's message, delivered on 5th December. The remark respecting Brazil and the blockade produced a great excitement with the public. It flew about with the rapidity of lightning, and assumed in its progress a variety of forms, even putting on the armor and attitude of 'grim-visaged war.' All the suffering neutrals of all nations hailed it as the fulfilment of their predictions that the United States alone could save their property from condemnation. Even our good friends the English, whose minister I imagine has never claimed a single vessel, placed their hopes upon our stubborn adherence to principles rejected by their Government, whilst the French were rejoiced to have us as coadjutors in a cause of which their Sovereign is not ready to admit the justice when claims for indemnity for spoliations are urged upon him by our citizens. That the rumors reached the Emperor on the same day I have no doubt. My colleague of Portugal tells me that on the 23d his Majesty said to the Marquis of Queluz, 'You must settle all these difficulties with the United States.' On the 25th the Marquis, for the first time, saw the message, of which not a word has been said in the Government paper, or any other that I have seen up to the present day. With a knowledge of these circumstances, I have no hesitation in expressing my belief that the language used by the President went very far to convince this Government that the executive power has a right to interfere with the judiciary, and I am equally sure that the previous symptoms of a disposition to conciliate were the result of the little power with which I felt myself armed by your letter of 22d October. On the 19th of January I know, from one of my colleagues, that the Minister of Foreign Affairs, who had spoken to him about my note of the 17th, had not yet made up his mind as to the right of the Executive to interfere; and I also know that one of the principal lawyers concerned in the prize cases for the claimants told one of the latter, a few days before that period, that he was persuaded that all the vessels would be condemned *on account of the wants of the Government,* even at the hazard of being obliged to make ultimate indemnity."

Mr. Raguet to the Minister of Foreign Affairs.

RIO DE JANEIRO, *January* 17, 1827.

The undersigned, Chargé d'Affaires of the United States of America, presents his respects to the Marquis of Inhambupe, Counsellor, Minister and Secretary of State for Foreign Affairs, and in obedience to the orders of his Government, which require him to remonstrate against every violation of the law of blockades which may be practiced against the vessels and property of American citizens by officers acting under the authority of the Brazilian Government, has the honor to call the attention of his excellency to the following two cases of capture:

The Swedish and neutral brig Anders, Haeger master, chartered by an American citizen resident at Malaga, and laden with a cargo wholly American property, was captured on the 19th of November last, in sight of Cape St. Mary's, by a Brazilian vessel of war, sent into Montevideo, and subsequently to this port, where she arrived on the 26th of December. This vessel was bound from the said port of Malaga to Buenos Ayres under a stipulation that, in case, on her arrival in the river Plate, that port should be found still to be blockaded, she was to proceed to Montevideo.

The American brig Matilda, of New York, Marshal master, bound from that port to Montevideo, was captured on the 22d of November last by the blockading squadron, in the river Plate, and, after having had her crew taken out, as in all the former cases, in violation of the immunity of the American flag, was sent to this port, where she arrived on the 26th ultimo.

A copy of the protests of the masters of these two vessels will be found enclosed, by which his excellency will perceive that neither of them had received the *previous warning* requisite by the laws of nations to establish the validity of a capture for a breach of blockade. The undersigned, therefore, cannot doubt but that his Imperial Majesty's Government will speedily adopt, in relation to these cases, those just and equitable measures which are so confidently expected by the Government of the United States.

The undersigned is aware of a difficulty which may possibly *appear* to his excellency to stand in the way of a prompt decision in regard to these measures. It is the opinion of some that, in matters pending before the judicial tribunals of the country, the Executive Department has no power to interfere. This idea, founded, no doubt, upon the article of the constitution which establishes the independence of the different branches of the Government, has been suggested in correspondence with the undersigned, at different times, by several ministers of his Imperial Majesty's Government, and was once maintained, by counsel learned in the law, before the Superior Court, (Casa da Supplicao,) in the case of an attempt by judicial process to eject the undersigned from his dwelling-house. As the undersigned conceives that a right understanding of this important subject may be the means of removing the causes of dissatisfaction which now exist, and which may prevent a true and lasting harmony between Brazil and the United States, he will take the liberty of advancing his individual sentiments upon it, with the assurance that, should he not be so happy as to carry conviction to the mind of his excellency, he will listen with great deference to any arguments which he may be pleased to adduce in opposition to them.

The relation in which Governments stand towards each other is like that of individual towards individual, each, however, having a code of laws peculiar to itself. The laws which define and regulate the rights and obligations of individuals as respects each other and their Government are called *municipal laws*. Those which regard communities or States are called *the laws of nations*.

All Governments must needs regard each individual Government as *one and integral*, without any reference to its peculiar form. As the former have no right to interfere with the internal organization of an independent State, so, on the other hand, are they not liable to have any of their rights impaired by any changes which the latter may think proper to make in the same.

A constitution or charter introduced into a State where an arbitrary Government before existed can only alter the relations which subsist between citizen and citizen, and between these and their Government. It can have no influence beyond the jurisdiction of the municipal laws, and cannot in any degree affect the interests of foreign nations or individuals. To suppose the contrary would be to suppose that a single nation possessed the power to make laws obligatory upon all, which would be manifestly absurd.

If these positions be true, it follows that the relations between Brazil and foreign States have not been changed by the new form of Government. The obligations which she owes to other nations, and the rights which these latter possess, are the same now as they formerly were, and as they would be under an arbitrary Government. The reasoning, therefore, which is applicable to one case is applicable to the other; and the mere fact of the division of the political powers into a number of independent branches can only be regarded as a measure of internal arrangement for internal convenience. It is, therefore, only necessary to see how the case stands with nations which have no division of the political powers in order to form a correct judgment in relation to the matter under investigation.

Governments can only come into contact by the instrumentality of their citizens; and, as these have not the right or the power, individually, to redress themselves for injuries inflicted by foreign Governments, they must appeal for satisfaction to the sovereign authority of their respective nations. Governments are responsible for the conduct of those who act under their authority. *Qui facit per alium, facit per se*, is as true of States as it is of individuals, and hence arises the chief necessity of diplomatic missions and correspondence. Now, without any absolute division of the political powers, there must of necessity be, in every Government, of whatever form it be, a distribution of employments. There must be a department for the promulgation of laws, one to judge of and punish their violation, and one to superintend the affairs, foreign and domestic, of the nation. By this distribution, the external relations of a Government are always placed in the hands of the Executive Department, which is thereby invested, in whole or in part, with a species of legislative power such as is exercised in the making of treaties. With this branch of a Government is it, through the Minister of Foreign Affairs, that foreign States negotiate and correspond, and to which alone they address all their complaints for injuries inflicted upon their citizens. With other branches of the Government foreign nations have no concern. They are not bound to apply for the redress of wrongs to the legislative department or to the judicial; and if their just demands be not complied with, if their appeals to the laws of nations in a just cause be not regarded by the Executive to which they are addressed, an appeal to the *ultima ratio*, as well of people as of Kings, becomes their political right. To suppose that the Executive power would not be competent to interfere in a case pending before the judiciary, when upon such interference might depend the salvation of the State, would be to suppose the existence of a Government so badly constituted as not to possess even the very elements of a self-preserving principle.

It is true, however, that a regard for the convenience of each other, and a belief that justice will be best administered by the Sovereign through the instrumentality of tribunals before which facts may be minutely investigated, have caused amongst nations a general acquiescence in the ordinary process of courts of admiralty. This acquiescence, however, is not founded on any supposition that such courts are independent of the executive power. They are too well known to be the mere organ of that power, and the channel by which it declares its sentiments and its policy towards other States. In Great Britain these courts are bound to execute the King's orders in Council, whilst in other States of Europe the simple mandate of the Sovereign constitutes the law.

It is true that in ordinary cases involving simply questions of fact, a direct interference of the Executive may not be necessary. Foreign Governments are not disposed to complain, except where principles sanctioned by the use of nations are violated, or where justice is too tardily rendered, as often happens with Governments which are not actuated by a true spirit of equity, or which calculate upon the weakness or forbearance of the injured party.

If these arguments be sound, it is evident that in Brazil the Executive Department has the power to interfere in matters relating to foreign nations or their citizens which are pending before her courts. Indeed, the right of a direct interference with the judicial branch of the Government has already been recognized by his excellency in the case of the ejectment above referred to, wherein, as Minister of Foreign Affairs, he issued an official order for the discontinuance of the suit and the suppression of all judicial proceedings.

But, independent of this right to interfere, it is, in all cases, the duty of the Executive in every country to see that justice be administered to foreigners without unreasonable delay. The damages and expenses which accrue to ships and cargoes must always be multiplied by detention; and these, if the vessel be condemned, add to the original loss of the captured, and if acquitted, to the amount for which the captors and their Government are liable. The cases of the American ship Spermo and brig Exchange present calamitous examples of the march of justice in this Empire. They have both been pending more than two years, during the whole of which time the owners have been obliged to maintain special agents in this country, whose unwearied exertions to procure redress by the ordinary process of law have, to this day, been unavailing; whilst they have incurred a mass of expenses which can never be refunded by the decisions which must ultimately be given in their favor.

The undersigned, in former communications addressed to the Government of his Imperial Majesty, has endeavored to explain the rules established by the laws of nations respecting blockades, and has remonstrated against their violation in regard to American vessels.

In this communication he has undertaken, and he trusts with success, to show that the interference of the Government in those cases is not only a right, but a duty; and in urging his arguments he appeals not only to the justice of Brazil, but to her feelings as an American Power equally interested with the other States of this hemisphere in the preservation of the true principles of public law. He therefore cannot but be persuaded that the claims of the United States will be listened to in a spirit of equity as well as of conciliation, and that the cases of the American vessels now under detention will meet with the early and favorable decision to which they are entitled.

The undersigned offers to his excellency, upon this occasion, the renewed assurances of his esteem and consideration.

CONDY RAGUET.

B.

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE OF RIO DE JANEIRO, *January* 18, 1827.

Having found among the papers which I received from my predecessor, the Marquis d'Inhambupe, Counsellor of State, the minute of a reply which he intended to make to the note which you addressed to him on the 3d instant, I deem it my duty to send you this reply, merely signed by me, as the reasons contained in it appear to me conclusive.

I have the honor on this occasion, &c.

THE MARQUIS DE QUELUZ.

C

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE OF RIO DE JANEIRO, *January* 18, 1827.

The undersigned, Counsellor, Minister and Secretary of State for Foreign Affairs, in returning his sincere thanks to Mr. Condy Raguet, Chargé d'Affaires of the United States of America, for the expressions of esteem with which he honored him in his note of the 3d instant, and reciprocating them with assurances which his distinguished qualities deserve, has to inform him that in his official letter of the 10th of December last he believed that he had explicitly answered his questions in the most important particulars. For, as these inquiries related to the subject of captures made of Anglo-American vessels in the Rio de la Plata, and to the system which was to be pursued during the continuation of the blockade of the port of Buenos Ayres, he was persuaded that the Imperial Government had satisfactorily declared its intentions to all parties; and these being founded on principles of justice

nothing remained which required a new explanation. However, the undersigned has now the honor to inform Mr. Condy Raguet that, when the orders were sent to the vice admiral who commanded the Brazilian naval forces in the river Plate when the blockade was decreed, he was instructed in very general terms as to the conduct which he was to pursue towards the ships of neutral and friendly nations. But, as these orders might be understood and executed by the intelligent admiral who now commands the said forces according to the doctrines which he entertains, his Majesty the Emperor, his august master, thought it proper to order that the necessary explanation should be sent to him through the Department of Marine. Accordingly, the order of the 29th of November of last year was sent to him, in which was established the rule that he was to adhere to in future with regard to neutral and friendly vessels, and which restricted him to the case of an attempt to violate the blockade and that of being detected with contraband goods, which rule is indisputably conformable to the maritime law of nations. It was provided, however, that vessels entering the La Plata with passports for Buenos Ayres, at a time when no official notice was given that the blockade was raised, (as it was usual to give such on raising the blockade,) should not proceed to the place of their destination without presenting themselves before some of the blockading ships for inspection, and to receive warning not to enter the said port under penalty of the confiscation of ship and cargo; or else touching at Montevideo to ascertain whether the blockade was effective, as it was; and also that, before entering the river La Plata, they should seek information as to that fact either in a port of the Empire or in some other. It is in this sense that the letter of the undersigned, of the 10th December last, must be understood when he says that merchant vessels must proceed to the nearest neutral ports in order to receive the necessary instructions; for the term neutral in that case relates to all these ports, including those of the belligerent States which should not be blockaded, for example those on the coast of Brazil, from Oyapok to the La Plata; and especially those from this capital to Montevideo, (Maldonado excepted,) as being the nearest. Any other construction of the term involves an absurdity which the most ignorant in geography could not be guilty of; and, therefore, there is no necessity for any exertions on the part of Mr. Condy Raguet to prove the inadmissibility of that proposition.

Thus the Imperial Government, proceeding on the basis of natural equity and a desire to render the system of blockade less hurtful to the commerce of neutral Powers, (for a continuance of the war demands a continuance of the blockade,) has established that rule as a proof of the regard which it entertains for friendly nations, and in order to avoid ulterior discussions; but, nevertheless, it is not, therefore, perpetually bound to refrain from taking such measures as circumstances may require. For its measures are either conformable to the general principles of the laws of nations and of the universal public, and such as any nation may freely adopt; or they are the result of conventional public law, established by especial stipulations which bind only the contracting parties. The system of one nation, or that of many nations, established by agreement between themselves, cannot destroy the general principles of natural law, nor be obligatory upon other free and independent nations that are not bound thereto by their promises, and that do not depart from those principles of universal justice which are binding upon all. This is proved by the diversity of the policy of the most civilized and enlightened nations on such matters at different periods, and is evident in the history of our own times.

The undersigned, confining himself to these reflections, must repeat to Mr. Condy Raguet that, with regard to the detained vessels whose cases are pending, it is necessary to wait the result of the trials; for the Imperial Government cannot encroach upon the judicial power by taking upon itself the decision of matters which the laws and constitution of the Empire assign to that power.

The undersigned renews on this occasion the expressions, &c.

THE MARQUIS DE QUELUZ.

D.

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE OF RIO DE JANEIRO, *January* 18, 1827.

The undersigned, Counsellor, Minister and Secretary of State for Foreign Affairs, acknowledges the receipt of the note which Mr. Condy Raguet, Chargé d'Affaires of the United States of America, addressed to his predecessor under date of yesterday, and informs Mr. Raguet that his Majesty the Emperor, his august master, being still confined, he has not for that reason been able to receive the imperial orders with respect to the contents of the said notes, and therefore cannot reply to the judicious arguments which Mr. Raguet adduces in support of his claims.

In the meantime the undersigned deems himself empowered to suggest to Mr. Raguet that it appears most prudent to await the decision of the competent tribunal before which the trials of the vessels to which Mr. Raguet alludes have commenced; inasmuch as it is to be expected that the judges will proceed in the affair with brevity and according to the rules of equity and universal justice; and especially as his Majesty the Emperor, animated with sincere desires to preserve harmony and friendship with friendly Powers and allies, particularly with the United States of America, which deserve every consideration from him, will cause definite instructions to be issued (of which Mr. Raguet will be advised) tending to diminish very much for the future the rigor of the blockade of the river La Plata. Mr. Raguet, who has manifested so much acquaintance with the law of nations, cannot fail to acknowledge that this act of the Emperor must be viewed rather as a matter of pure condescendence on his part than one of strict obligation, considering the diversified policy which civilized nations have pursued on such occasions.

The undersigned offers, &c.

THE MARQUIS DE QUELUZ.

E.

Mr. Raguet to the Minister of Foreign Affairs.

RIO DE JANEIRO, *January* 24, 1827.

The undersigned, Chargé d'Affaires of the United States of America, presents his respects to the Marquis of Queluz, Counsellor of State, and tenders to his excellency, upon his recent appointment as Minister and Secretary of State for Foreign Affairs, the compliments which he should have offered in person had he found his excellency at home when he had the honor to call upon him on the 19th instant.

During a residence near this Court since the 8th of September, 1822, the day succeeding that upon which his Royal Highness the Prince Regent of Portugal, now his Imperial Majesty the Emperor of Brazil, identified himself with the interests of America by proclaiming the independence of this his Empire, it has been the painful lot of the undersigned to appear on too many occasions before the Government of his Imperial Majesty in the character of a complainant for injuries inflicted upon the seamen or the commerce of the United States by officers acting under the authority of that Government, but who have not been influenced by that spirit of amity towards the American nation which has been so uniformly professed by his Imperial Majesty's ministers. Each change of administration, therefore, has been regarded by the undersigned as an event which, by some decided and peremptory orders of the Government, would put an end to the causes which had occasioned such reiterated complaints, and which would consequently exempt him from those duties belonging to a diplomatic station which can never be executed but with regret. Thus far, however, he has been disappointed. Within the last six months occasions for complaint have been multiplied. A number of American vessels have been captured by the blockading squadron in the river Plate, upon grounds even deemed by his Imperial Majesty's Government to be untenable; whilst their crews have been forcibly taken out and turned on shore, or have been detained as prisoners of war on board the capturing vessels. Against these unlawful captures the undersigned has remonstrated, but he has remonstrated in vain. It is true that an assurance was given by his excellency the Marquis of Inhambupe, in his note of 10th December, that measures had been taken to prevent for the future captures similar to those which had been represented against; yet none was given that the vessels taken in opposition to the principles assumed in the new instructions would be given up. On the contrary, they have all been held under continued detention, whilst their crews have been scattered abroad, or have been maintained at great expense on shore after their liberation from confinement.

In this state of things, the undersigned could not but hail the nomination of the Marquis of Queluz to the Foreign Department as ominous of a change of measures; nor has he, in this pleasing anticipation, been mistaken. The three notes of his excellency, dated on the 18th instant, evince that spirit of conciliation towards the United States which the latter are so desirous to cultivate; and the undersigned now reposes in the confidence that the future relations between his Government and that of Brazil will be such as cannot fail to result from a rigid observance, by both parties, of those "rules of equity and universal justice" which are declared to actuate the Government of his Imperial Majesty, and which should ever be adhered to by the rulers of nations.

With these preliminary and general remarks, the undersigned begs leave to call the attention of his excellency to a decision that took place before the Superior Court (Conselho Supremo Militar) on the 10th instant, but of which he was not apprised until after the date of his last communication. This decision was in the case of the American ship Spermo, of New York, Clarke master, charged with an alleged breach of the blockade of Pernambuco, in 1824; and as it involves an important question connected with the doctrine of blockades, already sufficiently discussed by the undersigned in his correspondence with the two immediate predecessors of his excellency, in notes dated on 13th December, 1825, 14th and 30th November, 1826, and 3d current, it is deemed advisable to state the whole case anew, in order that it may be submitted to his Imperial Majesty for his sovereign and definitive judgment. Fortunately, the case is one which is not dependent upon facts asserted by one party and denied by the other. The material circumstances are admitted by both, and some of them will be within the recollection of his excellency, as having occurred at the time when he so ably discharged the important functions of Minister of the Home Department. They are as follows:

1. The Government of his Imperial Majesty, under date of 29th February, 1824, communicated to the agents of foreign Governments residing at this Court its *intention* "to place in a state of effective blockade," by a naval force ordered to be fitted out and to sail as soon as possible to the port of Pernambuco, in case the factions, who then governed the affairs of that Province, should not acquiesce in the orders of the Emperor.

2. In conformity with that intention, a squadron, under the command of Commodore John Taylor, sailed from this port on the 3d of March, and on the 8th of April following instituted a blockade, of which notice was given by him to the foreign consuls on shore. The fact was subsequently, viz: on the 23d of April, communicated by his Imperial Majesty's Government to the foreign agents, as a blockade established according to the law of nations.

3. On the 11th of June succeeding, was published, in the Diario Fluminense, the celebrated and politic proclamation addressed by his Imperial Majesty to the people of Pernambuco, in which is announced his Majesty's intention to withdraw the naval forces from before their port; and, in pursuance of instructions received from his Government, in accordance with the declaration thus made, Commodore Taylor raised the blockade on the 29th of that month, gave official notice of the same to the foreign consuls, and returned with his ships to the port of Rio de Janeiro.

4. Under date of July 9 the Imperial Government announced its intention to renew the blockade, in a note addressed to the foreign agents, of which the following is a copy.

5. In accordance with this new intention, a second squadron, under the command of Captain Antonio Joze de Carvalho, was expedited on the 12th of July for Pernambuco, off which port he arrived somewhere about the 1st of August.

6. On the 13th of August a communication, dated on the 12th, was made by the said Captain Carvalho to the consul of his Britannic Majesty at Pernambuco, declaring the port to be in a state of blockade. None such was made by him to the American consul; and it does not appear in the documents of the suit (autos) that any notification had been given to the public, or to any other individual or authority, prior to the 17th of that month.

7. On the 18th of August Admiral Cochrane arrived off Pernambuco, and, on the 17th of September, a termination was put to the blockade by the surrender of the place to the imperial authority.

Thus far the facts are within the entire knowledge of his Imperial Majesty's Government. Those which remain to be told are established by the evidence given on the trial, and are as follows:

8. The ship Spermo, laden with a cargo of flour and other merchandise not contraband of war, sailed from the port of New York in the month of June, 1824, bound for Pernambuco.

9. On the 10th of August, at half-past one o'clock p. m., she arrived and anchored off that port, in the outer roads, at a distance of about two miles from the light-house, and one mile from a ship and brig-of-war bearing the imperial flag. This date, as established by all the testimony of the captors, differs from that given by the master of the Spermo, who, using in his protest the nautical time instead of the civil time, declared it to be the 11th of the month, inasmuch as, by the computation of mariners, the 11th of the month commences at noon of the 10th.

10. After lying at anchor, without receiving any visit from the said vessels of war, or having any communication with them, until 7 o'clock of the following morning, the master of the Spermo, conceiving his ship to be in great peril from a gale of wind which had been blowing ever since he came to anchor, and during which time he had parted his best bower cable, hoisted a signal of distress. This signal was not regarded by the ships-of-war, nor by any person on shore, until one o'clock p. m., when a pilot came to his assistance, who, seeing the vessel in danger of being lost, and finding it impossible to weigh the only remaining anchor, ordered the cable to be cut at two p. m., and steered the ship into the harbor, where she was made fast to another vessel, and by that means prevented from going ashore. It is true that she was fired at by one of the vessels of war, but the master did not deem it incumbent on him to heave to in his actual condition.

After the fall of Pernambuco, and the entrance into the harbor of the imperial naval forces, then under the command of the chief of division, David Jewett, Captain Carvalho instituted before the *Juiz de Ford* a process against the said ship Spermo for a breach of blockade, and the facts of the case were represented by the undersigned to his Imperial Majesty's Government, as soon as he became fully possessed of them, in a note dated on the 3d of March, 1825, but without securing the redress which was so manifestly due. In a subsequent communication, dated on the 19th of December of that same year, the delay of the suit was remonstrated against, and a fresh appeal for the interference of his Imperial Majesty's Government was urged; but it was productive of no other result than that the judge at Pernambuco, to whom the case had been remanded by the Conselho Supremo Militar, in consequence of a defect in his original decision, should be recommended to act with promptness. The note last cited, to which his excellency is respectfully referred, contains the history of the suit up to the period of its date, and it remains now to relate its subsequent progress.

After the lapse of some additional months, a decision took place at Pernambuco, on the 11th of April, 1826, before the imperial tribunal, by which the ship was declared to be bad prize, and the captors were condemned to pay all the costs, damages, and losses. This decision, which is as honorable to the intelligence of the judge who pronounced it as it is to his integrity, and which displayed not only a sound and clear knowledge of the law of nations, but a spirit of equity and justice, is expressed in the following terms:

[Translation.]

Having seen, therefore, the allegations made, and proofs adduced, on both sides, and it appearing from the documents, p. 27 and following, that it was on the 17th of August that the blockade was formally declared, so that it cannot be said to have existed before that day; considering, also, the testimony adduced by the captor, and the extreme necessity in which the captured found himself, and which, according to sound justice, would have justified a violation of the blockade, if any had existed; that such violation was involuntary, and remains free from any imputation, I adjudge the justification to be sufficient and the capture illegal, and condemn the captor to pay costs, damages, and losses; and I appeal to the honorable tribunal of Supreme Military Council, where these proceedings shall be sent, and the parties cited to appear. Recife, April 11, 1826.

LUIS ANGELO VICTORIO DE NASCIMENTO CRESPO.

From this just and righteous sentence the captors, whose whole fortune and prospects were thereby involved, made an appeal. The papers were transmitted to the Conselho Supremo at Rio de Janeiro, and that learned tribunal, after deliberating for six additional months, solemnly reversed the decision of the inferior court, condemned the ship and cargo, and sentenced the claimants to the payment of the costs.

The undersigned has not yet been able to procure a copy of this sentence, and, consequently, in submitting this statement to the Government of his Imperial Majesty, will not suffer himself to indulge in any of the numerous reflections which such a decision is obviously calculated to call forth. He will merely say that such an extraordinary judgment, pronounced by the Supreme Court of Admiralty of the Empire of Brazil, was wholly unexpected by him; and that he entertains not the least doubt but that his Imperial Majesty will immediately order the same to be set aside, and the original sentence of the court below to be affirmed.

The undersigned offers, upon this occasion of first addressing his excellency the Marquis of Queluz, the assurance of his great respect and high consideration.

CONDY RAGUET.

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE OF RIO DE JANEIRO, *January* 25, 1827.

The undersigned, Counsellor, Minister and Secretary of State for Foreign Affairs, acknowledges the receipt of the note addressed to him, under date of yesterday, by Mr. Condy Raguet, Chargé d'Affaires of the United States of America, and thankful for the expressions of respect which it conveys, the undersigned feels gratified to see that Mr. Raguet does him justice in being persuaded of the wishes attributed to him

of endeavoring, on his part, to put an end to the unpleasant altercations which have formed the subject of his last correspondence.

The undersigned, confiding in the disposition of his Majesty the Emperor to draw closer, every day, the bonds of friendship happily subsisting between Brazil and the United States of America, whom my august master considers as his natural allies, thinks it his duty frankly to declare to Mr. Condy Raguet his opinion that the Executive Government can, and ought, without violating the constitution of the Empire, to give such directions to the competent tribunals, in matters of prizes, as will prevent misunderstandings, as to their decisions, from becoming, on the part of friendly nations, the causes of discontent, which might produce deplorable consequences.

Acting upon this principle, the undersigned has been engaged, during the short space of time which has elapsed since his appointment to the office of Minister of Foreign Affairs, in collecting information respecting the various cases of detention of neutral vessels, in order that, possessed of a full knowledge of each case, deliberations may be had, which, it is hoped, will lead to a favorable result, and put an end to all causes of complaint in this respect.

With regard to the case of the American ship Spermo, as it is necessary to compare the sentence of the Supreme Military Council, complained of by Mr. Raguet, with that of the tribunal of inferior jurisdiction at Pernambuco, the undersigned will, without delay, call for a copy of the sentence of the Supreme Military Council, in order to give a suitable answer to his note.

The undersigned renews to Mr. Raguet the expression of his respect and esteem.

MARQUIS DE QUELUZ.

Mr. Raguet to Mr. Clay, dated Rio de Janeiro, March 12, 1827.

SIR: It now becomes my painful duty to announce to you that one of the most deliberate and high-handed insults against our flag and national honor has recently been committed by the express orders of this Government. After reading the contents of my last letter of the 7th ultimo, (per the Ruth and Fancy,) wherein I advised you of the strong professions of friendship towards the United States, on the part of his Imperial Majesty, which had been gratuitously advanced to me by his Minister of Foreign Affairs, you can hardly be made to believe in the existence of so much bad faith and unjustifiable deportment as has been exhibited in the transaction to which I allude. The circumstances are as follows:

The brig Spark, of New York, formerly a ship-of-war in the service of the United States, Clark master, early in this month cleared out for Montevideo, a port, as you know, in subjection to the Brazilian authority, being armed with four guns, the number expressed on her clearance, and having on board twelve or thirteen passengers, of whom five were females. On getting under way on the morning of the 4th instant, she received from the officers of the port the usual visit to which foreign ships are subject, and after the customary examination, she was permitted to pass out of the harbor as a merchant vessel of a friendly nation. During her stay in port she had increased the number of the crew to twenty-eight persons, in consequence of having found, on her outward passage, that she had not hands enough to navigate a vessel of her heavy tonnage and spars; a fact of which I have been assured by Colonel Palacio, the Colombian minister, who came passenger in her.

On reaching the ocean, at the distance of several miles from the land, her commander saw a steamboat ahead, which had gone out of the harbor an hour or two before him, waiting for his approach, as if desirous to speak him After coming within a short distance Captain Clark discovered that her decks were covered with armed men, and that a gun mounted on board was kept pointed towards his vessel. On arriving within hail Captain Clark was ordered to let go his anchor, and to proceed with his papers to the steamboat. With both of these orders he promptly complied, and on meeting her commander was informed by him that he had orders from his Government to detain the Spark by force; indeed, this was evident from the hostile attitude of the men on board the steamboat, who were armed with pistols and swords, as if prepared to board and carry an enemy. Upon this information, and upon the exhibition to him of a document signed by the Marquis of Massaio, Minister of Marine, which was declared to be the authority under which the steamboat had been despatched, Captain Clark ordered the American color to be struck, and surrendered his vessel as a prize, without the slightest resistance. Seventeen Brazilian seamen, a number of marines and officers, were then placed on board the Spark, whilst the American crew, who very properly and firmly refused to assist in weighing the anchor, or to perform any other duty under the Brazilian prize officers, were nearly all transferred to the steamboat as prisoners, where several of them were stowed so near the boiler that they nearly fainted.

An attempt was then made by the Brazilians, who were equal in number to the crew of the Spark, to raise the anchor, but after an unsuccessful struggle of near two hours, during which time they could not move it, they were ordered to cut the cable. This command was executed, and without the precaution of attaching a buoy, so that a loss was at once sustained of about $1,200, independent of $100 damage otherwise done by unskilful management. After this proceeding, the Spark was got under sail by the captors, and at 4 p. m. anchored in the harbor, under the guns of the imperial ship-of-the-line Pedro Primeiro. The steamboat was saluted as she approached that ship with the *vivas* and the shouts due to the victorious, and immediately afterwards the American prisoners were transferred to the man-of-war. After night an order came from the admiral of the port to send on board the flag-ship the residue of the crew of the Spark, including the cook and steward, which obliged Captain Clark to prepare the supper for his passengers with his own hands.

On the morning of the 5th, as if alarmed at the atrocity of these proceedings, the authorities withdrew from the Spark the whole of the prize crew, and sent back all the American crew with the exception of two men, *who were retained in irons.* The admiral, however, having subsequently received fresh instructions from the Government, took possession of the vessel again in the evening, by stationing on board of her ten marines and an officer, who forced the crew of the Spark to go below, where twenty of them were kept crowded in a space so small and confined that the actual fear of their suffocation, so great was the heat of the weather, afterwards obliged them to permit half of them to sleep on deck.

On the 6th instant, at 11 a. m., several officers went on board the Spark and, in the absence of the captain, proceeded to search and overhaul her. They commenced in the cabin, by turning the lady passengers out of their berths, and ripping and breaking up the berths, which were permanent fixtures.

An eager search was made through every part of the cabin. They then commenced in the ward-room, and entered the run by ripping up the deck. They broke the lock of the captain's chest, and overhauled everything in it. They proceeded to break the magazine lock, and overhauled four barrels of powder which were there; and finally went away, leaving the same guard that had been placed on board the preceding evening.

On the 7th two launches were brought alongside the Spark for the purpose of discharging her; but the wind not permitting it, they departed. In the course of the day several passengers went on shore in consequence of ill-treatment from the prize officer. In the afternoon an anchor less than half the weight of the one which had been lost was brought alongside, and a number of seamen were sent on board to shift the position of the vessel.

The captors, during this day, continued their search, overhauling everything, and putting everything in confusion, as it is expressed in the log-book. They had free access to the stores of the brig; and when a soldier was complained of as having been detected in stealing bread, his officer said it was too small a matter to take notice of.

On the 8th, early in the morning, two Brazilian launches came alongside the Spark, with officers and men, who got her under way, and anchored her in the inner harbor, near the island of Cobras. Here they began to discharge her by emptying some of the casks of fresh water among the ballast, and hoisting the empty casks on deck. They took all the firewood up out of the hold, and hoisted up the few bales of goods which were on freight. They shifted the ballast from stem to stern, and examined the very skin of the vessel. At length, not being able to find anything on board, except what appeared on ship's documents, the searching party withdrew at half past 3 p. m., leaving the brig in the possession of a midshipman, eight seamen, and six marines, and everything in the utmost confusion, sails half furled, cables full of grinds, and the wood, ballast, stores, &c., in the hold, hove promiscuously together. Since then no further search has been made, but the vessel still continues in possession of the captors.

From the foregoing details you will readily perceive that the whole of this transaction, from the beginning to the end, resembled more the ransacking of a vessel by a band of freebooters than the discharge of a civil duty within the jurisdiction of laws. At one time, as many as fifty or sixty Brazilians were on board. But the outrage against our national honor was not limited to these occurrences. To give a coloring to an act of hostility deliberately resolved upon by the Government, no doubt, many days beforehand, in the midst of solemn professions of amity for the United States, it was necessary to affect suspicions, which, had they really existed, could have been at once removed by the demanding of bonds or a reference to me. It was necessary, I say, for the Government to pretend a belief that the Spark had on board a Buenos Ayrean commission, a conjecture wholly discountenanced by the circumstance of her being freighted by women and children. The ministers had no such suspicion; but they had a suspicion that, as the Spark was for sale, having been first offered to them, she might be purchased at Montevideo by some agent of the Buenos Ayrean Government, and fitted out to cruise against Brazil. The officers of the steamboat who captured the Spark indiscreetly suffered this secret of state to escape them in the presence of American hearers; and, in my own mind, there is not a shadow of doubt but that the whole of this disorderly proceeding was to break up the voyage of the Spark. So certain was the officer above referred to of the adequateness of the means to accomplish this end that he actually offered for sale his share of the prize money.

Let us now examine these means and see how far they were such as become a civilized nation towards a Power recently declared to be regarded by the Emperor as his "natural ally." The vessel is within the jurisdiction of the civil authorities. She is notoriously destined for Montevideo, whither she offered to carry freight and passengers. She is allowed to clear out at the custom-house. No suspicions are there intimated to the captain. He is permitted to pass four or five forts on his way to the ocean, by either of which he could be stopped, and from one of which he must needs be boarded. He receives his visit as having his clearance and papers in regular order; and after passing out of the harbor, under the same good faith with which he entered it, he is made a prize of, and ignominiously brought back, not by a force sent in pursuit of him in consequence of information obtained after his departure, but by a vessel mysteriously fitted out and manned *at* midnight, and sent to sea before him, passing within hail of the very forts above referred to.

But even this is not all. To give *eclat* to this exploit, thus planned for no other purpose but to give lustre to the Brazilian arms and to stain the honor of our Republic, the insinuation is industriously circulated that the Spark is a *piratical* vessel. The crew of the steamboat, picked men from the line-of-battle ship, were harrangued and told that they were going in pursuit of a *pirate;* when the crew of the Spark were transferred as prisoners to that ship, they were told that they were *pirates;* the admiral of the port pronounced, in the presence of a number of persons, that an *American pirate* had been taken; and, finally, on shore, the respectable American merchants to whom the Spark had been consigned were charged, by common rumor, with being concerned in the fitting out of a *pirate.*

Such imputations against their countrymen and such atrocious conduct against their country's honor were calculated to arouse the indignation of all the American citizens on the spot. They felt as if their nation was degraded, and as if the star-spangled banner, so much boasted of at home, was no longer able to shield from insult and dishonor those who trust to its fancied protection. They looked at me, as their representative, to demand reparation. But what could I accomplish? I had been for years a witness of a series of the most unexampled wrongs, aggressions, and insults, inflicted by their Government and its authorities, upon the seamen, the commerce, and the honor of the United States. I had, against all these outrages, exerted, to the utmost, the feeble talents which Heaven has been pleased to intrust to my care, and all the little zeal which belongs to my temperament in complaints and remonstrances, but with what unhappy effect the records of your Department will show. *In not a single instance that I can call to mind was redress ever afforded.* The offence of impressing, of imprisoning, and of degrading an American citizen, was considered as amply atoned for by his mere restoration to liberty. Ships and cargoes have been unlawfully detained for months, and in one case nearly years; and have been either condemned by the corrupt decision of a court, or have been released without the allowance of a dollar for the damage sustained by the party acknowledged to be injured. In case of the ship Spermo, no promise, even of redress, has been afforded against the iniquitous decision pronounced against her on the 10th of January; but, on the contrary, a denial of reparation was indirectly proclaimed on the 2d instant, by the equally unjust condemnation of the English brig Rob Roy, detained at the same time and under circumstances precisely similar. For the detention of the brig Exchange, in the year 1824, pronounced by a Brazilian court to have been illegal, not a cent has been recovered, although the claimants have prosecuted a suit

for more than two years by a special agent maintained on the spot. For the brutal deeds which accompanied the capture of the brig Ruth, the treatment of whose master, supercargo, and crew, has been unparalleled, except in the instance already communicated to you, wherein a Brazilian commander cut off the ear of one of his prisoners, and was afterwards promoted for the act, not the shadow of reparation has been afforded. After six months' detention, and suffering damages estimated at $20,000, she is merely allowed to depart free from confiscation; and, from recent decisions in other neutral cases, it is manifest to me that no indemnity for any of the spoliations committed against our citizens and commerce is intended to be allowed.

To remain longer a spectator of these multiplying wrongs was impossible. To make any appeals, in addition to those which had hitherto exhausted my slender stock of arguments, was only wasting time and permitting the honor of the country which I represent to be frittered away by degrees. I saw but one course to pursue, but I was resolved not hastily to adopt it. On the morning of the 5th, having heard of the return of the Spark, and supposing that she had been brought back in consequence of intelligence received subsequent to her departure, I wrote a short note to the minister, politely requesting that he would inform me of the grounds of her detention. To this note I received, at noon of the 7th, (the day after the overhauling had been commenced,) a reply, in which it was attempted to place me in the position of the party complained of, and to throw the *onus probandi* upon me. I was, forsooth, called upon for explanations as to the "true destination" of a vessel represented as *detained* by the Government on suspicion of intentions hostile to Brazil; and I was requested to weigh the mighty considerations which had led the Government to adopt this measure. In answering this note, which I regarded as an official insult, I did not long delay. I briefly stated that had I been informed, before the sailing of the Spark, of the existence of any suspicions of a destination different from that expressed in her clearance, I would cheerfully have lent my aid in causing them to be removed, but that, in the actual state of the affair, I declined giving any explanations.

On the following day another incident calculated to aggravate the insult against our flag, which had marked this transaction, was communicated to me. Mr. Wright, our consul, had demanded of the port admiral the release of the two seamen detained in irons on board the man-of-war. It had been previously reported that the ground of their detention was, that one of them, James Dwyer, an American, who has a wife and child in Philadelphia, was a deserter from the Brazilian service; and that the other, Henry Cook, was a deserter from a British frigate, neither of which allegations proved to be true. To this note an answer was returned on the 7th, in a style about as inappropriate and indecorous as that which Admiral Pinto employed at Montevideo in the case wherein he took upon himself, in the most unprovoked and insulting manner, to allude to the affair of the Chesapeake and Leopard. Mr. Wright received no satisfaction. The British seaman was sent to a British man-of-war, unasked for; whilst the American, after being kept in double irons for four days, and after having manfully resisted threats and offers to force or entice him into the Brazilian service, was sent back to the Spark, with the painful news that about twenty American seamen, who had been fraudulently inveigled on board the Pedro Primeiro, had been transferred to the brig-of-war Canioca, which sailed on the 6th instant on a cruise.

Under the influence of all these circumstances, seeing no middle course between national dishonor and a close of my mission, I adopted the latter alternative, on the night of the 8th, by a demand for my passports. On the 9th I received a note from the minister in answer to mine of the 7th, in which he undertook to justify the proceedings of his Government in relation to the Spark. And how do you imagine this justification to have been supported? Why, by a solemn declaration that *the Spark was outside of the harbor before the Minister of Marine issued orders for her being stopped!* Upon such a declaration from a Minister of State it is impossible to comment. There is scarcely a Brazilian or foreigner in Rio de Janeiro, so notorious is the fact, that does not know that the steamboat sailed before the Spark; and hundreds are acquainted with the additional fact that her commander received his orders the preceding night, when the Spark was safely moored at anchor, without the possibility of escape, had such an intention been suspected. In this note not a word was said about my passports; but on the following day I received official notice that the Emperor had ordered them to be made out. I am now, accordingly, making arrangements to return to the United States, which I hope to reach in June, under the blessings of Providence, and thus terminate an absence of five years, which might have been prolonged for two additional years had my sense of duty and respect for the honor of my country enabled me to pursue any other course than the one I have adopted, or had I been capable of sacrificing public interests to private considerations.

A copy of my correspondence with the minister upon these subjects, which is all that has taken place since the date of my last communication, I will transmit you by the next opportunity.

I have the honor to be, with great respect, sir, your obedient and humble servant,

CONDY RAGUET.

Mr. Raguet to Mr. Clay.

RIO DE JANEIRO, *March* 17, 1827.

SIR: The duplicate of my last communication of 12th instant, per Virginia, will accompany this.

I have now the honor to inform you that, having understood that my passports were ready for me at the Foreign Office, I called for them on the morning of the 14th instant, and received them in due form from the chief clerk. I look now daily for the frigate United States; and if Commodore Hull can accommodate me with a passage, I will take advantage of the opportunity afforded by his ship for returning to the United States.

In relating to you the particulars, as I did in my last, of the unjustifiable proceedings of this Government in relation to the seizure of the brig Spark, I omitted to mention some circumstances which preceded that event, and which I shall now relate.

The Spark arrived here from New York on the 27th of January, with a cargo and a number of passengers, amongst whom was a Brazilian naval officer. The object of her owners in sending her to this port was to offer her for sale to the Brazilian Government, which was understood to be in want of ships of her description. After her arrival an inventory of her armament and stores was presented to the Minister of Marine, and she was accordingly so offered. The minister, however, declined the purchase

of the vessel, but expressed a desire to purchase the guns, which the captain refused to sell alone. The Spark, it seems, had on board *ten* guns, mounted, when she was offered for sale, whilst the number expressed in her clearance was but *four;* and this irregular appearance having been communicated to the Government, I suppose by the Brazilian officer above referred to, an order was sent on board of her, intimating that the extra guns must be landed before the vessel would be allowed to go to sea. On the 18th of February Captain Clark called on me to take my opinion on this subject, which was looked upon at the time as a mere manœuvre to compel a sale of his guns to the Government, and gave me the first information which I possessed of the fact relating to his armament, declaring, at the same time, that he had told the Collector at New York, when he cleared out, that he had additional guns in the hold of his vessel. Although I knew he must have given bonds at home for double the amount of his vessel and cargo that his guns should not be employed during his voyage against any nation with which the United States were in amity, yet I thought that, as an irregularity had been committed in his clearance, and as he might be liable to detention by either belligerent on suspicion of conveying contraband articles, I recommended him to land his guns, and told him that I should report his case to your Department. With this recommendation he promptly complied; and after continuing in port, without the occurrence of any new suggestions from the Government, until the 4th of March, he attempted to proceed in his voyage to Montevideo, where, I presume, he intended to offer his vessel for sale, in the exercise of one of the legitimate rights of a neutral, of which it is not in the power of a belligerent to deprive him. With the subsequent detention of his vessel you have already been advised.

It is now very manifest that the Brazilian authorities seem resolved to interfere with our municipal regulations, and to make for us navigation laws suited to their own purposes, by declaring how many guns and men an American vessel shall carry. The Minister of Marine notified, on the 15th instant, the consignees of the Spark, Messrs. J. Brickhead & Co., that she should not leave the port with more men than she brought, although there are many American seamen here desirous to depart, nor without giving bonds conditioned that she should not be sold to the enemy. With these provisions the captain, who is a stranger in the country, could not comply; and, as he foresaw nothing but ruin in an endless delay at this expensive port, with a large crew upon wages, he resolved to abandon his vessel and leave her in the entire possession of the Government, which he did last evening. Hitherto there has never been a question respecting an addition to the crew of a neutral merchant vessel by the shipping of foreigners. This minister, however, now declares that hereafter no vessel shall take away more men than she brings; so that all the American seamen who may be discharged from vessels sold here, or from frigates built in the United States for his Brazilian Majesty, are to be deprived of the means of returning to their country, and thus compelled from necessity to enter his Majesty's service. Ships, too, which arrive short handed, as did the Spark, will not be allowed to place themselves in a seaworthy condition, and must encounter the storms of winter off Cape Horn and in the river Plate, with an incompetent crew, because the mild seas of a voyage from North America did not require so large an equipage as is requisite for a southern passage.

I have the honor to enclose herewith to you the correspondence which has recently passed between this Government and me relating to the Spark, and the demand of my passports, marked A to F, inclusive, upon which I shall trouble you at this time with no comments.

So strong and decided a measure as the one which I adopted as the *ultima ratio* of a people which sincerely desires to preserve the relations of peace with all the world upon honorable terms could not, as you may suppose, have been regarded by myself or others as an unimportant act. I am aware that I have taken upon myself a responsibility of no ordinary character, and am prepared to meet all the consequences, even though one of them should be my being offered up as a sacrifice at the altar of public good. What I have done I have done deliberately, and, so far from regretting the act, I should do the same thing to-morrow were I placed in the same circumstances. I shall leave Brazil at least with one consoling reflection, which is, that the honor of the nation, which it will ever be my glory to have represented, has lost nothing by this step in the estimation of my countrymen on the spot, or that of the foreigners, in public and private life, with whom it has been my happiness to associate.

I have the honor to be, with great respect, sir, your obedient and humble servant,

CONDY RAGUET.

A.

Mr. Raguet to the Minister of Foreign Affairs.

RIO DE JANEIRO, *March* 5, 1827.

MOST EXCELLENT SIR: I have the honor to state to your excellency that information was last evening communicated to me that the American brig Spark, Clark master, which left this port yesterday morning, after having been regularly cleared at the custom-house for Montevideo, and after having undergone the examination of the port officers, usual upon the departure of foreign vessels, was, in the course of the day, brought back into the harbor by an armed force sent in pursuit of her by some of the authorities of this place.

I will thank your excellency to make me acquainted with the ground of this proceeding; and have the honor to be, with great consideration and respect, your excellency's obedient and humble servant,

CONDY RAGUET.

His Excellency the MARQUIS OF QUELUZ,
Counsellor, Minister and Secretary of State for Foreign Affairs.

B.

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE, RIO DE JANEIRO, *March* 7, 1827.

The undersigned, Counsellor, Minister and Secretary of State for Foreign Affairs, acknowledges the receipt of the note of Mr. Condy Raguet, Chargé d'Affaires of the United States of America, dated the 5th instant, in which he asks an explanation of the motive of the detention of the American brig Spark, Captain Clark.

Shortly after receiving this note, the undersigned received from the Minister of Marine a communication requesting this Department to ask from the Chargé d'Affaires of the United States explanations upon the true character of the said brig, which had been detained in strong suspicion of her being a privateer bound for Buenos Ayres, and destined to increase the number of those actually engaged in insulting the Brazilian flag and in interrupting the commerce of the Empire.

The undersigned calls the attention of Mr. Condy Raguet to the consideration of the circumstances which preceded the detention of the brig Spark, and determined the Government of his Imperial Majesty to order it. The first is, that, according to the official statement of the Minister of Marine, this brig has not exhibited the legal license for carrying a warlike armament. The second, that, without a permit to go thus armed, she sought to increase the number of her crew to nearly double what it was. This armament without license, and this unusual increase of the crew in this port, so far exceeding her proper allowance of men, and her destination for the waters of La Plata, raised strong suspicions that said brig was intended for a cruise against the commerce and navigation of the Empire.

The undersigned ardently wishes that Mr. Condy Raguet would take such measures in relation to this vessel as would cause the suspicions raised against her to be completely removed, that she may be permitted to continue her voyage.

The undersigned renews to Mr. Condy Raguet the expression of his respect and esteem.

THE MARQUIS DE QUELUZ.

C.

Mr. Raguet to the Minister of Foreign Affairs.

RIO DE JANEIRO, *March* 7, 1827.

The undersigned, Chargé d'Affaires of the United States of America, acknowledges the receipt of the note addressed to him, under date of this day, by the Marquis of Queluz, Counsellor, Minister and Secretary of State for Foreign Affairs, and has the honor, in reply to the same, briefly to state to his excellency that, had his Imperial Majesty's Government thought proper, before the sailing of the Spark, to have communicated to him its suspicions of any other destination than that expressed in her clearance at the custom-house, would most cheerfully have lent his aid in causing those suspicions to be removed. In the present state of the affair, however, he declines giving any explanations; and has the honor to subscribe himself, with due respect, his excellency's obedient and humble servant,

CONDY RAGUET.

D.

Mr. Raguet to the Minister of Foreign Affairs.

RIO DE JANEIRO, *March* 8, 1827.

The undersigned, Chargé d'Affaires of the United States of America, presents his compliments to the Marquis of Queluz, Counsellor, Minister and Secretary of State for Foreign Affairs, and has the honor to state to his excellency that recent occurrences induce him to withdraw from the Court of Brazil, and he therefore requests that his excellency will furnish him with the necessary passports.

The undersigned begs his excellency, upon this last occasion of addressing him, to accept the assurance of his high consideration.

CONDY RAGUET.

E.

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE, RIO DE JANEIRO, *March* 9, 1827.

The undersigned, Counsellor, Minister and Secretary of State for Foreign Affairs, acknowledges the receipt of the note of Mr. Condy Raguet, Chargé d'Affaires of the United States of America, dated the 7th instant, in which he declares that, had the Government of his Imperial Majesty thought fit to inform him, previous to the sailing of the brig Spark, of the suspicions raised against her, he would, with great pleasure, have used his endeavors to remove those suspicions; but that, in the present state of things, he declines giving any explanations.

The undersigned, perfectly aware of the desire of the Government of his Imperial Majesty to maintain without interruption the friendly relations subsisting between the two countries, and to avoid all causes of the slightest displeasure, deems it his duty to enter into a frank exposition of the facts, with the certainty that he will convince Mr. Condy Raguet of the correctness with which the Minister of Marine has acted in this affair; and, at least, to persuade him that it never was his intention to interrupt, in the slightest degree, the harmony subsisting between this Government and that of the United States.

On the arrival in this port of the brig Spark, carrying a warlike armament, it became essentially the duty of the Minister of Marine to inquire into the character of this merchant vessel. This admits of no doubt. On its being ascertained that this brig was unprovided with legal papers, it was signified to her that she could not, armed in this manner, leave the port for a southern destination; and the captain, acknowledging the justice of this determination, agreed to leave on shore his guns, only on retaining his other warlike stores. The Minister of Marine, satisfied with these dispositions, thought fit to end here his agency without the necessity of Mr. Condy Raguet's intervention. Subsequently, however, the captain of the brig increased his crew to double the number of men allowed for her complement, since, having arrived with fourteen men, the vessel sailed with twenty-seven; and, which is more, the approbation of the American consul, and carrying, for all cargo, goods to the amount in value of eighty milreas only. Of this fact the Minister of Marine was not apprised until she had crossed the bar. In this conjuncture what could the minister do but to order the detention of this vessel, whose commander had, by his misconduct, excited so strong suspicions of hostile intentions against the commerce of this Empire? After the seizure of the vessel, the Minister of Marine, still animated by the pacific and friendly dispositions of the Government of his Imperial Majesty, instead of referring the matter to the tribunals, sought from Mr. Condy Raguet explanations which, without the formality of judicial proceedings, might remove the suspicions which had been entertained; and to this effect the undersigned addressed him a note which has drawn from him a negative and rude reply.

From this unreserved exposition the undersigned hopes that Mr. Condy Raguet will derive the full conviction that the Minister of Marine did not disdain his intervention, but, on the contrary, anxiously sought for it, preferring it to a judicial interference; and he now finds himself under the necessity of settling this difficulty by such means as are within his reach, and with which the Government of his Imperial Majesty must rest satisfied, since Mr. Condy Raguet cannot but see in all its acts a tendency towards the adjustment of all the differences which have arisen, and from which the best constituted Governments in the civilized world are not entirely free.

The undersigned avails himself of this opportunity to offer to Mr. Condy Raguet the expression of his respect and esteem.

THE MARQUIS DE QUELUZ.

F.

Minister of Foreign Affairs to Mr. Raguet.

[Translation.]

PALACE, RIO DE JANEIRO, *March* 10, 1827.

The undersigned, Counsellor, Minister and Secretary of State for Foreign Affairs, has laid before the august person of his Majesty the Emperor the note dated the 8th instant, in which Mr. Condy Raguet, Chargé d'Affaires of the United States of America, states that recent occurrences have induced him to leave this capital of the Empire of Brazil, and requests that the necessary passports may be granted to him. The magnanimous spirit of his Majesty the Emperor could not but be surprised at this precipitate request, couched in abrupt and vague language, without any allusion to any such grave motives as usually determine ministers and diplomatic agents to withdraw from the countries to which they have been accredited. But as it does not accord with the high dignity of his Majesty the Emperor to enter into an investigation of the motives which have induced Mr. Condy Raguet to ask for his passports, and which he has kept to himself, the undersigned has been commanded by his august master to inform Mr. Condy Raguet that he has ordered those passports to be delivered to him for his departure; but that he will be answerable to his Government for the consequences which may result from this unexpected occurrence.

The undersigned seizes this opportunity to offer to Mr. Condy Raguet the expression of his respect and esteem.

THE MARQUIS DE QUELUZ.

No. 6.

Mr. Clay to Mr. Raguet.

DEPARTMENT OF STATE, *Washington, January* 20, 1827.

SIR: Your despatches from No. 14 to No. 19, inclusive, have been received and submitted to the President. He regrets the personal difficulties in which you have been placed in respect to the exemption to which you are entitled, in virtue of your public character, from the payment of duties on objects intended for your own consumption, and in regard to the house which you had hired for your residence.

In relation to the first subject I have nothing to add to my letter No. 5, under date the 22d day of October last. Foreign ministers accredited by this Government (including the Brazilian) are allowed the full benefit of the prevailing usage, in its most liberal extent; according to which, duties are not levied upon articles bona fide imported for the consumption of their families. The President hopes the

case will not arise in which it may be necessary to consider the propriety of withholding the benefit of that usage from the foreign minister of any nation, in consequence of its not being reciprocated in behalf of our representative at such nation.

With respect to the embarrassments to which you have been exposed on account of the house which you had hired for your use, lively sympathy is felt on account of them, and if any assistance could be afforded from here to enable you to extricate yourself from them, it would be cheerfully rendered. Controversies of that description, when they unfortunately arise, must be determined, if the minister chooses to waive his privilege, by the local tribunal designated for that purpose, unless they can be otherwise arranged. Our own Constitution, you are aware, contemplates the existence of such disputes, and particularizes the tribunal to whose cognizance they are to be submitted.

From the long residence of the President abroad, he is fully sensible, from his own experience and observation, of these personal inconveniences, and justly appreciates the feelings which their occurrence naturally excites. In the general, it is best to avoid as much as possible a written correspondence with the Government where a minister is placed, on these topics. This remark, indeed, may be applied to many of the minor public duties of a minister. It is often much easier to effect an object by a personal interview and oral explanations, conducted with courtesy and kindness, than by an exchange of notes. The perusal of other parts of your despatches has occasioned the President the most lively regret. He sees that there has unfortunately arisen a state of relation between yourself and the Brazilian Government which may possibly affect the public interests committed to your charge. Our commerce and navigation have, undoubtedly, during the present war, respecting the Banda Oriental, been sometimes subject to aggravating perplexities, especially on the part of the Brazilian squadrons and cruisers. Redress for these injuries, and others of a similar character which we may experience in the future progress of the war, ought to be sought by you in a language firm and decisive, but at the same time temperate and respectful. No cause is ever benefitted by the manifestation of passion, or by the use of harsh and uncourteous language. If the remonstrances and reclamations which you have been called on during your mission to present have not always been attended with immediate success, several of them appear to have accomplished their purpose, although the measure of redress may sometimes have fallen short of just expectations. It is the fate of all maritime nations, neutral in maritime wars, to find their commerce and navigation often exposed to serious vexations. The existing Brazilian war forms no exception to their general character. But the United States do not appear to be the only injured Power; on the contrary, the commerce and navigation of England, France, and Spain have all suffered, and some of them to a greater extent than ours. War is the ultimate and last resort; and much ought to be borne before a nation, one especially whose interests generally are so obviously on the side of peace as are those of the United States, should appeal to arms. If we had declared war upon the occasion of causes of complaint of no greater amount than those which we have had against the South American belligerents, (and there is no disposition to underrate them,) the United States would have enjoyed scarcely a year of repose since the establishment of their present Constitution.

The case of the Ruth, which is described in your despatch under date of the 1st of September, was one undoubtedly deserving all your zeal, and of a nature to excite all your energies in behalf of her outraged crew. Still, the President believes that it would have been better, in the pursuit of your object, to have abstained from the use of some of the language which you employed in your interview with Mr. Lisboa, chief clerk in the Department of Foreign Affairs. No nation claiming to be civilized and Christian can patiently hear itself threatened to be characterized as an uncivilized people. It must be also recollected that one of the topics on which you animadverted (that of the personal outrage inflicted by the commander of the brig Emprehendedor on the supercargo of the Spanish vessel Escuderra) did not appertain to your official functions, but belonged to those of the representative of Spain, to whose judgment and discretion exclusively it would have been most proper to have left the conduct of it, according to his own sense of his duty.

The degree of service which a foreign minister is able to render his country depends much upon the respect and deference which he observes in his intercourse with the ministers and Government where he is accredited; and this is more especially the case in Governments constituted and administered like that of the Brazils. The President makes great allowances for the feelings which you naturally entertain as a free citizen of the United States and as a friend of liberal institutions, as well as on account of the strong character of some of those injuries sustained by our commerce and countrymen, for which it has been your official duty to demand redress. But he would have been better satisfied if you had never allowed yourself to employ, in your intercourse and correspondence with the Brazilian Government, provoking or irritating expressions. These, he thinks, ought always to be avoided. The effect produced on that Government by the character of your correspondence is noticed in your despatch No. 17; and you appear to have anticipated, as a possible consequence of it, that the Brazilian Government might decline all further intercourse with you. The President hopes that such will not be the termination of your mission; and he is desirous that you should, in future, whilst you assert with dignity, decision, and promptitude all our rights, carefully avoid giving any just dissatisfaction in the particular which it has been my painful duty to call to your attention.

With respect to the nature of instructions which may be sent to you, and of orders to the commanders of our public vessels, that must rest with the President, where the Constitution has placed it. If those instructions or orders do not correspond in all respects with your wishes or expectations, you must recollect that he is enabled, at this distance, to take a calmer view of things than you are; that we have relations with other nations besides those which exist with the Brazils; and that, even if we had not, war or threats of war ought not to be employed as instruments of redress until after the failure of every peaceful experiment. It is the more incumbent on the President to be guarded in throwing out warlike menaces, because, the Constitution having wisely confided to Congress alone the power of declaring war, it cannot be known in all cases, beforehand, that the denunciation will be certainly followed by the commencement of hostilities.

You will make to the Brazilian Government suitable acknowledgments for the accommodation afforded to our squadron in admitting, free of duties, the supplies destined for its use, imported in the Draco and Georgiana. It is believed to be according to usage to exempt from duties supplies belonging to the public imported under such circumstances, and not intended to enter into the consumption of the country, but designed for the use of public ships. You may, therefore, assure the Brazilian Government that, if hereafter any of their public vessels should be placed in our ports in an analogous condition, the like exemption from duties shall be extended to their supplies, according to what we understand to be the

prevailing usage; or if, contrary to our belief, any defect of law should exist in that respect, the President will recommend to Congress to reciprocate the accommodation which has been extended to our public vessels.

A particular hardship appears to exist at Montevideo in the cognizance which is there exercised over admiralty cases. The tribunal appears to be unwilling to decide, or incapable of deciding, any question, but refers all cases to Rio. The delay, expense, and uncertainty incident to this mode of proceeding are grievous; you will remonstrate against it, and insist upon the prompt decision of all American cases that may be brought before it.

You will continue your exertions in behalf of such of our citizens as shall experience injuries in violation of the public law; and you will not fail to manifest the sensibility of this Government to any and every instance of impressment which may occur of any of our seamen.

Should the Government of Brazils decline all further intercourse with you, it is the President's wish that you should immediately return to the United States.

I am, with great respect, your obedient servant,

H. CLAY.

CONDY RAGUET, *Chargé d'Affaires to Brazil.*

Mr. Raguet to Mr. Clay, dated New York, May 31, 1827.

[Extracts.]

"By the schooner Tandem, from New York, I had the honor to receive, on the 30th of March, your despatch of the 20th of January. Of that part which related to the duties on the supplies imported by the Draco and Georgiana I communicated to the Government a copy, in my note of 5th April, stating at the same time that, if it was not satisfactory, Commodore Biddle would pay the duties. I also wrote to that gentleman on the subject, advising him that the Minister of Foreign Affairs had given me no reply in relation to it."

"Up to the date of my departure from Rio no decisions had been pronounced by the Conselho Supremo in the cases of the Pioneer, Sarah George, Anders, or Matilda. In the inferior court of Montevideo the Sarah George had been condemned, as had also the schooner United States, of Baltimore, captured with a contraband cargo. No reversal of the condemnation of the Spermo had taken place, nor had the sentence in the case of the Ruth, which refused damages, been amended. The Spark was still in possession of the Brazilian Government, which had made some proposals for her purchase, which had not been accepted. The master of the Exchange was still prosecuting his claim for damages. The case of the Leonidas, (the vessel and freight,) of which the cargo had been sold as enemy's property, I believe had not been definitively decided.

"In the note of the Marquis of Queluz to me, of 9th March, it was asserted that no judicial investigation had been instituted in the case of the Spark before the date of his prior note of the 7th. It becomes my duty now to state to you that this assertion of the minister's was incorrect. The examination which was commenced on board that vessel on the 6th, and was terminated on the 8th, was conducted in person by the Auditor General of Marine, who is the Judge of the Inferior Prize Court, and his proceedings were altogether in the nature of a judicial process, precisely such a one as takes place in every prize case. Of this fact I was not aware when I wrote you the particulars."

Mr. Wright, Consul of the United States at Rio de Janeiro, to Mr. Clay.

RIO DE JANEIRO, *February* 2, 1828.

SIR: The last communication which I had the honor of making was under date of the 5th ultimo, via New York, per brig Chalcedonia.

This will envelope the copy of a decree lately put in force at Montevideo, exacting bonds from neutral vessels, conditioned for their not going to any Buenos Ayrean port, and copies of my correspondence with this Government upon the subject.

The operation of the decree was to extend the authority of Brazil to foreign vessels upon the high seas, which was too palpable a violation of the sovereignty of other Powers to admit of any justification. Some ambiguity, however, in the minister's reply to my first letter was the motive for addressing him the second, (understanding him to speak of the discontinuance of the bond measure as future and conditional.)

Commodore Biddle informs me, from Montevideo, under date of December 31, that the cargo of the brig Ruth has been condemned at Buenos Ayres. I have given you the circumstances of her capture in my previous communications. All the activity of the war is confined to the Buenos Ayrean privateers; their destruction of Brazilian property has been, and continues to be, immense, and neutral commerce (as per cases of Ruth, Patrick Henry, and others) is not free from their annoyance. The campaign is expected shortly to open in the south. I have received letters from Rio Grande, of the 13th December, which state that the Buenos Ayreans, in large force, were advancing upon that province.

No information of Mr. Tudor has been received here.

The Macedonian and Boston are both at Montevideo; the former expected here daily.

Most respectfully, I have the honor to be your obedient servant,

W. H. D. C. WRIGHT.

Hon. HENRY CLAY, *Secretary of State, U. S. A.*

Decree requiring foreign vessels to give bonds not to enter the ports of Buenos Ayres.

[Translation.]

DECREE.

PALACE OF RIO DE JANEIRO, *November* 6, 1827.

MOST ILLUSTRIOUS AND EXCELLENT SIR: His Majesty the Emperor, desirous of putting an end to the abuses committed by foreign vessels which, after clearing for other ports, sail for that of Buenos Ayres, which many have succeeded in entering, thereby eluding the blockade, has directed your excellency to issue the necessary orders to prevent any foreign vessel from sailing from this province, during the present war, without previously giving sufficient security not to enter the ports of that Republic, which I communicate to your excellency that you may cause the same to be carried into effect.

God preserve your excellency.

VISCOUNT DE ST. LEOPOLD.

DON THOMAS GARCIA ZUÑIGA.

A true copy.

GERMANO FRANCISCO DE OLIVEIRA.

Mr. Wright to the Marquis of Aracaty, Minister of Foreign Affairs, at Rio de Janeiro.

RIO DE JANEIRO, *January* 10, 1828.

MOST EXCELLENT SIR: By a communication just received from Mr. Bond, acting consul of the United States of America at Montevideo, I am informed that, by a late order, foreign vessels are not permitted to depart from the ports of that province without bonds being previously given, conditioned for their not entering any of the ports of Buenos Ayres.

A similar order was given some months past, but, being immediately repealed, I supposed that the Government of his Imperial Majesty had become fully satisfied of its injustice and illegality, and felicitated myself that it would never become my duty to protest against its revival.

The right of every Government to establish laws for its own dominions is not contested; and, however oppressive and inhospitable those laws may be, foreigners who voluntarily place themselves within their sphere have no just ground for complaint. But, sir, the operation of the order in question is not confined to the domain of the enacting Power. Its effect is to extend the authority of Brazil to foreign neutral vessels upon the high seas, a right which has been seldom assumed, and never yet admitted.

The United States, scrupulously observant of the utmost good faith towards every friendly Power, will not sustain their citizens in the violation of any right of Brazil; and, on the other hand, equally tenacious of their own dignity and rights, will not permit any foreign Power to assume unjustifiable authority over their citizens or their property, by allowing it to prescribe the extent and character of their commerce with other nations, and to dictate the terms upon which they are to navigate the ocean.

"The United States, as a sovereign and independent Power, claim the right to use the ocean, which is the common and acknowledged highway of nations, for the purposes of transporting, in their own vessels, the products of their own soil, and the acquisitions of their own industry, to a market in the ports of friendly nations; and to bring home, in return, such articles as their necessities or convenience may require, always regarding the rights of belligerents as defined by the established laws of nations."

Many American vessels, bound to this port, to the United States, and elsewhere, are now detained at Montevideo. Among other cases, I will call your excellency's attention to one of peculiar hardship. The American brig Pioneer, of Salem, was captured, during the latter part of the year 1826, by his Imperial Majesty's squadron, for an alleged attempt to violate the blockade; after a detention of twelve months she was acquitted, her cargo was sold and delivered at Montevideo, and a return cargo of the produce of the country taken on board to be delivered at New York; her clearance was requested twenty-four hours before the promulgation of the order for the demand of bonds; notwithstanding which, and the fact of her cargo being the produce of the country, (which she certainly could not be suspected of intending to take to a Buenos Ayrean market,) she was refused permission to depart.

I feel, sir, that my duty imperiously commands me to protest, in the most solemn manner, against the application of this order to American vessels.

I protest against it as a system violating the sovereignty of other nations, confounding the innocent with the guilty, and obstructing the channels of lawful commerce.

Your excellency will readily conceive the difficulty which must be encountered in obtaining surety in a foreign land. The continuation of the system must give rise to the detention of many American vessels, and create large and just claims of demurrage against the Government of Brazil, which the Government of the United States will feel itself bound to sustain.

I beg your excellency to accept the assurance of my high regard and distinguished consideration.

W. H. D. C. WRIGHT.

His Excellency the MARQUIS OF ARACATY,
Counsellor, Minister and Secretary of State for Foreign Affairs, &c.

Marquis de Aracaty to Mr. Wright.

[Translation.]

PALACE OF RIO DE JANEIRO, *January* 16, 1828.

The undersigned, of the Council of his Majesty the Emperor, Minister and Secretary of State for Foreign Affairs, acknowledges the receipt of the note addressed to him on the 11th instant by Mr. W. H.

D. C. Wright, consul of the United States of America, stating that he had been informed, by intelligence received from Montevideo, that the authorities of that place had recently required the vessels of neutrals to enter into bond not to enter the ports of the United Provinces of La Plata, and protesting against this measure.

The undersigned hastens to assure Mr. Wright that the Government of his Imperial Majesty, always anxious to provide all the means of mitigating the evils accruing to friendly and neutral nations from the measures of rigor and severity which it has a right, and ought to adopt, in order that the strictness of the blockade may bring back to right reason the Republic, which impels it to this unjust war, has given the necessary orders to suspend, and never to renew, the exaction of these bonds, as soon as it has thought, in its wisdom, that the observance of the measure which forms the subject of Mr. Wright's note had ceased to be paramount to all other considerations.

The undersigned cannot do more, in replying to the above mentioned note, than repeat the orders referred to, and to seize this opportunity of renewing the assurances of his esteem.

MARQUIS DE ARACATY.

Mr. Wright to the Marquis of Aracaty, Minister of Foreign Affairs, at Rio de Janeiro.

RIO DE JANEIRO, *January* 22, 1828.

MOST EXCELLENT SIR: Your reply to my remonstrance of the 10th instant I have had the honor to receive.

Your excellency has been pleased to remark that the bond system (against which it has been my duty to protest) is a measure which the Government of his Imperial Majesty ought, and has a right, to take to strengthen the blockade, and to bring to reason the Republic which has moved so unjust a war.

The right of a belligerent Power to adopt any measures to give efficacy to its blockade is not questioned, provided those measures accord with the laws and usages of nations.

But it cannot be admitted that neutral rights are to be qualified by the justice or injustice of the war, or that any consideration of expediency on the part of the belligerent can justify their infraction.

The right to establish blockade is derived from the laws and usages of nations, and by the same authorities that right must be defined.

All the approved writers on national law concur in requiring efficient force to constitute legitimate blockade; and none have ever made the most distant allusion to a right to exact bonds for its support, or suggested any other penalty for its violation than the confiscation of the captured vessels and cargoes.

Whence, then, is authority to be adduced for this bond system? Are belligerents, at pleasure, to create decrees controlling foreign commerce on the ocean? Is their convenience the sole measure of neutral rights?

The only measures of parallel pretension within my knowledge were protested against by all neutral Powers, and being persisted in, were forcibly and effectively resisted.

I beg your excellency to accept the assurance of my distinguished consideration.

W. H. D. C. WRIGHT, *Consul U. S. A.*

His Excellency the MARQUIS OF ARACATY,
Counsellor, Minister and Secretary of State for Foreign Affairs, &c.

The Marquis de Aracaty to Mr. Wright.

[Translation.]

PALACE, RIO DE JANEIRO, *January* 24, 1828.

I acknowledge the receipt of the note addressed to me by Mr. W. H. D. C. Wright, consul of the United States of America, under date the 22d January, instant, and having examined its contents I only have to say, that having, in my note of the 16th of said month, assured Mr. Wright that the Government of his Majesty the Emperor had issued the necessary orders to suspend, and not to resume the exaction of the bonds which forms the subject of his representation, there appears to be no further reasons for a repetition of the protest made by Mr. Wright, since these bonds are no longer required, as I stated in my note above referred to.

I renew to Mr. Wright the expression of my respect and esteem.

MARQUIS DE ARACATY.

Mr. Wright to the Minister of Foreign Affairs at Rio de Janeiro.

RIO DE JANEIRO, *January* 25, 1828.

MOST EXCELLENT SIR: Fully sensible of the arduous duties appertaining to your excellency's important station, I, on every occasion, lament the necessity of adding to your labors, and should not have troubled you with a second communication upon the bond measure had I have conceived your note of the 16th as explained in that which you did me the honor to address to me on yesterday.

Accept, sir, the assurance of my distinguished consideration.

W. H. D. C. WRIGHT, *Consul, U. S. A.*

His Excellency the MARQUIS OF ARACATY,
Counsellor, Minister and Secretary of State for Foreign Affairs, &c.

No. 8.

Mr. Clay to Mr. Tudor.

DEPARTMENT OF STATE, *Washington, April* 1, 1828.

SIR: From late communications received at this Department from our consul, Mr. Wright, at Rio de Janeiro, it is seen with surprise that the Brazilian Government persists in the measure of exacting from neutrals, clearing from the port of Montevideo, bonds obliging them not to enter any Buenos Ayrean port. That measure can find no justification whatever in the usage or laws of nations. Its pretext is the violation of blockade instituted by the Government of Brazils. A blockade must execute itself. The presence of the force which constitutes it is the means of its enforcement. The belligerent has no right to resort to any subsidiary means. Such a resort is a tacit submission of the incompetency of the blockading force to sustain the blockade, and, consequently, confesses its illegality. The belligerent can have no right, especially to exert any municipal authority, as the measure in question is over neutral vessels, to execute his belligerent designs. The belligerent has no more right to lay the neutral under bond to respect the rights of war than the neutral has to lay the belligerent under bond to respect the rights of neutrality. What would his Imperial Majesty think of a demand of the Government of the United States, if it could bring itself to make a demand, from all his cruisers that might resort to their ports to enter into bonds, with sureties, obliging them to abstain from all captures of American vessels?

The measure in question is attended with the greatest practical inconvenience. It must be often difficult, if not altogether impracticable, for our traders to obtain in distant and foreign ports the securities satisfactory to the local authority. We cannot submit to the measure. If it shall be in operation on the receipt of this despatch, you will remonstrate against it with an urgency proportionate to its manifest want both of principle and precedent; and, if necessary, you will notify the Brazilian Government that the commanders of our public vessels will be instructed to disregard and resist it.

I am, with great respect, your obedient servant,

H. CLAY.

WILLIAM TUDOR, *Chargé d'Affairs at Brazil.*

Mr. Clay to Mr. Southard.

DEPARTMENT OF STATE, *Washington, May* 19, 1828.

SIR: I have the honor to request that you will communicate to this Department copies of any correspondence which may have passed between the commanders of our squadrons on the coast of the Argentine Republic and the Brazils, with officers in the Brazilian service, relative to blockade, and of the Plate and ports of the Republic; the demand at Montevideo of bonds from neutrals not to violate the blockade; or to other belligerent operations of the Government of Brazils touching our interests. These copies are desired for the purpose of being laid before the House of Representatives.

I have the honor to be, with great respect, your obedient servant,

H. CLAY.

SAMUEL L. SOUTHARD, Esq., *Secretary of the Navy.*

Mr. Southard to Mr. Clay.

NAVY DEPARTMENT, *May* 20, 1828.

SIR: I have the honor to transmit to you the enclosed papers, which contain the information requested by your letter of the 19th instant.

I am, very respectfully, &c.,

SAML. L. SOUTHARD.

Hon. HENRY CLAY, *Secretary of State.*

Extracts from the instructions of the Secretary of the Navy to Captain J. D. Elliott, commanding United States ship Cyane, dated November 23, 1825.

"You have been appointed to the command of the United States ship Cyane, and will make every exertion, in matters under your own control, to expedite the preparation of the vessel for sea, and will sail as soon as practicable after receiving these orders.

"The duty to be performed by you is a cruise on the eastern coast of South America, from the neighborhood of Pernambuco to Montevideo, for the protection of the commerce of the United States, which is increasing in value upon the whole of that coast. No specific directions can be given to you for the remedy of any particular evil known to be existing or which is anticipated. But your intelligence will enable you correctly to estimate, and your discretion will apply the proper remedy to such as may fall under your observation; being at all times extremely cautious, never compromitting the peace of the country, and using your force only when indispensably necessary. To acquire information and to exhibit your vessel and flag, you will touch at Pernambuco, Rio de Janeiro, Montevideo, and other principal ports and harbors, and remain such time as you may judge necessary and proper. And wherever there is a consul or other public agent of the United States you will communicate with him, and receive from him such information as he may have to furnish either for yourself or the Government.

"You will be careful, on entering any harbor, or meeting a public vessel of any other nation, to manifest the accustomed civilities; as we require them to be paid to us, it becomes us to be prompt and accurate in tendering them to others. Our relations with the countries you visit are very friendly, and care must be taken to avoid everything calculated to impair or alter their present character, so far as this can be done consistently with the maintenance of our rights. In your discretion a willing confidence is reposed. You will report all your proceedings, and furnish copies of such correspondence as you may have.

"I enclose, for your information and direction, copies of the acts of Congress relating to piracy and the slave trade, together with the general instructions on those points given to the commanders of our cruising vessels. Hostilities still existing between some of the authorities on the eastern coast of South America, and the parties, respectively, being entitled to equal rights as belligerents, the utmost caution must be observed to abstain from any acts which may have a tendency to compromit our neutral character. Acts of kindness to either, though extended equally to the other, may be misconceived or misrepresented to the prejudice of the United States. You will, therefore, decline taking on board, for either party, men, money, provisions, or supplies, to be carried from such party to any port or country whatsoever."

Extract from the instructions of the Secretary of the Navy to Commodore James Biddle, dated June 1, 1826.

"The war between Brazil and Buenos Ayres having rendered an augmentation of our naval force in that quarter necessary, you have been appointed to the command of the frigate Macedonian; and, as soon as that ship shall be prepared for a cruise of two years, you will hoist your broad pennant and proceed to the eastern coast of South America, and assume the command of the United States naval force on the coasts of Brazil and the La Plata.

"The squadron will consist of the frigate Macedonian and the sloops-of-war Cyane and Boston. The Cyane will probably be at Rio de Janeiro in the middle of July next; or, should circumstances indispensably require the services of that ship elsewhere at that time, Captain Elliott is instructed to leave there a communication for you, apprising you of the necessity of his absence, and the place at which your orders will find him. The Boston sailed from New York on the 11th April, and will probably, at the same time, be found at the same place.

"The interests committed to your protection are great and constantly increasing. It is impossible, however, to give specific directions in anticipation of cases which may arise to their injury. Much confidence is placed in your discretion, and no doubt entertained that the disposition of your force will be such as to afford all possible protection to the interests of the United States without violating the rights of others.

"I enclose, for your information and government, copies of the laws in relation to piracy and the slave trade; also, the general instructions prepared on these points and given to the commanders of all our cruising vessels. These instructions, though used for some time in the service and designed especially for another station, will probably be found, in substance, applicable to many cases which will occur in the course of your cruise.

"It is to be apprehended that some of the freebooters who have heretofore preyed on the commerce of the West Indies and Gulf of Mexico will change the scene of their depredations to the coasts of Brazil and La Plata. To guard against such an occurrence and give security to our extensive commerce with the ports of those coasts will require, on the part of the force under your command, the utmost vigilance.

"In the progress of the war now existing between the Governments of Brazil and Buenos Ayres, the belligerent parties will probably, to the great annoyance and injury of neutrals, have recourse to the system of blockades, without an adequate force to maintain that mode of warfare. Something of this kind has already occurred, and will no doubt be repeated. I enclose for your information copies of letters received from Captain Elliott, with a copy of a communication to him from Condy Raguet, our Chargé d'Affaires at Rio de Janeiro, from which you will learn what had occurred on this subject previous to our last advices from the coast.

"You will use your best efforts to afford relief and protection to the citizens of the United States and their property from an illegal exercise of power in this way, so far as the laws of nations can be urged in their favor. At the same time, you will avoid as much as possible all collision with either party, without compromitting in any manner our just rights or the national honor.

"You are well informed in the doctrines heretofore always maintained by our Government on the subject of blockade, and it is, therefore, unnecessary to furnish you with minute instructions respecting it.

"The letter of Mr. Raguet to the Government of Brazil explains the views of your Government. Such places only are to be considered blockaded as are 'attacked by a belligerent force capable of preventing the entry of a neutral.'

"It is desirable that you keep yourself correctly informed as to passing events; and for this purpose it will be well to commence and continue a regular correspondence with our political and commercial agents residing in Brazil and Buenos Ayres.

"You will be careful, on entering any harbor, or meeting a public vessel of any other nation, to manifest the accustomed civilities. As we require them to be paid to us, it becomes us to be prompt in tendering them to others.

"Our relations with both belligerents, as well as with all other powers, are very friendly, and care must be taken to abstain from everything calculated to impair or alter their present character, so far as this can be done consistently with the maintenance of our rights.

"The belligerent parties being respectively entitled to equal rights, the utmost care must be taken to abstain from any acts that may have a tendency to affect or compromit our neutral character. Acts of kindness to either, though extended equally to the other, may be misconceived or misrepresented to the prejudice of the United States. You will, therefore, if requested, decline taking on board the vessels of your squadron, for either party, men, money, provisions, or supplies, to be carried from such party to any port or country whatsoever."

Extract from Master Commandant B. V. Hoffman to Captain J. D. Elliott, dated

UNITED STATES SHIP BOSTON, *Montevideo, July* 17, 1826.

"There have been two schooners from Baltimore, bound to this place, that have been captured by the blockading squadron under suspicious circumstances. One has been released, the other no doubt will be. There has been no complaint made to me for interference. The admiral has just returned to anchor off this place, having been up the river to water.

"P. S.—The other schooner mentioned has been released."

Extract from Captain J. D. Elliott to the Secretary of the Navy, dated

UNITED STATES SHIP CYANE, *Rio Janeiro, March* 3, 1827.

"Herewith I have the honor to enclose you a copy of a corrected translation of the letter which I received from Admiral Guedes while at the La Plata.

"I was not enabled to give a true translation of this letter to the senior United States naval officer on this station, but was compelled to furnish such as I could then and there obtain. On my arrival here, through the assistance of the gentleman charged with the affairs of the United States at this Court, Mr. Raguet, I obtained a true translation, which I take the earliest opportunity to transmit to the Government, from the consideration that the papers may be of importance."

UNITED STATES SHIP CYANE, *Montevideo, December* 26, 1826.

SIR: The undersigned, senior United States naval officer at the La Plata, with most perfect respect, desires to be informed by his excellency Don Rodrigo Pinto Guedes, Baron of the La Plata, Vice Admiral in the Navy of his Imperial Majesty the Emperor of Brazil, and commanding his squadron professing to blockade the ports of the La Plata, of the pretext on which a schooner called the Armstrong, whereof Edward Chamberlain is master, with the ship Pactolus, whereof John Girdler is also master, both vessels under the American flag, each legitimately American property, and have entered this port within the last two days, were, and are at this time, held in custody of an armed force of his Imperial Majesty, commanded, operated, and directed under your excellency's authority.

The undersigned had indulged the hope that in reaching this port he would not have had presented a subject which could in the slightest degree have caused a removal of those good and harmonious feelings with which he departed the port of Rio de Janeiro and entered that of Montevideo.

In the conference which the undersigned had and held, previous to departing the capital of his Imperial Majesty, with the distinguished minister who presides over the naval affairs of the Brazilian Empire, the Marquis of Paranagua, he had expected that previous to this date your excellency would have been put in possession of instructions which would have defined more particularly the powers of a belligerent, and the protection to which a neutral was entitled whilst conducting a trade not contraband of the principles of war, and have precluded the possibility of an American vessel's capture on first presentation before a blockaded port—an arrangement which had been concluded between the undersigned and the predecessor of your excellency a long time antecedent to the present date. This arrangement the undersigned feels well assured would entirely remove all unpleasant feelings which could have been presented between the Cabinets of our respective nations, and tend to bind still closer those that should exist with two Powers holding the naval supremacy of the American continent.

With due respect and high consideration the undersigned has the honor to subscribe, your excellency's most obedient,

J. D. ELLIOTT.

His Excellency DON RODRIGO PINTO GUEDES, *Baron of the La Plata,*
Vice Admiral Commanding the Naval Forces of his Imperial Majesty at the La Plata.

[True translation.]

ON BOARD FRIGATE PIRANGA, *off Montevideo, December* 27, 1826.

The undersigned, admiral and commander-in-chief of the naval forces of his Majesty the Emperor of Brazil in the river Plata, acknowledges to have received the note of S. Sa. the senior captain of sea and war, J. D. Elliott, commander of the ship of the United States, the Cyane, under date of yesterday, to which he now replies.

The undersigned does not consider himself bound by any stipulations made with his predecessor. He did not consider him authorized to alter points of the law of nations and of war, followed by all or by the chief part of maritime nations; that being a matter the discussion of which, whether it be to amplify or to restrict, belongs to the respective Governments, and never to the mere executors of orders, to whom, if they have not positive ones, it is only permitted to follow the general practice. On the contrary, S. Sa. may be assured (and it is hoped that he would be so without a special declaration) that the orders of the Government of his Majesty the Emperor of Brazil, transmitted to the undersigned, would be always religiously complied with, whatever they might be.

The undersigned does not consider as an act of violence the sending to Montevideo the schooner Armstrong, which, having taken in a cargo at the port of Santos, (where her master might easily have been informed of the existence as well as of the effectiveness of the blockade of Buenos Ayres,) and cleared out for Valparaiso, made her appearance off the blockaded port, which she intended to enter, con-

veying to the enemy the very productions of Brazil, with which she was at war. Notwithstanding this, however, the undersigned, supposing that some erroneous intelligence received at sea had made the master of the schooner believe that the blockade was raised, he had already allowed him to continue his voyage, when the note of S. Sa. was addressed to him, as will be seen from the date.

As to the ship Pactolus, the right of search by a belligerent on any part of the ocean is undeniable; for without it, it could not be ascertained whether a vessel met with conveyed articles contraband of war or not. For all this, however, in the case of the Pactolus, the undersigned could not omit to reprehend the commander of the brig Escuderra for having exchanged some of his crew, although he had only in view to prevent the Pactolus from going to Buenos Ayres, which could more prudently have been done by his accompanying her, without intercepting her voyage to Montevideo. And so unreasonable did the undersigned consider that incident, that, after causing to be delivered to the master of the Pactolus his papers, he sent people on board to manage his ship (which also took place before the note of S. Sa.) until the restoration of the seamen improperly detained on board the Escuderra, which vessel has not yet reached this port, but which cannot much longer delay her arrival.

The undersigned does not suppose that a difference of sentiments between the subjects of two nations (which, however, is not observable in the cases referred to) can alter the good understandings existing between their respective Governments; for, under such a hypothesis, he who should be in the wrong would be the victim of the just satisfaction which the offending Power would give to the offended one, in case the measure should have been adopted arbitrarily, either against law or against instructions.

The undersigned has the honor to present his compliments to S. Sa., and of making to him protestations of his high consideration and respect.

BARON DO RIO DA PRATA.

UNITED STATES SHIP CYANE, *Montevideo, December* 28, 1826.

The undersigned has the honor to acknowledge the receipt of the letter your excellency did him the favor to address, of yesterday's date, and to reply that, from respect, and a strict regard to the belligerent character of your excellency, in the transaction of both the Armstrong and the Pactolus, he was induced, uninformed of the merits of the cases, to call at once on the commander-in-chief of the Brazilian forces for that information, having no previous light on the subject, or knowledge of the course your excellency intended to adopt in relation thereto, or of the circumstances which led to the capture.

The undersigned is also pleased at being informed by your excellency of the prompt and spontaneous manner with which your excellency, unasked, released the vessels in question; and cannot otherwise than draw forth a strong expression of approbation that your excellency should have disavowed the principle of his officer, thus early, in relation to the transaction of the latter. Laws applicable to the subject of blockade have been subjected to such constant variance, and so frequently construed to answer the occasion suited to the interest of each of the contending European Powers, that it is found difficult to affix a uniform system for their guidance; but, in the practice and principle, the Government of the United States has been constant and uniform; and the undersigned relies greatly on the justice of the Government of his Imperial Majesty in applying the principles of blockade with consideration towards the commerce of the citizens of the United States, and trusts that, amongst the American family, each equally independent, the introduction of a system fraught with so much evident injustice in its practice on the European continent towards non-belligerents will never be adopted for a general rule and guidance; and as, with your excellency, it was not his intention to enter into a discussion on points of international law, more particularly on points which have already been advocated by the undersigned, and adopted by the civil judiciary of his Imperial Majesty, in their deliberations, and in a recent decision of the case of an American vessel at Rio de Janeiro, but merely to obtain information sought for and now possessed.

He will renew to your excellency his high consideration and regard, and subscribe your obedient,

J. D. ELLIOTT.

His Excellency DON RODRIGO PINTO GUEDES, *Baron of the La Plata,*
Vice Admiral Commanding the Naval Forces of his Imperial Majesty at the La Plata.

No. 11.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, January* 24, 1827.

SIR: I arrived at this anchorage on the 30th ultimo, and found the Cyane and the Boston awaiting my arrival. I saluted the Brazil flag, and my salute was returned from the batteries, gun for gun, as had been previously arranged. I exchanged visits and salutes with Admiral Rodrigo Pinto Guedes, the commander-in-chief of the imperial naval forces. In coming up the river I experienced a blow from the southwest, and made a harbor at Maldonado, where I found a Brazil cruiser, having on board ten American seamen, the crew of the American ship Pactolus, which she had seized and sent to Montevideo. I sent an officer to demand these seamen, received them on board this ship, and upon arriving here I returned them to the Pactolus.

With respect to the blockade of the ports of Buenos Ayres, it is impossible, I think, now to take exception to it. It has been established by competent authority, that is to say, by the supreme authority of the State; a force adequate to prevent communication with the interdicted ports is employed for that purpose; neutrals bound to the blockaded ports are notified of the blockade, and warned not to enter, and are seized only upon attempting to enter after notification. Against such a blockade no ground of complaint, I presume, can be alleged.

Some injury has been suffered by the seamen of the neutral vessels heretofore seized by the blockading squadron, arising from the practice of separating the seamen from their vessels, and taking them on board the men-of-war. I did not expect that anything I could say would induce the entire discontinuance of this practice, so essential to the efficient exercise of the rights of the cruisers, but I was of

opinion that something might perhaps be gained by a demonstration in the behalf of the American seamen whose vessels should hereafter be seized, and particularly by making known that all our citizens abroad, without regard to their stations in life, receive alike the protection of our Government—a doctrine not readily comprehended by a Brazil officer. I enclose copies of letters between Admiral Guedes and myself. Satisfactory evidence has since shown that my communication to the admiral has had a salutary effect.

The schooner United States, from Baltimore, was seized up the river by the blockading squadron, and brought to this anchorage on the 11th instant. The American crew had been taken on board the gun-boat which escorted the United States hither, but immediately on arriving, the Brazil admiral ordered the American crew on board their own vessel, and where they now are. The position of the United States when seized is strong presumption that she was destined to Buenos Ayres. Her cargo, consisting in part of gunpowder, muskets, and other munitions of war, is presumptive of the same destination; and other and more direct evidence of the same destination is, I understand, possessed by the captors. As the nature of her cargo, moreover, renders this vessel obnoxious, independently of the blockade, I presume there is but small chance of a favorable decision in her case. This is the only American vessel detained since my arrival here. The American schooner Homer, seized near Buenos Ayres, and brought to this anchorage on the 6th instant, was immediately released by the Brazil admiral.

In directing the Cyane and the Boston to meet me here, my object was to display the three ships together in the presence of the Brazil force; and also, in case of my visiting Buenos Ayres, to use both the Cyane and the Boston in passing through the blockading squadron, this ship not being able to get higher up the river than her present anchorage. I have, however, concluded not to visit Buenos Ayres at present. Mr. Forbes, in answer to my inquiry whether any advantage to the public interests would accrue from my visiting Buenos Ayres, informs me that there are no commercial interests there to protect. The blockade, as respects commercial vessels, is now conducted upon principles in which, I presume, our Government will acquiesce. The notification to vessels bound to a blockaded port is allowed expressly, I believe, with a view to conciliate our Government, and perhaps will be allowed to American vessels exclusively. For these and other reasons I have decided that it is my duty at present to abstain from visiting Buenos Ayres.

As soon as I had decided not to visit Buenos Ayres I sent the Boston to the north, to make short visits to Pernambuco and Bahia, and to arrive at Rio de Janeiro about the first of March. As soon as the Cyane was ready for sea I directed her to sail for the United States, touching at Santos, Rio de Janeiro, Bahia, and Pernambuco. I am assured, by well-informed persons, that the frequent visits of our ships-of-war to the different ports of Brazil is very advantageous to our trade, and I am persuaded that this is the case.

It is my intention to remain at this anchorage until the return of the Boston to it, and longer if it should be necessary or advisable.

I enclose copies of the correspondence between Admiral Guedes and myself up to this date.

I have the honor to be, very respectfully, your most obedient,

JAMES BIDDLE.

Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy, Washington.*

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, January* 3, 1827.

SIR: I have the honor to acquaint your excellency that the force under my command has been commissioned by the Government of the United States for the purpose of protecting American citizens and American property against unlawful molestation, and for no other purpose.

I have learnt, with great surprise, that it has been the practice of the cruisers under your orders, upon making a seizure at sea, to separate the American seamen from the American vessel, and to take them on board the cruiser. I have learnt, with still greater surprise, that it has been the practice, in seizing vessels within the river, not to permit the American seamen to remain on board their own vessel, but to force them on shore in a destitute condition; in consequence whereof the consul of the United States has been compelled to subsist them at the expense of the Government of the United States. Against practices so incompatible with the just rights of American citizens it is my duty to protest in the most serious manner; and I call upon your excellency to adopt, on this subject, a course more in conformity with the amity and good will subsisting between our Governments.

I will state a few occurrences in relation to this subject of general notoriety, and which abundantly show the magnitude of the injury growing out of the practice of which I complain.

The American brig Ruth was seized at sea in August last by the imperial cruiser Independencia on Morté and part of the crew taken on board, where they were made to assist in navigating the Independencia on Morté to Rio de Janeiro; and they were also mustered at the guns, to be compelled, in case of battle, to fight against a nation with which their own was at peace.

The American brig Wetherill, from Canton, was seized off Cape St. Mary's by the imperial frigate Paula in July last, and the crew taken on board the Paula, and there detained for some time.

The American brig Sarah George, bound to Montevideo, was seized in this river in September last, a prize crew put on board, and she was brought into Montevideo, where, owing to the ignorance or the neglect of the prize-master, she received serious injury during a gale of wind. The American crew were taken on board the imperial cruiser Caboclo, where endeavors were made to induce them to enter the service; but refusing, they were turned on shore at Montevideo, and not permitted to go on board their own vessel, even to procure their clothing. These American seamen, while on board the Caboclo, were ordered to the guns when in chase of a vessel under the Buenos Ayrean flag.

The American brig Pioneer, bound to Montevideo, was seized off Cape St. Mary's in September last, and her crew taken on board the imperial fleet; and when the fleet returned to this anchorage the crew of the Pioneer were turned on shore, and permission refused for them to live on board their own vessel.

The American brig Constitution, bound to Montevideo, was seized in November last off this river by an imperial man-of-war schooner, the crew taken out, and detained until some time after the vessel was released. In fact, the man-of-war schooner sailed from this anchorage on a cruise, carrying with her the crew of the Constitution.

On the 25th ultimo the American ship Pactolus, bound to Montevideo, was seized off Cape St. Mary's

by the imperial brig-of-war commanded by Luis Clementi Poulthier, all her men taken out, and the Pactolus, with an insufficient prize crew, ordered to Montevideo, where she might have been lost but for the assistance which was afforded to her on her arrival.

More cases of a like nature might be mentioned, but I will not weary your own patience or mine with more. In fact, in every case of seizure, injustice, more or less aggravated, has been committed against the crew. Your right to seize and detain neutral vessels, under certain circumstances, and upon your responsibility, is indisputable; but you have no right whatever to separate the crew from the vessel; and should there be any reason to apprehend an attempt at rescue, your only just remedy is to place on board an adequate prize crew. In exercising an acknowledged right, in regard to neutral *property*, I am persuaded it is not in the disposition of your excellency to exercise power, without regard to right, over neutral *persons*, and still less to exercise it in a spirit of unkindness towards the unoffending seamen.

A perfect equality of political rights is a fundamental principle of the Government of the United States; and every citizen, whatever may be his station in life, claims and receives equal protection from the Government. The practice of forcibly removing American seamen from American vessels, and taking them on board foreign men-of-war, is a wrong towards American citizens, and a violation of national sovereignty, against which it is my duty to interpose; and if your excellency recognizes peace and friendship as subsisting between the United States and Brazil, I trust you will, without delay, give the necessary orders to the cruisers under your command to abstain from a practice tending so seriously to interrupt harmony between the two nations.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of the La Plata,*
Admiral Commanding Naval Forces of his Imperial Majesty at the La Plata.

[Translation.]

ON BOARD THE FRIGATE PIRANGA, *abreast Montevideo, January* 4, 1827.

EXCELLENT SIR: I acknowledge the receipt of the letter which your excellency addressed to me under date of yesterday.

If the forces intrusted to the command of your excellency have for their object the protection of the citizens and property of the United States against every kind of oppression, as says your excellency, those which have been confided to me have the same end with regard to the Brizilian citizens, and that of preserving in all their integrity the independence and sovereignty of the imperial flag, and the rights of his Majesty the Emperor of Brazil, particularly as a belligerent.

I could say much upon some of the principles which your excellency considers as incontestable, but, as the last orders which I received from the Government of his Imperial Majesty forbid me to enter into any controversy, I shall be silent, as much to share the patience of your excellency as my own.

I have the honor to be, with the highest consideration, your excellency's obedient servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States in the Rio da Prata.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, January* 5, 1827.

SIR: I have received your excellency's letter of the 4th instant, in which you decline to notice my complaint of certain wrongs committed against the citizens of the United States by the cruisers under your command, stating that the last orders which you received from your Government forbid you to enter into any controversy.

It only remains for me to inquire of your excellency whether the last orders which you received from your Government also forbid you to give me any explanation in regard to every other kind of injury which may be committed against American citizens or American property by the cruisers under your command.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of the La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at the La Plata.

[Translation.]

ON BOARD THE FRIGATE PIRANGA, *abreast Montevideo, January* 6, 1827.

EXCELLENT SIR: My letter of the 4th instant was not well translated to your excellency. I did not say that the orders lately received forbid me to enter into controversy, but I said *suspended the motives to controversy.* I proceed to explain myself better.

I do not find any difficulty in refuting principles which are not followed by maritime nations in general, and which aspire to be exclusive, not having been able to obtain their adoption by others, not even with sacrifices; but as I know, positively, that the vessels referred to in your excellency's letters, and some other points, are at present in discussion between the Government of his Majesty the Emperor of Brazil and the Chargé d'Affaires of the United States at the Court of Rio de Janeiro, and what will be there established must serve as a rule, any further discussion would be useless before their decisions.

If, after having received them, your excellency judges that they are in any way transgressed, and will demand an explanation, I will most willingly give it.

With respect to the galley Pactolus, a more recent case, I have already replied to Captain Elliott, who will have probably informed your excellency; and even in the cabin of this frigate, when your excellency was on board, this subject was discussed with your excellency, who spoke to me respecting it. If it is not sufficient I have nothing more to say.

I have the honor to be, with great consideration, your excellency's most obedient servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States in the Rio da Prata.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, January* 22, 1827.

SIR: I take leave to ask, as a particular and personal favor, that your excellency will be pleased to release and deliver to me James Connell, an American seaman, at present detained as a prisoner on board the imperial frigate Piranga.

This man, by entering the service of Buenos Ayres during the existing war, offended against the laws of his country and forfeited his claim to the protection of its Government. But your excellency well knows the pernicious habits and careless disposition of seamen, and how frequently advantage of these is taken by designing men for the worst purposes. Seamen are enticed into a state of intoxication, and while in that degraded, irresponsible state they are impressed into the service. It is impossible, in such cases, to judge the offenders with severity, or to avoid feeling compassion for their sufferings.

From these considerations, as well as from your excellency's known love of humanity, I am confident you will accede to my request, and deliver James Connell to me. I promise, on my part, that he shall not again have an opportunity of entering the Buenos Ayrean service.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of the La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at the La Plata.

[Translation.]

ON BOARD THE FRIGATE PIRANGA, *off Montevideo, January* 23, 1827.

MOST EXCELLENT SIR: Although prisoners of war, besides being incapacitated from committing hostilities, are also valuable to exchange for others, yet, to gratify your excellency, I liberate the seaman James Connell, in accordance with your excellency's request.

I have the honor to be, with the greatest consideration and respect, your excellency's most obedient and humble servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States in the Rio da Prata.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, January* 14, 1827.

SIR: I have the honor to enclose the deposition on oath, taken before the American consul, of Jesse Powell, second officer of the American brig Sarah George, now under seizure, and lying in this harbor, and from which deposition it appears that the said Jesse Powell was, on the 9th instant, severely beaten by the prize-master in charge of the Sarah George.

The cause of this outrage, if any cause exists, is not known to the officer on whom it was committed; but I am sure your excellency will be of opinion that no provocation whatever could justify a subaltern officer lying in this harbor, where immediate reference could be had to your excellency, in inflicting upon an American citizen, whether officer or seaman, any punishment other than confinement, and that only in case of absolute necessity, and until your orders could be received.

It is my duty, therefore, to complain to your excellency, in the most serious manner, of this outrage committed against a citizen of the United States; and I call upon your excellency for such redress in the premises as shall be a security for the future against outrages of a similar character.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of the La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at the La Plata.

CONSULATE OF THE UNITED STATES OF AMERICA, *at Montevideo.*

Personally came and appeared before the undersigned, consul of the United States of America at Montevideo, Jesse Powell, second mate of the American brig Sarah George, of Portland, now lying in the harbor, under detention, and in charge of a prize crew, consisting of a sergeant, three soldiers, and three seamen, who, being duly and solemnly sworn, did depose and say: That, about sunset on the 9th instant,

on his return from on board the schooner Beauty, of Baltimore, in the boat of the Sarah George, which was lent to them, in company with the first mate, John McGraff, the sergeant began beating him very severely with a broomstick, which he continued until he had given him from twenty to thirty blows, without his knowing the cause of such abuse.

And also appeared, as above, John McGraff, first mate of the said vessel, who, being duly sworn, did depose and say: That, upon his return to the Sarah George, about nine o'clock on the same evening, he was hailed by the prize crew, and ordered to keep off, or they would fire into the boat, which he was compelled to do, and remained for the night on board the American ship Pactolus; no explanation having been made by the officer of his conduct next day when he went on board.

Also, personally came and appeared, as above, John Hall Cook, of the brig Sarah George, who, being duly and solemnly sworn, did depose and say, that the facts and circumstances related in the foregoing depositions are just and true, to the best of his knowledge and belief.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of my office, in Montevideo, this thirteenth day of January, in the year one thousand eight hundred and twenty-seven.

[L. S.]

JOSHUA BOND.

[Translation.]

ON BOARD THE FRIGATE PIRANGA, *abreast Montevideo, January* 14, 1827.

EXCELLENT SIR: I hasten to assure your excellency that the case to which your letter refers was, till this moment, entirely unknown to me, and that I shall immediately take steps to inquire into the causes of an action so arbitrary and unreasonable, and which can only be justified on the ground of self-defence. Your excellency shall be informed of the result, and every satisfaction will be given that justice requires; and, with me, it will be sufficient that justice requires it, in order that it may be given.

I have the honor to be, with the greatest consideration and respect, your excellency's most humble and obedient servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States in the Rio da Prata.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, January* 18, 1827.

SIR: The American schooner United States, from Baltimore, and bound to this port of Montevideo, was brought here on the 11th instant, and is still detained. This vessel, conscious that she was prosecuting an innocent voyage, anchored at Colonia, which she knew to be in possession of the Imperial Government of Brazil. This circumstance, together with the information which it appears by her log-book she received at sea from a Brazil brig-of-war, does away all suspicion that she was destined to a blockaded port.

Under these circumstances, no just cause for detention can exist; and I request, therefore, that your excellency will cause the vessel to be released and restored to her American owners.

I have the honor to be, with great consideration and respect, your excellency's most obedient servant.

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of the La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at the La Plata.

[Translation.]

ON BOARD THE FRIGATE PIRANGA, *off Montevideo, January* 19, 1827.

MOST EXCELLENT SIR: I have received the letter which your excellency addressed to me yesterday, relating to the detention of the schooner United States.

The captain did not inform your excellency of the true circumstances of his case; and it was not to be expected that he would willingly pronounce his own condemnation, and confess the abandonment, as it ought to be considered, of the protection of the Government of the United States.

The schooner United States was carrying to a port belonging to the enemies of the Brazilian Empire contraband of war, viz: 200 barrels of gunpowder, 39 chests of muskets, many military equipments, and more than 1,400 cannon balls. Contraband of war always was excluded from the commerce with belligerents in every treaty; even in that of the armed neutrality, which was in force from 1780 to 1782, and which had for its object the protection of the commerce of neutrals. All writers on the laws of nations (publicistas) condemn it, and say that it ought to be deemed, as it were, a pestilence infecting the rest of the cargo and the vessel; and they grant a right over the carriers as over prisoners of war. I forbear citing authors who support this side of the question; you surely cannot be ignorant of them. Let us see what was the career of the schooner, and what are the excuses of the captain.

She entered the Rio de la Plata at a point unfavorable for reaching the port of Montevideo, (onde apenas tinha para poder entrar.) She passed its meridian, passed the banks by the south channel, and was sailing for Buenos Ayres, but when she saw the vessels in the entrance of the harbor she fled; and as she could not be chased because it was night, she made for the offing of Colonia, wishing to enter there, for she had no longer the means of escape; if she turned to the south she was prize to the vessels from which she had fled, and coming by the north channel she would be captured by those she confesses to have seen off Montevideo. She even came armed with a pivot gun, without due license; for we cannot

view as such the clearance, (despacho da alfandega,) the only paper that speaks of it, and which merely consists of what the captain represents. Let us proceed to the excuses.

The captain says, (and inserts it in his log-book, now in Montevideo, in comparatively recent writing, *com tinta fresca*, of which the judge and his clerk have made declaration, *fez termo de declaracao*,) that a Brazilian brig-of-war informed him that Montevideo was blockaded by the Buenos Ayrean squadron. He saw vessels, and supposed them to be Buenos Ayrean. Let it be so. By this fact the captain learnt that the war between Brazil and Buenos Ayres still existed; he sought this port, laden with contraband of war, that is, in the case stated above. Now, with such merchandise it is not necessary that the port be blockaded; it is sufficient that it be a port of the enemy. He ran for Colonia because he was not able to avoid both divisions; and that of Colonia, forming part of this squadron employed in the service of the blockade, guards the north channel. Nor was Colonia a port in which he could enter without being in distress, (avaria,) which he neither professed nor suffered; since he could not sell where there is not nor ever has been a custom-house.

From the moment the schooner passed the banks she could have no other destination than Buenos Ayres. And if the captain says (as I understand your excellency, *como me constou ter nito a N. Exc.*) that he wished to go that way to Montevideo, it would be the same were he to say that he would go to Rio de Janeiro by Cape St. Augustin or St. Roque. Not having shown that he discovered a mode of navigating by land, your excellency well knows how inadmissible is such an excuse.

I regret that this disgust has been given to your excellency; but your excellency remaining in the Rio de la Plata, will have repeated occasions for witnessing the bad faith with which they navigate in this quarter; and it is owing to moderation that the knowledge of it has not extended to a greater distance.

My concession to Captain Hoffman, of the corvette Boston, compelled me to invent arguments to palliate my desisting from the exercise of the conceived right over the brig Pioneer. The consequence has been that the captain has availed himself of my generous conduct to afterwards enter protests, and to prosecute a suit against me, with the arms I myself have furnished; and however ill judged it may be on his part, it at least shows his perfidy.

In consideration of the foregoing, those vessels, although they may not be considered in the same case with the schooner United States, but which I conceive myself justified in stopping or detaining, shall be decided upon by the competent courts, after which they must remain as matters of controversy between the respective Governments.

I have the honor to be, with the greatest consideration and respect, your excellency's most obedient and humble servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States in the Rio da Prata.

U. S. FRIGATE MACEDONIAN, *off Montevideo, January* 22, 1827.

SIR: Owing to the difficulty, at this distance, of communicating with the shore I did not receive until to-day a translation of your excellency's letter to me of the 19th instant.

All that your excellency says against a neutral trading with a belligerant in articles contraband of war is just, and might, with great propriety, be urged against the schooner United States had she been seized by a cruiser of Buenos Ayres; but I cannot admit its applicability to the present case on the part of your excellency. This vessel cleared out for Montevideo; and although, when seized, she was not in the direct route for that port, she assigns a satisfactory reason for the deviation.

Your excellency argues, as the captain saw ships off Montevideo, and which he judged to be Buenos Ayrean, that therefore he knew the war still continued, and his seeking this port of Montevideo, laden with contraband, subjects him to condemnation. But here your excellency forgets that Montevideo is a port of Brazil, and not that of an enemy; and I should rather infer, from the captain's avoiding the Buenos Ayrean blockading squadron, that his destination was *bona fide* Montevideo, and that he apprehended molestation from the Buenos Ayrean cruisers, and from no others.

The inference which your excellency draws from this vessel's anchoring at Colonia does not appear just, since she anchored there in open day, and sent her boat on shore for information.

I indulge the hope, therefore, that your excellency will, upon further consideration, deem the suspicion against the schooner United States not such as to justify her detention, and will cause her to be released.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of the La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at the La Plata.

[Translation.]

ON BOARD THE FRIGATE PIRANGA, *off Montevideo, January* 23, 1827.

MOST EXCELLENT SIR: I have received the letter your excellency had the goodness to address to me yesterday, and I see by it that the translator of my letter, not understanding the Portuguese language, has made me appear to your excellency to have written an absurdity. How could it be possible that I would write that contraband of war would be fairly condemned by the Brazilian authorities, upon the basis of its coming for Montevideo, this being a part of the Empire? It is for the wishing to carry it to Buenos Ayres that they view it as a good prize. I will be more laconic, in order to be better understood, and briefly state the tenor of the schooner's log-book, (termo do diario da Escuna,) and the improbability that a Brazilian armed brig should have said that Montevideo was blockaded by the Buenos Ayrean squadron—a plea very difficult to be received.

The schooner United States, laden with contraband of war, entered the river de la Plata, passed Montevideo, and made for Buenos Ayres; but, seeing that she could not stand on without being taken, immediately, on being chased, ran for the north. Her offence is the having wished to enter Buenos Ayres with contraband of war, and her flight to Colonia the consequence of having no longer the means of escape. If she turned to the south, she was captured by the vessels from which she had fled; and if to the north channel, she would be pursued either by the vessels of Colonia, stationed to blockade that channel, or by those others anchored east of the channel.

To the questions put to the pilot in Colonia, he answered, confessing that they sailed for Buenos Ayres, supposing it to be no longer blockaded. But if he learnt by the Brazilian brig-of-war, which he says he met, that the war continued, to contraband of war the blockade was a matter of no consequence. That is the fact, and this the confession made in Colonia; and if they now say otherwise to your excellency, it is because they discover that they have confessed an act which they at first did not suppose to be criminal, in case the blockade no longer existed—an act which, though denied, is proved by their course after they entered the river de la Plata; for, after passing the banks, they could be bound to no port other than Buenos Ayres. They did not reach there, because chased by the Brazilian vessels; they went to Colonia to endeavor to elude by appearances, because they had no means to escape.

I have the honor to be, with the greatest consideration and respect, your excellency's most obedient and humble servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States in the Rio da Prata.

No. 12.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, February* 21, 1827.

SIR: I have the honor to enclose copies of my correspondence since my letter to you of the 24th ultimo.

In consequence of the order of Admiral Guedes to the different commanders of his squadron, dated the 25th ultimo, I received on board this ship thirteen American seamen. They were sent on board without pay; but, upon my application to the admiral, the pay was subsequently brought on board, and given to each man respectively. I also received from the Brazil squadron two American seamen who were detained as prisoners of war, having been taken in the Buenos Ayrean service.

On the morning of the 10th instant the Brazil squadron weighed and stood out of the harbor; and after it was under way, Admiral Guedes' letter to me, dated the 9th instant, was brought on board. It was hastily and imperfectly translated, and I understood the letter to state that I could not enter the port of Maldonado on account of its being blockaded. I deemed it advisable to make known at once that I did not recognize a blockade as extending to public ships; and as he was obliged by head winds to anchor within a few miles of us, I wrote in haste my letter of the 10th instant to that effect. But, upon a more accurate translation of his letter, I perceived that the admiral claimed to exclude foreign ships of war from Maldonado upon the ground that it was a port of his Imperial Majesty, and in a state of revolt against his authority. The exclusion upon that ground, I presume, is tenable. Congress, on the 15th of May, 1820, passed an act designating the ports of the United States within which foreign armed vessels were permitted to enter, and excluding them from all other ports. Believing, from the fairness which has uniformly charaterized our Government in all its foreign relations, that it was necessary I should abstain from all untenable pretensions, I addressed my letter of the 11th instant to the admiral, and sent it on board, as he was still detained near us by head winds. It is of course quite impossible any duty can require me to visit Maldonado, other than that of communicating with the admiral; and his letter to me of the 9th instant provides the modes by which prompt communication with him may be had.

By a regulation adopted at the custom-house soon after the present war had commenced, foreign vessels, taking on board any cargo at this port, are not allowed to depart without giving bonds to the full value of vessel and cargo, to be signed by a resident holding real estate in Montevideo. The condition of the bond is that the vessel shall not enter a blockaded port. As American vessels usually have assorted cargoes, it frequently occurs that parts of cargoes only are saleable here. There are several American vessels now here in this predicament. The amount of cargo on board any one vessel is not so large as to make it an object for any one vessel to proceed with it elsewhere for a market; and the American owners of unsaleable property here wish to transfer the whole of it to one particular vessel to be sent to the Pacific. This cannot be done, according to the existing regulation, without giving bond; and our citizens here asked my interposition, with the view to their being excused from complying with the regulation. I transmit, herewith, a copy of my communication to the Governor of Montevideo on the subject, and a copy of his answer. It happened, very inopportunely for my application, that on the very day it was made the masters of two American vessels, who had sailed from this port *for the Pacific*, but went to Buenos Ayres and there sold their vessels and cargoes, arrived here passengers in the British packet from Buenos Ayres.

It was represented to me, in the first instance, that a foreign vessel entering this port, and selling a part of her cargo, could not depart with the remainder without giving bond; and this is stated in my communication to the Governor, but I since find that I was misinformed. Bonds are not exacted from foreign vessels that do not break bulk, and vessels selling a part of their cargoes are allowed freely to depart with the remainder. It has, however, been in contemplation by the authorities of Montevideo to require bonds from all vessels whatever quitting the port. If the regulation be thus extended, it will operate very injuriously upon the American vessels.

No seizure of American vessels, by the Brazil squadron within the river, has occurred since that of the schooner United States, mentioned in my letter to you of the 24th ultimo.

I have the honor to be, very respectfully, your most obedient,

JAMES BIDDLE.

Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy, Washington.*

[Translation.]

ON BOARD THE FRIGATE PIRANGA, *off Montevideo, January* 27, 1827.

MOST EXCELLENT SIR: The continual demands of consuls and of some naval commanders, requiring to be delivered to them those seamen of their respective nations who, without having contracted any engagement, or who, having completed their engagements, remain on board the different vessels of the squadron under my command, obliged me (to prevent the persons charged with the shipping articles from committing abuses injurious to the honor of the commanders, without their participation in the improper conduct) to issue a general order, a copy of which I have the honor to send to your excellency, in order that complaints of the violation of a right which all nations, with just cause, guard and defend, may at once cease. The result of the most scrupulous examination, with regard to the citizens of the United States, will manifest to your excellency that they will be sent on board the frigate Macedonian, and set at liberty on shore, when they happen to be on board a vessel whose examination may be made during the absence of your excellency from this port, and while no other vessel of war of the United States may be present.

I have the honor to be, with the greatest consideration and respect, your excellency's most humble and obedient servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States in the Rio da Prata.

ON BOARD THE FRIGATE PIRANGA, *January* 25, 1827.

All commanders of vessels which compose the squadron under my command will make a return, so soon as may be, of the foreign seamen that they may have on board their respective vessels who have not voluntarily entered, or who have completed their terms of service and do not wish to remain, in order that they may be dismissed from the service; delivering on board the Ganges seventy-four the subjects of his Britannic Majesty; on board the frigate Macedonian the citizens of the United States; on board the corvette La Zelee the subjects of his Christian Majesty; and conducting those of other nations, which have no vessels of war here, either to Rio de Janeiro or suffering them to go on shore, at their choice.

BARON DO RIO DA PRATA.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, February* 1, 1827.

SIR: In answer to a complaint made by me of an outrage committed by a Brazil officer upon an American citizen on board an American vessel in this harbor, your excellency informed me, on the 14th of last month, that immediate inquiry should be made into the affair; that the result should be communicated to me; and that every satisfaction which was due should be given. Nearly three weeks have since elapsed, and, as yet, neither redress nor any information have been given.

Regarding, as I do, the least outrage committed by a foreign officer upon the person of an American citizen as a matter of great public interest, I again address your excellency on this subject, and I trust that suitable atonement will no longer be withheld.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

ON BOARD HIS IMPERIAL MAJESTY'S FRIGATE PIRANGA,
Off Montevideo, February 2, 1827.

MOST EXCELLENT SIR: In answer to your excellency's letter of yesterday, in which your excellency speaks of the delay of satisfaction for the outrage done to a seaman, a citizen of the United States, on board the brig Sarah George, which is detained in this port, and judged good prize in the first instance, it is proper to say to your excellency that, as yet, no examination has come to my knowledge that may determine with certainty who was the aggressor, and therefore I know only that the quarrel did not take place with the prize-master, as your excellency was informed, it having occurred with a sergeant of the army, who was detached and relieved before I received your excellency's letter.

Your excellency complains of arbitrary punishment inflicted on the seaman before his offence was proven, as it ought to have been, in order that the punishment might correspond with the crime he may have committed. This rule must of necessity apply to both the contending parties; for it would be an act no less grievous to punish a Brazilian without due process of the laws than any citizen of the United States whomsoever.

I have charged myself with a particular investigation, through obsequiousness to your excellency, that, by the result, I may be able to make concession or withhold it according to the development of the circumstances, having it in my power to reiterate the assurance that, in case they prove to be such as represented, satisfaction shall be secured by the chastisement of the offender.

But as your excellency complains that three weeks have passed without the desired end being obtained, that the delay may no longer continue in consequence of the other cares I have in charge, I

leave an opening for your excellency, if it be desirable, to apply to the competent authorities, that all may be terminated by legal means in conformity with the laws.

I have the honor to be, with the greatest consideration and respect, your excellency's most humble and obedient servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States in the Rio da Prata.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, February* 4, 1827.

SIR: In answer to your excellency's letter of the 2d instant, I state that, from your long silence, I had feared your other avocations might have caused you to forget my complaint of the outrage committed upon an American citizen. I learn with satisfaction, however, that the investigation is still continuing, and I shall await with much interest its result, expecting that your excellency will communicate it to me as soon as it is made.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, February* 9, 1827.

SIR: I have the honor to inform your excellency that the commerce of the United States with this port labors under great embarrassment, in consequence of a regulation, recently adopted by your excellency, of exacting from vessels departing with cargoes of foreign articles bonds to the full amount of vessel and cargo, to be signed by a responsible resident of Montevideo.

Your excellency is aware that nearly all the American vessels arriving at this port have supercargoes on board, and that, consequently, the resident consignee does not derive large profits from an American consignment. The stay of the American vessels here is usually short, affording but little time for personal acquaintance; and the American owners may be regarded almost as strangers to the resident merchants. From these two circumstances, it is frequently impracticable for the American citizens here to comply with your excellency's regulation.

It is known to your excellency that American vessels, in general, have on board assorted cargoes, and that the sale of parts only of these cargoes can be effected here. To deny them the privilege of carrying the remainder to a favorable market, except on a condition which, to them, is impracticable, for the reasons which I have stated, is at once unjust and impolitic.

The condition of the bond is, that the vessel shall not proceed to a blockaded port; but I submit to your excellency, whether it is not more dignified and correct to rely upon the number and the activity of his Imperial Majesty's cruisers for the enforcement of the blockade, rather than upon a regulation which, besides being inhospitable, tends greatly and inevitably to discourage the visits of foreign vessels to this port.

From your excellency's enlightened character, I am sure that you recognize the commerce between the United States and this port to be highly and mutually beneficial, as well directly, in the exchange of products, as indirectly, by cultivating, which intercourse is sure to do, respect and good will between the two nations. I trust, therefore, with confidence, that your excellency will revoke entirely a regulation which experience has shown to be so disadvantageous to the trade of this port, and so injurious to the interests of American citizens frequenting it.

Should it occur, however, that my just and reasonable expectation of a revocation of this regulation, in all cases, be disappointed, then it becomes my duty to call to the serious attention of your excellency the very embarrassed situation in which the citizens of the United States now here are placed.

There is a large amount of American property at present here. It consists of parts of cargoes of different vessels, and for which this port offers no market.

The representatives of this property are anxious to place the whole of it on board one particular vessel, probably the ship Governor Hawkins, and send it to the Pacific for a market there. To comply with the existing regulations, I have already shown to your excellency, is impracticable: to sell here, would occasion a sacrifice far exceeding the profits of the parts of the cargoes which have been disposed of here, and make the whole voyage ruinous.

Under these peculiar circumstances, I respectfully, yet earnestly, request that your excellency will be pleased to direct that the different American vessels now in this port be permitted to tranship the unsaleable parts of their cargoes to one vessel, and that she be permitted to depart for the Pacific without being required to give bonds.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency BARON DA VILLA BELLA, *President of the Cisplatine Province.*

[Translation.]

MONTEVIDEO, *February* 14, 1827.

MOST EXCELLENT SIR: To satisfy well your excellency of my regard to your appreciated correspondence of the 9th of this present month and year, I commanded the judge and administrator of this custom-house

to examine into the matter, in order that he might declare the imperial will itself upon the object sought, viz: exemption from bond for the Anglo-American vessels, which, having disembarked in this port some part of their cargoes, wished to carry the remainder to ports affording a better market, according to reasons, otherwise plausible, advanced by your excellency in your note. I assure your excellency that I regret extremely my not being able to assent to your proposition (*or request*, á sua pertençao) in opposition to the imperial decree, a copy of which is enclosed; and if I might, on one hand, attend to reasons adduced by your excellency, which are, perhaps, weighty, on the other I could not subject myself to being taxed with the inobservance of a decree so determinate and so general, as your excellency will see, by which it is not permitted that he who executes the law may interpret it; and less, can he modify his precept, rigidly drawn up—a prerogative which belongs only to the Emperor, to whom your excellency may have recourse by petition.

I regret no less to say that the decree issued, upon the giving bonds, mentions expressly as a motive (por causal) the entrance into Buenos Ayres of an American schooner, by eluding the blockade, a reason which, though it had not been given in so express and general a decree, would induce the taking of all means of precaution for the good of the Government and of the State.

May God preserve your excellency many years.

BARON DA VILLA BELLA, *President of the Cisplatine Province.*

The Most Excellent Signior JAMES BIDDLE.

PALACE OF RIO DE JANEIRO, *March* 2, 1826.

MOST ILLUSTRIOUS AND MOST EXCELLENT SIR: The Viscount of Laguna, in an official paper of the 21st of January of the present year, stated that he had taken measures to subject the captains and consignees of national and foreign vessels, sailing from that port, to giving bond to the value of the goods which they might export, for the purpose of preventing their entering secretly into any ports of the Republic of Buenos Ayres, and affording succor to the enemy, as has been done already by a schooner of the United States of America eluding the vigilance of the blockading squadron. I have to say to your excellency that this precaution merited approbation; that it is proper that it should be rigorously observed, your excellency using all other means that it shall be in your power to prevent similar attempts.

May God preserve your excellency.

VISCOUNT OF BAEPENDY.

Senhor FRANCISCO DE PAULA MAGGESSI NAVARES DE CARVALHO.

[Translation.]

ON BOARD HIS IMPERIAL MAJESTY'S FRIGATE PIRANGA, *off Montevideo, February* 9, 1827.

MOST EXCELLENT SIR: Your excellency having communicated to me, in the last interview which we had on board this frigate, your intention to accompany me when I should sail for Maldonado, for the sake of more ready correspondence with me upon whatever might occur relating to affairs of the citizens of the United States, the continuance of your excellency in that port being impracticable, since his Majesty the Emperor of Brazil has prohibited entrance where possession is held by rebels who refuse him due allegiance, and it possibly becoming the seat of war, as has been already stated to your excellency, renders it incredible that your excellency will attempt to violate those orders of his Imperial Majesty, issued as means conducive to subdue insurgents, to preserve the integrity of the Empire in his charge, and given within the limits of dominions where he had exclusive right to govern, especially when neutral vessels of war suffer no inconvenience from their proximity to Montevideo, as merchant vessels are not allowed to disembark there their merchandise, through want of a custom-house, and there remaining only cases of distress, in favor of which hospitality makes exception, and when the vessels of his Imperial Majesty stationed in that port will afford all the assistance they may need, until it be possible for them to go where they may receive more efficient aid, desiring not to be deprived of communication with your excellency, which I prize very much, on the contrary, to remove all difficulties that may hinder it, it is proper to inform your excellency that Pedro Antonio Nunes, chief of division, who acts as Inspector of the Marine Arsenal in Montevideo, has been charged to remit whatever documents and letters that shall be directed to me. Through him your excellency will be able to send yours, which shall receive the most prompt reply. Through the same channel I will receive with pleasure your excellency's commands.

I have the honor to be, with the greatest consideration and respect, your excellency's most humble and obedient servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States in the Rio da Prata.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, February* 10, 1827.

SIR: I received to-day the letter of yesterday's date, which your excellency did me the honor to address to me. It is my duty to acquaint your excellency that I cannot recognize in a belligerent the right to exclude a public vessel of the United States from a blockaded port, and that I shall visit any port in this river which the duties intrusted to me by my Government may require me to visit.

But your excellency, in the last conference I had the honor to have with you, informed me that all vessels seized upon the pretext of intending to violate the blockade, would, in your absence, be conducted to this port. If, then, the facilities stated by your excellency of communicating with you, during your stay at Maldonado, be sufficiently maintained, I shall remain at this anchorage; as at this achorage I shall receive the earliest information of any incident requiring a communication from me to your excellency.

I cannot sufficiently express my regret that your excellency should depart from this port without making known to me the result of the investigation into a complaint of an outrage upon a citizen of the United States, made by me to your excellency so long ago as the 14th of last month.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, February* 11, 1827.

SIR: Your excellency's letter of the 9th instant was sent on board this ship yesterday morning early, after your excellency was under way, and was hastily and therefore imperfectly translated. I understood your excellency's letter to say that I could not enter the port of Maldonado in consequence of its being blockaded. I deemed it necessary to apprise your excellency that I could not recognize a blockade to extend to ships-of-war, and sent my letter to that effect as soon as the wind obliged you to anchor. But I perceive since, from a more accurate translation, that your excellency claims to exclude foreigners from Maldonado upon the ground that it is a port of his Imperial Majesty, and in a state of revolt against his authority.

I therefore now acquaint your excellency that, in consequence of your excellency's communication to me of the 9th instant, I shall not, either in this or any other ship under my command, enter the port of Maldonado without necessity.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

No. 13.

Extracts of a letter from James Biddle, dated United States Frigate Macedonian, off Montevideo, March 20, 1827, *to the Secretary of the Navy.*

"SIR: I have the honor to report that there has not been any American vessel seized by the blockading squadron, or at least brought to this anchorage, since the date of my last communication to you. All seizures, either within the river or on the coast of its vicinity, are brought here in the first instance. Recent decisions at Rio de Janeiro, by which damages have been awarded against the captors, cannot fail to render the Brazil cruisers more circumspect in their future conduct towards neutral vessels."

"The British loss in this case is serious, and is without any redeeming consideration; while, in regard to our country, I incline to the opinion that the additional activity of our trade to Brazil, caused by the war, fully compensates to us for the partial deprivation of our ordinary trade to Buenos Ayres. The Brazil Army and Navy consume an immense quantity of provisions from the United States, and pay well for them. Many of our citizens have sold their vessels to the Brazil Government at large profits, and others have procured from it good freights. It seems probable, too, that not a single American vessel seized by the blockading squadron will be confiscated finally. On the other hand, our vessels occasionally succeed in eluding the blockading squadron, owing, however, to the grossest neglect of its officers, and get war prices for every thing at Buenos Ayres."

No. 15.

UNITED STATES FRIGATE MACEDONIAN, *Rio Janeiro, May* 15, 1827.

SIR: I sailed from the river Plate on the 25th ultimo. Owing to the prevalence of cold damp, winds for the last fortnight of our stay at Montevideo, and some blustering weather afterwards at sea, my crew were attacked with dysentery, which went nearly through the ship. The attacks were, however, in general of a mild character, and began gradually to disappear upon our reaching a more favorable climate.

I remained in the river Plate exactly four months. I am of opinion that the number of vessels commissioned for the purpose by the Government of Brazil is adequate to maintain, lawfully, the blockade. It may, however, be doubted whether the officers employed in this service are vigilant in the performance of their duty; and it is, I think, upon this ground only that any question as to the legality of the blockade can now be raised.

While lying off Montevideo I procured the release of twenty-five American seamen from the different Brazil men-of-war at that anchorage. Of these twenty-one either had been impressed into the service, or, having entered voluntarily, had served out the term for which they had entered. All these men received their pay up to the day on which they were sent on board this ship. The remaining four were prisoners of war, having been captured under the Buenos Ayrean flag; and they seem to have suffered, as indeed they deserved, harsher treatment than the prisoners who were citizens of Buenos Ayres. By entering a foreign service these men had forfeited all claim to the protection of their Government; but it was impossible not to feel an interest in their situation, and I asked their release as a matter of personal favor to me.

I enclose copies of my correspondence with Admiral Guedes. The day before sailing from Monte-

video I sent an officer to acquaint the admiral that I was about to sail and would call to take leave of him but that I was indisposed. He immediately sent an officer to inform me that he would release to me Barratt and Brown, the two American seamen. I accordingly took them out of a most loathsome prison in which they were confined in irons, and they are now on board this ship. With respect to the American schooner Hazard, she entered Salado from a Brazil port, with a cargo of sugars. Salado is a small port on the south side of the river Plate, and bearing to the southward and *westward* from the anchorage of Montevideo. Admiral Guedes' letter to me, dated April 23, was sent on board this ship at the moment I was getting under way from Montevideo.

I arrived here on the 11th instant. Mr. Raguet, in consequence of the conduct of this Government, was constrained to resort to the ultima ratio diplomatica, and has sailed for the United States. I am not acquainted with the particular circumstances which determined Mr. Raguet to this course; but from an intimate knowledge of Mr. Raguet's official conduct generally, as well in 1823, when I was here in the frigate Congress, as during my present cruise, I may be permitted to say that he has been a faithful, zealous, capable representative of his Government. Foreigners visiting this port, especially those engaged in commerce, are continually suffering unjust and vexatious molestation; and redress is so often denied or unreasonably delayed that all the gentlemen of the diplomatic corps here experience frequent chagrin and mortification.

Enclosed is a copy of a letter from Mr. Forbes, which I received here. This letter was addressed to me at Montevideo, and endorsed to be opened in my absence by Captain Hoffman, who accordingly opened it. Captain Hoffman will, of course, not deem himself authorized to accede to the wish of Mr. Forbes that he should visit Buenos Ayres. Nevertheless, I shall write by the earliest opportunity, and direct him to continue at Montevideo, according to my orders to him previous to my leaving Montevideo.

Mr. Garcia, appointed by the Government of Buenos Ayres its minister to the Court of London, arrived here on the 9th instant in the British packet, which usually touches here on its way from Buenos Ayres to England. The packet sailed on the 11th instant for England, but Mr. Garcia did not proceed in her, and no doubt the main object of his mission is here. He is at present engaged negotiating with this Government for peace.

I have the honor to be, very respectfully, your most obedient,

JAMES BIDDLE.

Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy, Washington.*

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, April* 14, 1827.

SIR: James Barratt and Jacob Brown, two American seamen, are confined in the common jail at Montevideo. They were both taken in Buenos Ayrean vessels, and both of them state that they had been forcibly impressed into the Buenos Ayrean service. As it is well known that the Government of Buenos Ayres does impress foreign seamen into its service, there can be no doubt of the truth of the statement of these men. I have the honor, therefore, to request that your excellency will be pleased to direct that these American seamen, James Barratt and Jacob Brown, be released and delivered to me. I promise, on my part, to detain them on board this ship until there is an opportunity of sending them to the United States.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

FRIGATE PIRANGA, *off Montevideo, April* 17, 1827.

MOST EXCELLENT SIR: By letter of the 14th instant your excellency exacts of me the delivery of two prisoners of war, citizens of the United States, founding your demand in that the Government of the Republic of Buenos Ayres obliges foreigners to take up arms against their enemies, and that *they* have been so compelled.

An act so extremely contrary to the rights of neutral nations plainly shows the condition of that people, and how little they merit acknowledgment of their independence, admitting them into the catalogue of nations whose sovereignty they offend and deny.

I will not presume to point out the means of hindering so scandalous a proceeding, because your excellency cannot be ignorant of them; nor will the Government of the United States fail to put them in practice, in order to punish a national stain, alike contrary to the usage of civilized nations, as opposed to their independence and high standing. Nevertheless, your excellency will permit me to make a remark that will render doubtful the assertion made to your excellency by the prisoners, and which your excellency appears willing to believe.

If those men were constrained, as they wrote to your excellency, the Chargé d'Affaires and the consul of the United States in Buenos Ayres would not have passed in silence a business of such great importance; and, in the incredible case of their just demands being unattended to, or of the inevitable posterior proceeding, (perhaps even the retirement of the Chargé of the United States in Buenos Ayres,) we would have certainty of the facts, which now only appear from the assertion of the prisoners, who are parties too deeply interested in this matter to receive from us entire credit. Besides, the first having been shipped (contratado) in Valparaiso, and having come thence in the corvette Chacabuca, deceived your excellency in saying that he had been forced by the Government of Buenos Ayres; and the second being prisoner for more than a year, in the attack made on Colonia by the Buenos Ayrean vessels of war.

The Chargé of the United States in Buenos Ayres, Mr. J. M. Forbes, up to the 31st of March last, was exercising his diplomatic functions, of which I am assured by a document now before me.

But, ceasing to speak on this point, which does not concern me, and of which I have spoken only in conformity with what your excellency has communicated by your letter of the 14th, I will turn to the demand for the two seamen.

Your excellency knows the right of war possessed over the life of any person met bearing arms against Brazil, and also that the more lenient fortune of those already disarmed and conquered is that of remaining prisoners of war, without having a right to their liberty before peace, or being exchanged for others according to established usage. Nor can such men obtain protection of any Power without shameful infringement of neutrality. There are Brazilian prisoners in Buenos Ayres, and they would suffer great injustice if those of Buenos Ayres should be set at liberty while they remained prisoners.

I believe I have answered your excellency, showing the moral impossibility of granting what your excellency desires.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States in the Rio da Prata.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, April* 20, 1827.

SIR: Your excellency's letter to me of the 17th instant was received yesterday. No one can feel more indignantly than myself the impressment of American seamen by any foreign nation, and the compelling them to fight in a cause of which their country is not a party. The people and the Government of the United States have great sensibility to this subject; and the impressment of their seamen by the Governments of Brazil and of Buenos Ayres, if persevered in, cannot fail to change the subsisting relations of peace. It is not possible to imagine a more justifiable cause for war.

I have conclusive evidence in my possession that the Government of Buenos Ayres has impressed American seamen into its service. I have conclusive evidence that the Government of Brazil, also, has impressed American seamen into its service; and, in proof of the latter, it is sufficient to refer to the order of the Minister of War of Brazil, dated November 18, 1826, published at Rio de Janeiro, in the Diario Fluminense, of November 20, 1826, and to your excellency's letter to me of January 27, 1827.

I regret that your excellency declines to release James Barratt and Jacob Brown. If your excellency will turn to my letter of 22d January last, you will perceive that I admit your right to detain an American seaman similarly situated with Barratt and Brown, and that I requested his release as a particular and personal favor to myself. Your excellency having had the goodness to gratify me in two similar cases, I had indulged the hope that your excellency would have gratified your own feelings and mine by the release of Barratt and Brown, since few things can be more grateful to an officer than to lessen to individuals, as far as possible, the calamities of war.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

FRIGATE PIRANGA, *April* 20, 1827.

MOST EXCELLENT SIR: If the letter I received to-day were not signed by your excellency, I would say that it contains a formal contradiction when it accuses the Government of Brazil of obliging citizens of the United States to serve against nations with whom that Power (the United States) is not at war. Your excellency says that you have in your hand documents to prove it, and refers to the order of the Department of State, published in the Diario Fluminense, of November 20, 1826, and to my letter of the 27th of last January. That proves the contrary to what your excellency supposes; because, as it may have happened that some officer had been ignorant of what was due to neutral Powers, the Department cautions them, and obliges them to confine themselves to the duties prescribed by justice. Whence it follows that the Government took a course opposite to that which your excellency reputes offensive. And with respect to my letter, it has the same tendency; because, although when the period contracted for may have expired, yet, if the seamen wish it, they may have liberty to remain; but many of them, instead of addressing themselves to the commanders or to me, are silent, and apply to the consuls or to the military authorities that may be here; and hence results an erroneous opinion, as may be shown from their silence, which evinces the contrary to what they assert. My order, which accompanied the letter, and which your excellency takes for a document in proof, produced a general examination, and occasioned the delivery of many, not claimed, on board the Macedonian; for your excellency did not agree to my ordering them (as I did all the English, with the consent of the English Admiral, and of the consul) to be carried in some vessel to Rio de Janeiro, the place where they had shipped, in order to prevent their going over to the enemies of Brazil, which, by releasing them in good faith, I yielded them the greater facility of doing. Already I have since made some of them prisoners of war.

Already will plainly appear that any person who may have been claimed or demanded, of whatever nation, his contract fulfilled, shall be set at liberty, with no other motive than that required of all Governments by the laws of nations.

I shall speak in particular of the two whom your excellency desires to see absolved from the condition of prisoners, and of the mode by which the peculiar circumstances of their case deprive me of the obligation to release them. They both applied for leave to serve on board this frigate, to exonerate themselves from

the imprisonment on shore. It was not only agreed upon, but I commanded that they should be considered as volunteers, as much from reason as from generosity. One night, in the port of Maldonado, they were detected in lowering a boat to escape to the enemy. What black ingratitude! Besides the two for whom your excellency interests yourself, there were three of other nations. I did not punish them; I commanded them to be secured and returned anew to the prison, from which, at their request, they had been taken. Well may your excellency perceive that benevolence is misplaced on such subjects. I wished to spare your excellency this narrative, but your second letter obliges me to recount it. I feel well assured that your excellency would not have interested yourself for them if these particulars had been known to you.

I have the honor to be, with great consideration and respect, your excellency's most obedient and humble servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States in the Rio da Prata.

UNITED STATES FRIGATE MACEDONIAN, *in front of Montevideo, April* 19, 1827.

SIR: The American schooner Hazard, bound from the port of Salado to the United States, was seized at sea, on the 15th instant, by one of the cruisers under your excellency's command; and I learn, with surprise, that it is the intention of your excellency to detain her for adjudication, under the pretext of having violated the blockade.

The severity with which violations of blockade are visited upon the offending party renders it obligatory upon a belligerent to conform exactly to all the requirements necessary to constitute a lawful blockade. One of these requirements, as your excellency well knows, is the application of force, to every part of the coast blockaded, in such manner as to render access to it dangerous. It is an acknowledged principle that, if, to any part of the coast in a state of declared blockade, force be not applied, a blockade cannot be recognized to exist with respect to that part. Such is the doctrine of Great Britain—a nation disposed, from her numerical superiority at sea and the frequency of her wars, to carry belligerent rights as far as they can be carried. It is true, indeed, that Great Britain, under the pretext of retaliating the injustice of her enemy, violated, in 1807, the principles which she had previously admitted in regard to blockade; but it is also true that the Government of the United States preferred the alternative of war to submission to British edicts violating its neutral rights. These principles appear to be well understood by his Imperial Majesty's Government, inasmuch as the Viscount St. Amaro, Counsellor, Minister and Secretary of State for Foreign Affairs, in his note to Mr. Raguet, Chargé d'Affaires of the United States at the Court of Rio Janeiro, under date of December 6, 1825, states that "his Majesty the Emperor had ordered to be fitted out a naval force, with the object of placing in *effective* blockade all the ports belonging to the Government of the United Provinces of the River of Plate."

Now, it is a matter of notoriety that not a single cruiser of any kind has been off the port of Salado for several months past, and that vessels have passed in and out as freely as if war did not exist. Many prizes have been sent into that port; privateers and neutral vessels have entered and departed.

If, then, the relative state of the two belligerents has materially changed since the blockade was proclaimed—if circumstances now render it necessary to employ, up the river, so large a portion of the force under your excellency's command as to leave no force to be employed off Salado, it is manifest that the blockade cannot be deemed to exist with respect to the port of Salado.

I trust, therefore, that your excellency, on further consideration, will cause the American schooner Hazard to be released.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

FRIGATE PIRANGA, *off Montevideo, April* 20, 1827.

MOST EXCELLENT SIR: By your excellency's letter to me of yesterday, upon the detention of the schooner Hazard, I see the whole question is reduced to the consideration whether or not the port of the river Salado, situated near the bay of San Barragam, be blockaded.

That all the ports of the Republic of Buenos Ayres were declared blockaded, your excellency affirms by your letter assenting that this intimation had been made to Mr. Raguet, Chargé d'Affaires of the United States at the Court of Rio Janeiro; the doubt may then consist only in regard to the having force which may sustain the blockade, and make the entrance of vessels attempting to violate it hazardous.

That in the Rio de la Plata there is maintained a squadron of very many vessels employed in this service your excellency knows; and that the enemy have not been able, with their forces, to drive away the imperial fleet from their ports your excellency also knows. On this account, your excellency, considering all the ports within the Rio de la Plata in a state of blockade, in the middle of last February directed an officer to inquire of me if a vessel of the United States could go to a port without the Rio de la Plata without being molested by the cruisers of the squadron, seeing that there an effective blockade did not exist; and I replied frankly to your excellency that I did not consider the ports without the Rio de la Plata as blockaded, from not having force employed in that direction.

By these, the question and the reply, it clearly appears that, previous to the detention of the schooner in question, there was no doubt of the ports of the Republic of Buenos Ayres within the Rio de la Plata being blockaded. The schooner was able to elude in the ingress, but she was not so fortunate in the egress; and her detention is proof that she could not make the attempt without *peril;* that is one of the circumstances detailed by your excellency as essential to a valid blockade.

The retiring from (I do not say the abandonment of) the blockaded ports, which may be occasioned

by stress of weather, by want of provision or water, by distress, or by other causes, never were good arguments to show a blockade raised. I do not transcribe what authors say on this head, because your excellency is aware of it all; yet, it being important, I shall copy the most modern and the most esteemed to support the proposition.

Far different is our case from the parallel your excellency adduces as argument. The blockade of 1807 was, on the part of the belligerents, carried to the extreme of declaring as blockaded some ports which perhaps never had seen, nor would see, a ship-of-war. But can your excellency associate these ideas with the blockade of the Rio de la Plata, thickly sown with Brazilian vessels of war?

The entering of privateers, prizes, and neutrals into the river Salado is not a circumstance that can annul the blockade. Your excellency knows that even squadrons have sailed out of blockaded ports without having to resort to force.

As your excellency is fully informed of all that has passed in the blockaded ports, you must have seen with surprise that the neutrals who have made, as it were, open war against Brazil, from erroneously supposing themselves protected, have been, with little exception, all citizens of the United States; but it is impossible that the Government of the United States, wise, just, and illustrious, should wish to afford its protection to those who, instead of using without evasion the right of neutrals, offend so directly the rights of an amicable belligerent. I take the liberty of transcribing here a few words of an author who cannot be unknown to the very extensive erudition of your excellency, that your excellency may reflect upon them and determine who have assailed the right, whether of neutrals, whether of friendly belligerents. "A nation which, without any other motive than the allurement of gain, labors to strengthen my enemy, and fears not to cause me irreparable injury, that nation certainly is not my friend; and she invests me with the right to consider her and to treat her as the ally of my enemy." I have inserted this principle to show more plainly to your excellency how incredible it is that the Government of the United States should desire to confound such offences with the right of neutrals, or to afford protection to the captains of merchant vessels, who, with shameful want of good faith, come to the very ports of Brazil to seek, by means of counterfeit and treacherous clearances, succor for the enemies of Brazil. Almost daily this is done before our eyes in Montevideo; and if bonds are required of them, they draw up successive protests to gain time, and never give them. Perhaps the excessive tolerance has led them on to such high-handed audacity.

I now learn, since your excellency asserts it, that the last war between the United States and England arose from the right established in the blockade in 1807. Without distrusting what your excellency says, I hope I shall be allowed to make a few reflections.

It is difficult to comprehend how that political doctrine of England should have offended so greatly the United States; and that, being proclaimed in 1807, the war should have taken place not until five years afterwards, its declaration being made in June, 1812. And it is still more difficult to conceive that, such being the motive or cause of war, it should have produced this effect with England and not with France, which was the first to establish, to declare and practice that principle, the proceeding of England being a natural consequence and a right of reciprocity, for the opposition ought to go to the fountain head, or to the trunk from which it was produced. Not to continue to urge objections, since your excellency avers it, it remains for me to ask of your excellency a condescension, and even a favor. The right of blockade having been the cause of war, it is an infallible consequence that peace could not be made without some understanding upon this point of maritime right; and, as I never yet have been informed of the manner in which that difference of opinion was set at rest, I entreat your excellency to point out the article which settled this principle, in a convention between the United States and England, that this very case may serve as a guide upon some occasions of our correspondence; because if there is not, then the principles of England should continue in force, at least by a tacit right. That which surprised your excellency, the necessity of the schooner's case being litigated, I find most reasonable and just; there the pro and con may be discussed. The judgment of such cases, your excellency knows, is committed to the tribunals of the capturer; but, that they may not judge of good or bad prize by the peculiar laws of their own country, rather, on the contrary, by those of nations—that is, by public right, which is regulated in many modes. Your excellency will permit me here to transcribe what sound authors say, of which your excellency cannot be ignorant, and for that reason I do not venture to put name, date of edition, the section, or the pages; I shall do so only for your convenience. In short, although it may be acknowledged that the capturer has no right to dispose of his prize before it has been adjudged to him, usage and treaties grant jurisdiction in disputes that may arise, in respect to this, between the capturer and the claimants, only to the Sovereign of the former; while, at the same time, the capturer is not obliged to carry his prize to the port of a third Power. And although the courts of admiralty may be sensible that it is according to treaties, and, in the want of them, according to the general and universal law of nations, and not according to the peculiar laws of the country that ought to determine, (*c*) yet the single-sided interpretation of treaties, and, in defect of them, the diversity of principles that may be adopted as the law of nations, furnish vast ground of complaint to neutral Powers against the proceedings and the decisions of these tribunals, either upon the nature of the case, upon the admission of ulterior proof, or touching the finding in the often enormous costs of suit, &c.

(*c*) Answer of the Duke of Newcastle to Mr. Michel Ezzählungen Merkwündigen, page 258. Answer of Great Britain to the Declaration of Russia, of April, 1780, vol. 4, page 345. Ordinances of the United Provinces of the Low Countries, 11th December, 1747, and 14th February, 1748, &c.

After this conclusion, I have reason to believe that, if injustice be done, there will be an opening for diplomatic correspondence; yet it never can be a matter the determination of which I ought to take upon myself.

I have the honor to be, with great consideration and respect, your excellency's most humble and obedient servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States in the Rio da Prata.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, April* 22, 1827.

SIR: The circumstance of your excellency's letter of the 20th instant having been sent to me through the American consul delayed my receipt of it.

The captain of an American merchant vessel lying in Montevideo called upon me, in February last, to know whether Rio Negro was a blockaded port, and I informed him that it was not, inasmuch as no force was then employed on that part of the coast. He expressed a wish to know your excellency's opinion, as he would not attempt to enter Rio Negro if your excellency deemed it in a state of blockade. I therefore sent an officer to make for him the inquiry of which your excellency speaks; but I do not perceive, as your excellency does, that it clearly appears from the question and the reply in regard to one port, that there was, therefore, no doubt of certain other ports being blockaded.

Your excellency is correct in believing that the Government of the Unites States does not afford protection to its citizens who offend against the belligerent rights of nations in amity with it. Your excellency well knows that, when, unhappily, war breaks out, neutral nations have an indisputable right to trade with both belligerents, with the exceptions only of blockaded ports, and in articles contraband of war. In cases of blockade affecting the property of its citizens, the Government of the United States only requires that the blockade should be maintained according to the principles of international law. Against a blockade not so maintained the Government of the United States does and will protect its citizens.

I state in my letter of the 19th instant that the United States had declared war against Great Britain in consequence of her edicts of 1807. Your excellency finds it difficult to comprehend how this is possible, because the war was not declared until June, 1812. It is the policy of the United States to cherish peace, and she has always cherished it with great sincerity. A war cannot be just when its object can be obtained by negotiation. When, therefore, Great Britain violated the just rights of the United States, the latter sought redress by amicable negotiations, and continued to negotiate as long as there remained any hope of amicable arrangement. But in 1812, Great Britain still persevering in her injustice, the Government of the United States, to vindicate the national honor, declared war against her. Your excellency states that, if the British edicts had been the cause of the war, it is an infallible consequence that peace could not be made without some understanding upon the subject; that you have never been informed of the manner in which that difference was set at rest; and your excellency asks me for information. The treaty of Ghent is silent upon this subject. It is not difficult to explain the cause of this silence. In the first place, peace was restored in Europe, thus suspending the exercise of all belligerent rights; and, in the next place, Great Britain, during the existence of the war, had revoked these very edicts. The reason, perhaps, why the United States did not go to war with France was that the United States, while negotiating with England, negotiated also with France, and France repealed her obnoxious decrees as respects the United States. If your excellency continues to doubt the cause of the war with Great Britain, and desires to be further informed, it will give me much pleasure to show your excellency the State Papers of the United States for the year 1812, which are now before me.

But to return to the more immediate object of my addressing your excellency. In all cases of alleged breach of blockade, the tribunal trying the same is bound by the law of nations to ascertain the existence of an actual blockade, and the employment of such a force as is adequate to prevent communication with the interdicted ports. If the blockading force be withdrawn for any cause other than distress of weather, or if it appears that vessels have frequently entered and departed, the party accused has a right to an acquittal.

Since your excellency has decided that the American schooner Hazard must undergo a trial before the competent tribunal, I shall await its result, confident that, under the circumstances, she must be acquitted.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Seignor RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation]

ON BOARD THE FRIGATE PIRANGA, *April* 23, 1827.

MOST EXCELLENT SIR: I could never entertain a doubt but that the motives of the last war were those asserted by your excellency. What surprised me was, that France, being the cause of putting in execution such an extraordinary blockade as the one decreed by Napoleon, and from which *he* never would deviate, should be exempted, and that very nation solely involved which had adopted it by right of reciprocity—a right which ought to have ceased the moment the neutrals obliged the nation which had caused the mischief that so much exceeded all known practices of right and reason to desist from putting it further into execution.

It might have been the case that some convention had fixed this right or altered the existing one; but, through your excellency's answer, I learn the contrary, and therefore we remain with the same rules of right which we previously possessed. It is to them that I adhere; and as the schooner Hazard was captured in the act of leaving the river Salado, and not, as your excellency had been informed, "at sea," an expression which your excellency makes use of; and, although literally correct, as she was unquestionably not captured *in a port*, still conveys an erroneous idea thus far, that it may signify that the capture did take place at sea, distant from the blockaded port.

An accidental absence of a blockading squadron on account of some urgent motives does not destroy the validity of the blockade if it is shortly re-assumed; such is the opinion laid down by Chitty, a more modern writer, in his work published in 1812, and strengthened by the authority of Sir William Scott, who frequently has given decisive sentences in favor of the United States ships captured by the English.

It is not in the power of your excellency to be acquainted with the orders transmitted by me to the vessels performing the blockade of the river Plate; still your excellency may have perceived that more than forty ships have been employed on that service; thus, with above forty vessels employed in block-

ading the ports of the Republic of Buenos Ayres, it cannot reasonably be said that a blockade of those ports does not exist.

A possibility to elude blockades does not amount to annul them; it is a chance productive of benefit to those who succeed in the attempt, and disastrous to them that fail; which latter was the case with the schooner *Hazard*.

In March, 1799, (previous to the rules of 1807, which originated the war between the United States and England,) England declared all the ports of Holland to be in a state of blockade by the British forces; and that any vessel, whatever might be her flag or cargo, which should attempt to enter, would be condemned, *according to the laws of nations*, as trying to afford assistance to places besieged or blockaded. The same right that exists to blockade one port, does also exist to blockade many when the forces are sufficient. Your excellency will find these doctrines laid down in the respectable works of Mr. Sergeant Marshall and before-mentioned Chitty. Holland could certainly not be encircled by a close line of vessels; yet none of the neutral Powers did oppose the said declaration or the effects arising from it.

It being my duty to address your excellency on this occasion, I avail myself of the same opportunity to state that the officer lately sent by your excellency to reclaim four individuals witnessed that none of them were under circumstances of being discharged according to their contracts, and that one of them was an Englishman. Other individuals of that nation have been demanded by your excellency in consequence of letters written by them, although I have several times assured your excellency that no foreigner is detained on board the ships belonging to the squadron under my command after he has asked for his dismission and served the time of his engagement. The above stated will happen when faith is given to their own assertions; and, moreover, a prisoner of war has already been reclaimed from the frigate Paula, as having served his time of engagement; besides this, a demand has been made for the delivery of a Portuguese sailor from on board of the said ship, as being a citizen of the United States.

As his Majesty the Emperor of Brazil is at the same time King of Portugal, who can have a right to claim a Portuguese subject which is on board of a Brazilian ship-of-war?

England has frequently been at war without Hanover partaking in the same; if, under such circumstances, a Hanoverian was to be on board of a ship belonging to his Britannic Majesty, no one could certainly have a right to claim him. I am aware that your excellency has desisted from making such demands, and it was in order to prevent similar occurrences that I gave orders to signify to your excellency that I could not admit of any reclamation which was not made in writing.

Your excellency will find this method, which I have established and communicated to your excellency, to be far better than to give credit to letters from sailors, which may be conducive of disagreeable occurrences, which prudence bids to avoid.

As a proof of the esteem which I hold your excellency in, I have the pleasure to deliver up the two sailors, prisoners of war, and citizens of the United States, which your excellency desired to be set at liberty. Wishing your excellency a happy voyage, and envying to see your excellency delivered from the place of banishment in which I still must remain, I have the honor to be, with much consideration and profound respect, your excellency's most obedient and humble servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States in South America.

No. 16.

UNITED STATES FRIGATE MACEDONIAN, *Rio Janeiro, May* 22, 1827.

SIR: I enclose a copy of a letter addressed by me to the Marquis of Queluz, the Secretary of State of this Government for Foreign Affairs, and also a copy of his answer.

The negotiations for peace still continue. Nothing definitive has as yet taken place, or at least has yet transpired; but peace is so very necessary to both belligerents that I think the present negotiations must effect it.

I have the honor to be, very respectfully, your obedient servant,

JAMES BIDDLE.

Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy, Washington.*

UNITED STATES FRIGATE MACEDONIAN, *Rio Janeiro, May* 17, 1827.

SIR: The Government of the United States not having at present a diplomatic representative at his Imperial Majesty's Court, it devolves upon me to acquaint your excellency that the American brig Calista, which arrived last evening at this port, has on board provisions consigned to me, as per bill of lading herewith enclosed. These provisions are for the sole use of the squadron under my command, and have been sent from the United States by order of the honorable the Minister of Marine of the United States at Washington.

I have the honor to request that your excellency will be pleased to give the necessary instructions to the officer of the customs, to enable these provisions to be discharged in the same manner as was done in November last, in a similar case. By the terms of the charter party, only fifteen days are allowed for the discharge of these provisions. I beg leave, therefore, to state that it will be a great accommodation to me if your excellency will be pleased to give instructions to the officer of the customs as soon as your excellency conveniently can, as, in the event of any part of these provisions remaining on board the Calista at the expiration of fifteen days, I shall be subject to the payment of a heavy demurrage daily.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency the MARQUIS OF QUELUZ,
Counsellor, Minister and Secretary of State for Foreign Affairs.

FOREIGN OFFICE, *May* 19, 1827.

The Marquis of Queluz presents his best compliments to Commodore James Biddle, and acquaints him that he has received his letter of the 17th instant, enclosing a bill of lading of provisions on board the American brig Calista, consigned to him by the honorable the Minister of the Marine of the United States for the sole use of the squadron under his command, requesting the same to be delivered to him free of duties.

The Marquis of Queluz has the pleasure of acquainting Commodore Biddle that his Imperial Majesty has agreed graciously to his requisition, and that orders have been issued on this date for that purpose.

The Marquis of Queluz avails himself of this opportunity to renew to Commodore Biddle the assurance of his esteem and consideration.

Extract of a letter from Master Commandant B. V. Hoffman to Captain James Biddle, dated United States ship Boston, Montevideo, May 13, 1827.

"The American schooner Montezuma has been sent in here by the blockading squadron, and expect she will be released as soon as the Brazilian admiral is made acquainted with the circumstances."

UNITED STATES SHIP BOSTON, *Montevideo, May* 25, 1827.

SIR: I have the honor to acquaint you, since my last, that nothing has transpired of consequence. Three American vessels have been sent in here under suspicious circumstances, and released immediately by the admiral, warning them of the blockade by endorsing their registers.

I regret to learn, by the late advices from Rio, that instead of peace there is every prospect of a continuation of the war.

I have the honor to remain, very respectfully, sir, your most obedient servant,

B. V. HOFFMAN.

JAMES BIDDLE, Esq.,
Commanding United States Naval Forces, Coast of Brazil.

Extract of a letter from Commodore Biddle to the Secretary of the Navy, dated

RIO JANEIRO, *August* 3, 1827.

"Enclosed is a copy of a letter from the Marquis Queluz to Mr. Wright, dated the 25th of May last. When Mr. Wright received this letter I requested him not to transmit it to Washington until we ascertained that there was actually an intention to restore the schooner Hazard. I now send a copy of this letter, because I learn from Montevideo that the vessel and cargo have already been restored

"I procured the other day the release of four American seamen, who had been impressed into the Brazil frigate Donna Paula, lying in this harbor."

PALACE OF RIO DE JANEIRO, *May* 25, 1827.

The Minister and Secretary of State for the Affairs of the Navy having communicated to me the correspondence carried on between Commodore Biddle, at present in this port, and the admiral, commander-in-chief of the Brizilian squadron in the river Plate, relative to the American schooner Hazard, detained by the aforesaid squadron, I have to inform Mr. W. H. D. C. Wright, consul of the United States of America, that I am about to carry this affair to the knowledge of his Majesty the Emperor, and already anticipate that the motives alleged against the detention of the aforesaid schooner appear to me worthy of attention.

By this opportunity I reiterate to Mr. Wright the protestation of my esteem and consideration.

MARQUIS OF QUELUZ.

Mr. W. H. D. C. WRIGHT, *&c.*

No. 21.

UNITED STATES FRIGATE MACEDONIAN, *off Pernambuco, August* 27, 1827.

SIR: I sailed from Rio Janeiro on the 8th instant, remained several days about Cape Frio without seeing any privateers, and to-day arrived off this port. As the anchorage here is exposed I shall not myself leave the ship. I am about to send in a boat, with a communication to our consul, and the length of my stay here will depend, in some degree, upon the information I may derive from him.

I enclose a copy of a note from the Marquis Queluz to Mr. Wright. The allegation against the two seamen, Perry and Finchem, is, that when the schooner Leopard was boarded at sea by a Buenos Ayrean privateer, they informed the privateersmen that a Brazil officer was secreted below in the schooner; in consequence of which the Brazil officer was taken on board the privateer and detained. Upon the arrival of the Leopard at Rio Janeiro these two seamen were taken to the prison-ship; and subsequently, upon the application of Mr. Wright for their release, the order issued for their delivery to me. I sent the order to the prison-ship, received the two men, and they are now on board. I shall take an opportunity of

sending them on board some homeward-bound American vessel. By the note of the Marquis Queluz you will perceive that these men are released upon an implied condition that they be remitted to our Government for punishment. These men owed no duty to the Brazil Government, nor could they properly be punished by it for any offence committed on board an American vessel at sea. It possessed, in fact, no right to imprison them, and, consequently, was bound to release them without conditions of any kind. Under these circumstances, and feeling a deep interest for every citizen who is unjustly deprived of his liberty by any foreign Power, I was of opinion that it would be fastidious in me to decline receiving these men because I did not intend to conform to this implied condition of their release. It would be absurd to send these men home for any trial or inquiry, since the Brazil Government has furnished no evidence to convict them, and the men themselves deny what is alleged against them. I presume, indeed, that the Government of Brazil never intends to inquire about these men; and if it does I should have no difficulty in giving a satisfactory explanation.

When I sailed from Rio Janeiro the Peacock was expected, and I left a letter for Captain Jones stating that, should circumstances admit of his doing so, it would be advantageous to the public interest if he would touch at Bahia and Pernambuco on his way home.

I have the honor to be, very respectfully, your most obedient,

JAMES BIDDLE.

Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy, Washington.*

PALACE OF RIO DE JANEIRO, *August* 6, 1827.

I have to acquaint Mr. Wright, consul for the United States of America, that the Minister and Secretary of State for the Marine Department has communicated to me his Imperial Majesty's determination that the two sailors, John Finchem and Isaac Perry, belonging to the American schooner Leopard, be placed at the disposal of the commander of the American forces in this port, declaring that his Imperial Majesty expects the said two seamen will be remitted to their Government in order to receive their due punishment.

By this opportunity I reiterate to Mr. Wright the protestation of my esteem and consideration.

MARQUIS OF QUELUZ.

Mr. W. H. D. C. WRIGHT, *&c., &c., &c.*

No. 22.

Extract of a letter from Commodore James Biddle to the Secretary of the Navy, dated

UNITED STATES FRIGATE MACEDONIAN, *Rio Janeiro, October* 21, 1827.

"My last letter to you was dated August 27, off Pernambuco. I sent in a communication to Mr. Mansfield, our consul at Pernambuco, inquiring of him whether the public tranquillity was still disturbed, whether the local authorities had unlawfully molested our citizens or their property, and whether the Buenos Ayrean cruisers on that part of the coast had interrupted our trade. Mr. Mansfield's answer, as you will perceive by the enclosed copy of his letter, being satisfactory upon all these points, I did not deem it necessary to anchor at Pernambuco.

"I arrived here on the 29th ultimo. From Captain Hoffman's different communications to me, it appears that since my leaving the river a number of American vessels have arrived safely at Buenos Ayres, and that two American vessels have been seized by the blockading squadron, namely: the brig Nile, from Canton, bound to Buenos Ayres, seized within a few miles of the city of Buenos Ayres; and the brig President Adams, from Montevideo to Baltimore, seized in the river about forty miles *above* Montevideo. The Nile has been released; the President Adams detained for adjudication. The cargo of this latter vessel is of small amount. The master of her having sent me his protest, and requested my interposition with the Government here for his release, I availed myself of the notification contained in the letter of the Marquis of Queluz to Mr. Wright, our consul, and sent him a certified copy of the protest. I have no answer to my note to the Marquis of Queluz. I do not expect any, nor is any necessary."

CONSULATE OF THE UNITED STATES, *Pernambuco, August* 27, 1827.

DEAR SIR: I have to acknowledge the pleasure of your communication of to-day. I shall be greatly disappointed if I do not have the pleasure of seeing you on shore, and sincerely hope the weather may be so favorable to-morrow as to induce you to anchor and remain with us a few days. I believe you may anchor three miles from the shore with perfect safety.

As regards the political tranquillity of this province, I am happy to inform you it is perfectly restored. In fact it can hardly be said to have been disturbed by the late events. A conspiracy, emanating from an obscure source and confined to a few discontented individuals, was fortunately discovered in season to prevent any ill effects from it, and the principal actors arrested.

The President, general, and some others, were to have been assassinated, and the most direful consequences would have followed.

Our citizens and their property are respected by the local authorities, and every facility granted which we can require.

The commerce of the country has been greatly annoyed by the Buenos Ayrean cruisers; but in no instance have they molested the vessels of the United States. On the contrary, they have always been treated with the greatest civility; and when supplies have been drawn from them, ample returns have been made. This I attribute mainly to the presence of our ships-of-war on this coast.

You will be pleased to learn that our mutual friend, Captain Elliott, of the Cyane, has arrived home in safety.

The brig Ruth arrived here a few days ago from Philadelphia, and proceeded to Bahia, having, I believe, letters for the Macedonian. We are expecting the Adriana from Philadelphia in a few days.

Mr. Lees, supercargo of the Ruth, and a personal friend of Mr. Raguet, informed me that Mr. Raguet had been well received by the Government.

I am enabled, by the politeness of Captain Wm. Austin, to send you the latest papers here. He begs me, at the same time, to present you his most respectful compliments. He has a letter of introduction from a friend of yours.

Hoping for the gratification of seeing you, I am, dear sir, with sincere respect and regard, your most obedient servant,

JOHN T. MANSFIELD.

JAMES BIDDLE, Esq., *United States Frigate Macedonian.*

[Translation.]

PALACE OF RIO DE JANEIRO, *October* 1, 1827.

The undersigned, Counsellor, Minister and Secretary of State for Foreign Affairs, has the honor to communicate to Mr. W. H. D. C. Wright, consul for the United States of America, that his Majesty the Emperor has just appointed a consulting junto, composed of men of great confidence, to review the processes on maritime prizes made by the ships-of-war blockading Buenos Ayres, and others, a review of which has been or shall be requested, that, upon the report of the said junto, the imperial decision may be founded; that, in consequence, those reclamations may be addressed to the Secretary of State for Foreign Affairs, in petitions made by the same parties, or in notes by their respective ministers plenipotentiary or agents, if they shall judge it necessary, giving a brief exposition of the grounds of the said reclamations.

The undersigned has deemed it necessary to make this participation to Mr. W. H. D. C. Wright, for the advancement of this business; and profits of his opportunity to reiterate the protests of his perfect esteem and obsequiousness.

MARQUIS DE QUELUZ.

UNITED STATES FRIGATE MACEDONIAN, *Rio Janeiro, October* 9, 1827.

SIR: The consul of the United States at this port has furnished me with a copy of your excellency's letter of the 1st instant, notifying to him that his Imperial Majesty had appointed a consulting junto to review the processes on maritime prizes made by the ships-of-war blockading Buenos Ayres, and stating that the reclamations of the neutral parties may be addressed to the Secretary of State for Foreign Affairs.

I have the honor, therefore, to transmit herewith to your excellency a certified copy of the protest on oath, made at the consulate of the United States at Montevideo by the commander, the officers, and two seamen of the American brig President Adams; which vessel, after disposing of all the saleable part of her cargo at Montevideo, sailed from that port, bound to the United States, and while prosecuting her homeward voyage was seized and detained by one of his Imperial Majesty's cruisers.

Under the hope that his Imperial Majesty will give such orders as may prevent the recurrence of similar outrages, I beg leave, on this occasion, to call your excellency's attention to the treatment experienced by the citizens of the United States composing the officers and crew of the President Adams, as detailed in the accompanying protest.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency the MARQUIS OF QUELUZ,
Counsellor, Minister and Secretary of State for Foreign Affairs, Rio Janeiro.

No. 23.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, November* 19, 1827.

SIR: I reached this anchorage on the 6th instant from Rio Janeiro. Enclosed are copies of the letters which passed, during my absence from the river, between Admiral Rodrigo Pinto Guedes and Captain Hoffman. I also enclose a memorandum of the American vessels seized by the blockading squadron during my absence. The particulars in these cases are extracted chiefly from the protests made by the masters of the vessels. No vessels other than American have been seized; no others now attempt to force the blockade.

About two months ago the practice obtained here of endorsing the registers of all neutral vessels about to leave the port, notifying to them the blockade; and in some instances recently vessels have been prevented from sailing during strong easterly winds, upon the ground that sailing under such circumstances was violent presumption of an intention to break the blockade. These measures have been adopted in consequence of the number of vessels cleared from this port for Valparaiso that have arrived at Buenos Ayres. They have caused great clamor among those who are likely to be affected injuriously by them; but I shall find it difficult to bring myself to make any serious remonstrance upon the subject. Neutral vessels are allowed freely to come to this port; but it is, I think, asking too much to be allowed to sail from this port further up the river for information as to the blockade.

I enclose a copy of a letter to me from Mr. Forbes, our Chargé d'Affaires at Buenos Ayres. It

behooves Mr. Forbes to be circumspect in giving such information as to any particular vessel, and I presume he has been so. It is, I think, certain that many vessels and cargoes leaving this port under the American flag, for Buenos Ayres, belong to foreigners residing at Buenos Ayres. The motives of these foreigners in wishing their property to appear as American until its safe arrival at Buenos Ayres, are sufficiently obvious; and as their secrecy may be depended upon as long as their interest requires them to be secret, it is difficult to detect foreign ownership in the case of any American vessel that may be seized.

I have the honor to be, very respectfully, your most obedient,

JAMES BIDDLE.

Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy, Washington.*

UNITED STATES SHIP BOSTON, *Montevideo, July* 8, 1827.

The undersigned presents his compliments to the Baron of the Rio de la Plata, and commander-in-chief of his Imperial Majesty's naval forces in the Rio de la Plata, and requests he will inform the undersigned of the cause of the capture and detention of the American brig President Adams, whereof Albert P. de Valengin is master, taken on the morning of the 6th instant by one of the cruisers under his command.

The above vessel pursuing her legal voyage, and not having violated the blockade, it is presumed she is not liable to detention under that pretence.

I have the honor to be, with great respect, your obedient servant,

B. V. HOFFMAN.

HIS IMPERIAL MAJESTY'S FRIGATE PIRANGA, *off Montevideo, July* 16, 1827.

The undersigned having received a note from Captain Hoffman, commandant of the corvette of the United States of North America, the Boston, under date of the 8th of this month, in which he expresses a desire to learn the motive for the detention of the brig President Adams, and adds that she was pursuing her voyage, and had not violated the blockade, proceeds to reply, having delayed for certain facts for his better instruction. Although intimation had been given to neutral nations that all the ports of the Republic of Buenos Ayres are blockaded by the maritime force of his Majesty the Emperor of Brazil, in order that no captain of a merchant vessel may plead ignorance, from time to time its continuation has been published, and even in Montevideo it was published on the 28th of last April in the gazette entitled Seminario Mercantil, and also by public notifications on the 21st of the said month of April, this place being, as it were, in the midst of the blockaded ports, and where neutral vessels came (for mere excuse or rather pretence) to make inquiry. Hence they cannot be ignorant of the blockade; and, in the centre of the blockaded ports, they may receive intelligence from their consuls, (preface 2d,) an anticipation perhaps unnecessary, because the United States will accede to the convention of 1780, which equally binds all other maritime nations. Nor is there discrepancy in the article which treats of the circumstances under which a port ought to be considered blockaded; for a vessel attempting to elude is deemed good prize if she be taken, since the last article of the same convention refers for elucidation to the preceding ones. The undersigned having thus laid down the principles, he proceeds to discuss the case in question. The brig President Adams loaded with provisions in Montevideo, and after it was known in the garrison (na Praca) by many and various gazettes of Buenos Ayres, and by official documents transcribed in them, that peace was not made, she sailed with a clearance for Boston on the 3d of this month, and was stopped at 6 o'clock in the channel between the Chico and Ortiz banks, heading W.NW., the direction in which the division blockading the more western ports has vessels stationed to prevent entrance into the Bay of Barragan, one of the blockaded ports, and the direction in which now there are no other than blockaded ports, having made a course totally opposite to that of her clearance. See how, abusing the hospitality and the good faith with which, in a garrison besieged by land, the sale of provisions is permitted for a neutral and friendly port, these same provisions were destined for the enemies of Brazil and for blockaded ports, making use of a friendly port to draw from it sustenance for the enemy, and using it also as a lookout where to wait and profit by the occasion favorable for doing it.

No one can doubt that this proceeding is more a means of making war with impunity than the liberty of trading as a neutral.

It is not to be believed that such cases, clothed with so iniquitous circumstances, can ever be sanctioned or justified by the President of the United States, whose learning and justice are admitted and well known; but it seems to be impossible to deter avaricious speculators from bad faith, (and Captain Hoffman has witnessed it here often enough,) whom only ruinous consequences can restrain. The papers of the brig, and the report of her case, are about to be delivered to the proper tribunal, where the parties interested will test its justice, remaining free from all future proceeding on my part. The undersigned presents his respectful compliments to Captain Hoffman, and assures that he is, with much consideration and respect, his attentive venerator and servant,

BARON OF THE RIO DE LA PLATA.

UNITED STATES SHIP BOSTON, *Montevideo, July* 18, 1827.

SIR: On the 8th instant the undersigned had the honor to address your excellency a note requesting to be made acquainted with the cause of the capture and detention of the American brig President Adams, by one of the vessels of his Imperial Majesty acting under your command.

It ought not to be concealed that, to the undersigned, it has become a source of sincere regret that so long a time has elapsed without his having been honored with any communication from your excellency in reply to an inquiry involving no other points than a demonstration of the facts in relation to the aforesaid capture and detention. As it has been made a part of the duty of the undersigned, to the Government under which he has the honor to serve, to watch over and protect the maritime interests of his

country, so far as the same may fall within his province, and to avail himself of every justifiable and honorable means within his power to accomplish the object of his trust; and believing your excellency has delayed an answer through a misapprehension of the motives of the undersigned, or from some other unforeseen cause, the undersigned begs leave to urge this subject again for your excellency's consideration; and, at the same time, to avail himself of the occasion to express the sentiments of high respect and esteem with which he has the honor to subscribe himself your excellency's most obedient servant,

B. V. HOFFMAN.

His Excellency the BARON OF RIO DE LA PLATA,
Admiral and Commander-in-chief of his Imperial Majesty's Naval Forces, &c., &c., &c., Rio de la Plata.

UNITED STATES SHIP BOSTON, *Montevideo, July* 20, 1827.

SIR: The undersigned, in behalf of the master and passengers in the American brig President Adams, now under seizure in this port, has the honor to solicit your excellency's permission for them to take out of that vessel their private baggage, papers, &c., to be subject to such inspection as your excellency may please to direct.

The undersigned has the honor to renew the assurances of his highest respect and esteem.

B. V. HOFFMAN.

His Excellency the BARON OF RIO DE LA PLATA, *&c., &c., &c.*

UNITED STATES SHIP BOSTON, *Montevideo, July* 20, 1827.

SIR: The undersigned has the honor to transmit herewith the copy of a letter this day received from the master of the American brig Nile, bound from Canton to Buenos Ayres, but intercepted and brought to this port by the blockading squadron of his Imperial Majesty stationed off Buenos Ayres. Upon examination your excellency will find the following points clearly demonstrated: That the brig left Canton in total ignorance of the continuation of the war which so unhappily subsists between his Imperial Majesty and the Republic of Buenos Ayres, and, of course, could not be aware of any impediment in the pursuit of the voyage; that she was not boarded by any vessel, prior to her capture, by which she could have been furnished with the necessary information of the blockade of Buenos Ayres; and that, upon the strictest scrutiny, it will be ascertained that the whole cargo, as well as the vessel, is *bona fide* the property of citizens of the United States. It ought also to be remembered, in corroboration of the legality of the voyage and of the purity of Captain Forbes' intentions, that, in consequence of having no prize crew placed on board, it was at his own option to obey the orders of the commanding officer of the blockading squadron or evade them.

Under all the circumstances of the case, and considering the liberal construction which his Imperial Majesty has been pleased to place on the laws of blockades, and so very honorably conceded to the Government of the United States, the undersigned flatters himself that your excellency will find no difficulty in awarding to the American brig Nile a fair and honorable acquittal.

The undersigned has the honor to be your excellency's most obedient servant,

B. V. HOFFMAN.

His Excellency the BARON OF RIO DE LA PLATA,
Admiral and Commander-in-chief of his Imperial Majesty's Naval Forces, &c., Rio de la Plata.

UNITED STATES SHIP BOSTON, *Montevideo, September* 6, 1827.

SIR: The undersigned has the honor to address your excellency in behalf of a number of citizens of the United States of America, now serving on board the fleet under your excellency's command, whose terms of service are represented to have expired. The Government of the United States has ever viewed the employment and detention of its citizens by foreign Powers as a subject of special care and interest, requiring from its officers a strict investigation, so far as the same may be practicable, of every case of involuntary detention that falls under their observation. The undersigned refers particularly, at this time, to the case of George Brown and others, on board his Imperial Majesty's ships Emperatrie and Isabella, and a seaman by the name of Elliott, now on shore at the hospital. But the undersigned places implicit reliance upon your excellency's sense of justice, and due regard to the present good feeling manifested towards each other by our respective Governments, that, should other cases of the like nature appear, your excellency will, as in those now complained of, cause a free and impartial investigation to be instituted; and the undersigned pledges, in all cases where similar complaints may be made by the officers of his Imperial Majesty to those of the United States, that every facility shall be afforded to effect a full and ample restitution. The undersigned would also respectfully call your excellency's attention to the course of conduct which, during the absence of your excellency, has been pursued towards the crew of the American brig President Adams. My communication of the 20th of July, in behalf of the passengers and master of that vessel, was designed to include all concerned, nor did the undersigned consider, in asking for their rights, it was necessary to designate the particular persons in the roll of equipage. It never could have been intended that the crew of any vessel, captured under whatever pretext, should, when turned on shore, be deprived of their bedding and clothing; notwithstanding, however, the undersigned has the mortification to inform your excellency that these poor men have been prohibited from touching a single article belonging to them on board the brig President Adams. The undersigned renews the assurances of his high respect, and begs to offer his congratulations on your excellency's return to this anchorage.

B. V. HOFFMAN.

His Excellency the BARON OF RIO DE LA PLATA, *&c., &c., &c.*

UNITED STATES SHIP BOSTON, *Montevideo, October* 23, 1827.

SIR: The undersigned is truly mortified that it should ever again become his duty to address your excellency on the subject of alleged grievances inflicted on the citizens of the United States by the authorities of his Imperial Majesty on this station, but the undersigned must permit no regrets or feelings to swerve him from his duty. By the statement of Jacob Goodrich, master of the brig Caspian, of Boston, (detained by the blockading squadron, and sent in for adjudication,) it appears that the register of that vessel had, prior to her sailing, been endorsed by an officer of the customs in this harbor. It also appears, by a statement of Oliver G. Lane, master of the American brig Frederick, that the register of that vessel has been forcibly and surreptitiously taken and withheld while lying at anchor in this port, by an officer acting, as I have reason to believe, under the immediate orders of your excellency. The undersigned begs leave hereby to protest against such acts, and every such proceeding, in future, in regard to American vessels; and flatters himself that your excellency will perceive at once the impolicy of the authorities on shore persisting in the continuance of such a feeble and futile auxiliary to an alleged blockade as the endorsement of the papers of vessels while lying at anchor in port. It requires no profound knowledge of the policy of the Government of the United States, or the principles by which it is guided in its intercourse with other nations, to predict that such a course of proceeding, if persisted in, will only tend to multiply claims on the Imperial Government, while it will keep alive certain rancorous feelings that have unhappily arisen out of acts of a similar nature during the present war. The undersigned has the honor to request of your excellency an answer whether the endorsements of the papers of the brig Caspian and the forcible seizure and detention of the register of the brig Frederick are acts authorized by your excellency. The undersigned avails himself of this occasion to remind your excellency that his letters of the 20th of July and 6th of September last remain unanswered, and that the requests therein contained are not yet complied with. The undersigned has the honor to subscribe himself, with all due consideration and respect, your excellency's most obedient servant,

B. V. HOFFMAN.

His Excellency the BARON OF RIO DE LA PLATA, *&c., &c.*

HIS IMPERIAL MAJESTY'S FRIGATE PIRANGA, *October* 23, 1827.

The undersigned acknowledges the receipt of the note, dated this day, addressed to him by Mr. Hoffman, which contains three principal objects, viz: the want of reply to his notes of July; the detention of the hermaphrodite brig Caspian; and the visits made to vessels of the United States in the port of Montevideo. With regard to the first, Mr. Hoffman, recollecting that he sent his notes at the moment in which the undersigned made sail, could not expect him to defer going upon what he conceived to be a necessary service merely to answer concerning subjects about which it was not well to ask him; because all that appertains to prizes may be pleaded in the court and tribunals where those causes are lodged; and, in connexion with this, the second object mentioned above remains answered. As to the third, the undersigned, aware that Mr. Hoffman is not ignorant that merchant vessels are subject to the regulations (registros) of the ports into which they enter; that they ought to present their papers on their arrival, in order that their circumstances may be known; and, also, before their departure, that they may show full permit for getting under way, he (S. Sa.) cannot deem himself authorized to make opposition to these measures of policy, which are general, and in which the practice of all nations has not been exceeded; besides, (because the conditions of the war so require,) it must be stated on the registers (nos passaportes) of all merchant vessels, without exception, that the ports of the Republic of Buenos Ayres, within the Rio de la Plata, are blockaded. This is a measure that you (S. Sa.) ought to esteem, for it obviates inconvenience to vessels of the citizens of the United States making voyages to those ports, through ignorance that commerce with them is prohibited; because, otherwise, it would be to give declared protection to those who attempt to perform them with full knowledge of the fact, abusing the good faith with which cargoes are allowed them in the very ports of the Empire, near to those blockaded, for the purpose of carrying them to aid the enemies of the Emperor—a protection not to be hoped for, from the known honor of yourself, (de S. Sa.;) nor would it be possible that the wise and just Government of the United States should confound such insidious operations with the well-defined rights of neutral commerce. Moreover, merchant vessels being obliged to submit to the visits of belligerents wherever they may be met with, cannot be less so in the very ports of the belligerents, it is only from bad faith that merchant vessels can complain of so prudent a measure—one which warns them that they may not incur risk.

The undersigned avails himself of this occasion to renew the assurances of consideration with which he is your (S. Sa.) most attentive venerator and servant,

BARON OF THE RIO DE LA PLATA.

Most Illustrious D. HOFFMAN.

UNITED STATES SHIP BOSTON, *Montevideo, October* 28, 1827.

The undersigned returns his thanks to his excellency the Baron of Rio de la Plata for the prompt attention which his note of the 23d instant received. The undersigned would have considered it his duty to have rejoined immediately, but some circumstances prevented him. The undersigned is somewhat perplexed to perceive that your excellency must have misunderstood him in the extent of the subject touched upon. It was not contended by the undersigned that American vessels ought not to submit to the visits of belligerents, either at sea or in the ports of the latter; nor is he ignorant that these vessels must subject themselves to the rules of the port in entering and clearing at the custom-house; in which measures of policy the undersigned is not aware that the exactions of the authorities of his Imperial Majesty exceed those of other nations. But to these positions your excellency is pleased to subjoin, that "it must be stated on the register (nos passaportes) of all merchant vessels, without exception, that the ports of the Republic of Buenos Ayres, within the Rio de la Plata, are blockaded." The under-

signed confesses he does understand how far this is intended by your excellency as a declaration that the endorsements of the registers of vessels, warning them of alleged blockades, will, in future, be delegated to the authorities on shore. If the undersigned is to understand your excellency that such will be the future course of procedure, all further discussion on this question will be most cheerfully yielded to other hands. The undersigned referred, in his communication of the 6th September, to the alleged detention of several American seamen in the imperial squadron beyond the time for which they were enlisted; and, in one of his communications, of the 20th July last, the undersigned complained in behalf of the master, &c., of the brig President Adams, that they had been deprived of their clothing, &c. This latter complaint was reiterated in the undersigned's note of the 6th of September, yet the clothing has been withheld, subject, as is stated, to the orders of your excellency. On all these subjects, therefore—1st, the endorsement of the registers of American vessels while lying at anchor in port; 2d, the alleged detention of some American citizens on board the fleet under your excellency's command; and, 3d, the withholding the personal effects of the crew of the brig President Adams—the undersigned is at a loss to discover distinct answers in your excellency's note of the 23d instant.

The undersigned has the honor to subscribe himself, with all due respect, your excellency's most obedient servant,

B. V. HOFFMAN.

His Excellency the BARON OF RIO DE LA PLATA.

HIS IMPERIAL MAJESTY'S FRIGATE PIRANGA, *October* 30, 1827.

The undersigned having received to-day the note dated, the 28th instant, addressed to him by Señor Hoffman, commandant of the corvette of the United States of North America the Boston, and seeing that it essentially resolves itself into three articles, specified by him, (S. Sa.,) proceeds to answer to them separately, in the same numerical order.

1. The declaration on the registers of vessels, without regard to their nation, is made, before they make sail, by an officer and boat of the squadron, to whom it is not possible to deny the right to visit, either on the ocean or in a national port, and has for its object to warn neutral vessels of all nations, and in that manner to prevent them from proceeding, through ignorance, to the blockaded ports.

2. There was no seaman, citizen of the United States, who had completed his term of service at the time the demand for such was made. Several times, and in the port of Montevideo, the military authorities of the United States have been assured that no individual of a neutral State has ever been detained against his will after the service to which he had bound himself by contract had been performed; and in case the term expires while out of port, they remain absolved from all duty whatever until they arrive at a place where they may disembark; but an inclination to take cognizance of letters of seamen who are destitute of truth will lead to a needless augmentation of correspondence and to a useless waste of time.

3. The effects of individuals attached to the detained vessels, which, from their nature, are known not to be intended for commerce, are always delivered to their owners. This being the general rule of the squadron, was particularly declared with respect to the brig President Adams. Still, if in its execution there may have been neglect, on notification from Sr. Hoffman it shall be corrected.

The undersigned has the honor to declare himself your (S. Sa.) attentive venerator and servant,

BARON OF THE RIO DE LA PLATA.

Most Illustrious Sr. B. V. HOFFMAN.

Memorandum of American vessels seized, &c., by the blockading squadron, between the 24th of April last (the date of the Macedonian's leaving Montevideo) and this 19th day of November, 1827.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, November* 19, 1827.

1. Schooner Montezuma, of Baltimore, 147 tons; cargo, sugar, tobacco, and other articles; sailed April 13 from Rio Janeiro for Valparaiso; put into the river in consequence of experiencing bad weather and being short of water; was seized May 6 by a Brazil corvette, sent into Montevideo, and released by the admiral; she afterwards went to Buenos Ayres.

2. Brig President Adams, of Baltimore, 199 tons burden, partly in ballast; sailed from Montevideo for Baltimore July 5; about 2 o'clock the next morning, being forty or fifty miles up the river, and steering to the westward, was fired at by a vessel, from which she endeavored to escape, but at daylight was captured and sent into Montevideo; released November 6 by the admiral, the master consenting to waive all claim for damages and to withdraw his protest.

3. Brig Nile, of Boston, 193 tons; with teas, silks, and other articles, from China, bound to Buenos Ayres; was seized July 11 in the outer roads of Buenos Ayres, sent to Montevideo, and released by the admiral.

4. Brig Brutus, of New York, 212 tons burden; cargo, sugar, tobacco, and other articles; sailed September 14 from Santos for the Pacific; September 28, found it necessary to put into the nearest port for supplies; October 2, grounded upon the Spit of Ensenada, (which is up the river, about ninety miles above Montevideo;) was taken possession of by the Brazil squadron; the Buenos Ayrean fort then commenced to fire upon the Brutus, and the Brazil squadron, unable to get her afloat, burnt her.

5. Brig Caspian, of Boston, 160 tons burden; cleared from Montevideo September 29, with her register endorsed that all the ports of Buenos Ayres were in a state of blockade; the master of the Caspian deemed this endorsement illegal, and proceeded up the river to obtain correct information relative to the blockade, and was seized October 2, near Ensenada, sent into Montevideo, and is now awaiting trial.

6. Brig Velocity, of Salem, 119 tons; cargo, bread, rum, and other articles; from Salem to Valparaiso; October 23, was captured by a Brazil cruiser at sea, in the latitude of 41° south, sent into Montevideo, and released by the admiral on the day she arrived at Montevideo.

7. Brig Tuscaloosa, of New York, 228 tons; captured while at anchor off Salado, taking in a cargo of jerked beef, by a privateer launch; the privateer's commission was signed by the President of this province; the Tuscaloosa, Mr. Forbes says, belongs, with her cargo, to foreigners residing in Buenos Ayres. The master has not made a protest before the American consul, nor has he asked my interference in his behalf.

No. 25.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, December* 9, 1827.

SIR: I enclose copies of my correspondence with the Brazil admiral up to this date. The Boston got under way from this anchorage for Buenos Ayres on the morning of the 13th ultimo, and returned yesterday. I considered it due to Mr. Forbes to leave to his discretion the length of the Boston's stay at Buenos Ayres. Enclosed is a copy of my orders to Captain Hoffman, also a copy of his report to me.

In the frigate Congress, in 1823, my order from the Navy Department was not to enter Cadiz if a blockading squadron should object to my doing so; but I consider the order as applying only to that particular case, and not as governing me in all cases. A great desire has been felt by my countrymen and others, since my first arrival on this station, that I would *test the principle* as to the applicability of a blockade to a ship-of-war, but this I considered improper. My impression was, that I ought to communicate with Buenos Ayres if any public object rendered a communication necessary, and that otherwise I ought not. My reasons for sending the Boston to Buenos Ayres are stated in my communications to the admiral and in my letter to Mr. Forbes of the 12th ultimo, a copy of which is enclosed.

With respect to the American seaman, William Nye, I received information from our consul, on the afternoon of the 20th, that Nye had been impressed the preceding night. I sent an officer to state this to the admiral, desiring also that he would release Nye, and his answer was that he would inquire into the circumstances. At the end of two days, not hearing from the admiral, not hearing from the consul that the man had been released, and knowing the frigate was about to sail, I wrote my note to the admiral. Nye was released, not on the 20th, as stated by the admiral, but on the succeeding day.

No vessels have been seized by the blockading squadron since the date of my letter to you of the 19th ultimo. During the last month six American vessels entered the blockaded ports, of which number five had sailed last from Montevideo.

I have the honor to be, very respectfully, your most obedient,

JAMES BIDDLE.

Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy, Washington.*

[Translation.]

HIS IMPERIAL MAJESTY'S FRIGATE PIRANGA, *November* 10, 1827.

The undersigned has the honor to thank his excellency Commodore Biddle for the polite message of compliments sent him this morning, which he duly reciprocates.

His excellency Commodore Biddle having, at the same time, requested that the pilot (o piloto practico) of the Rio de la Plata be lent to bring the frigate Macedonian nearer the harbor, and also to conduct the corvette Boston to the port of Buenos Ayres, the undersigned conceives it his duty to make some observations to his excellency Commodore Biddle with regard to the second object. In consequence of the war between the Empire of Brazil and the Republic of Buenos Ayres, his Imperial Majesty declared the ports of his enemies within the Rio de la Plata under blockade; and blockades, (declaration of war having preceded, whence alone that right can be derived,) it has been constantly admitted by all nations, should not be violated by their vessels of war. From this general consent, by natural consequence, the practice to the contrary is regarded as a positive offence, and it does not seem reasonable, the two nations, Brazil and the United States, being as yet amicable, each party endeavoring to continue so, that this state of things should be altered without, perchance, there appearing to be any necessity for such a misunderstanding.

The undersigned desiring to obviate as much as possible a measure that may excite discord, and at the same time to improve the occasion of having it in his power to render to the Government of the United States, and also to his excellency Commodore Biddle, the services always due to friends, offers to his excellency any vessel whatever of the imperial squadron to carry his officers to Buenos Ayres under a flag of truce; in that manner some person, whom his excellency may designate, will be able to go with them if it should be found necessary.

The undersigned deems it proper to make to his excellency Commodore Biddle some explanation concerning the entrance of English vessels of war into the port of Buenos Ayres, to prevent that fact from being adduced as a precedent.

England, as mediatory nation for peace between the Empire of Brazil and the Republic of Buenos Ayres, had, for that reason, to send there a corvette which carried one of the negotiators and the treaty. Reports being in circulation that it would not be ratified, the populace of the capital became riotous, and lampoons against the British envoy and the English in general were posted. Lord Ponsonby judged it prudent to exhibit there more British force to compel respect, and then the frigate Forte went up; to her I lent my pilot, because as yet there was hope of peace, for there had been no movement which indicated in fact a rejection of the treaty; they all retired, a brig having gone twice afterwards with despatches in furtherance of that end by the mediatory nation.

From the above his excellency Commodore Biddle will perceive that the British vessels of war went to Buenos Ayres not upon the service of England, but upon that of the Empire of Brazil, and that, with the exception of these, no other vessels of war have hitherto gone there.

If the United States were the mediatory nation, (as surely they would have been, from the good understanding and the friendship which they have for his Imperial Majesty, if his Britannic Majesty had not anticipated them,) the same would have happened with their vessels that has occurred with the English, and the latter would not have gone up.

Possessed of all that has been recited, his excellency Commodore Biddle will form the resolution that may appear to him most suitable to the occasion, remaining responsible for the consequences.

The undersigned will have the pleasure of sending the pilot to obey the orders of his excellency in shifting the birth of the frigate Macedonian, not being able to spare him for a longer time, because affairs wearing a different aspect from what they did when he allowed him to carry up the frigate Forte, it may be necessary to him at any moment to get under way.

If in anything else his excellency Commodore Biddle shall find that the undersigned have it in his power to oblige, he may count upon his willingness to the utmost of the ability of the squadron under his command.

The undersigned avails himself of this occasion to renew to his excellency Commodore Biddle assurance of the highest consideration with which he has the honor to be his excellency's most attentive and obedient servant,

BARON DO RIO DA PRATA.

Most Excellent Sr. JAMES BIDDLE,
Commandant of the Naval Forces of the United States on the Eastern Coast of South America.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, November* 11, 1827.

SIR: Your excellency's letter of the 10th instant has been received and attentively considered.

A number of American vessels have recently arrived at Buenos Ayres; and the seamen belonging to them being there discharged, are often compelled, by their necessities, to enter a foreign service. It is my duty to endeavor to relieve these seamen as far as practicable, by furnishing them the means of quitting Buenos Ayres in a public vessel of the United States.

Outrages of an aggravating character have recently been committed upon the lawful commerce of the United States by the private armed vessels of Buenos Ayres, and particularly the American brig Ruth, bound to Santos, and the American brig Anna, bound to Rio Janeiro, have been captured by Buenos Ayrean privateers, and the crews of both vessels have been abused. To ascertain if these captures and this abuse be sanctioned by the Government, and to decide in what manner I shall in future treat these privateers at sea, it is indispensable I should communicate with the diplomatic representative of the United States at Buenos Ayres. These are the considerations which have determined me to send the Boston to Buenos Ayres; and in communicating them I give to your excellency a new proof of my respectful and amicable disposition. It was not necessary I should communicate them, since, in the case of the Boston, all that a blockading squadron can rightfully claim is to be satisfied that she is a public vessel of the United States; and to this end I have already ordered Captain Hoffman to show his commission from the President of the United States to any Brazil cruiser that may ask to see it.

I must be permitted to say, notwithstanding your excellency's observation to the contrary, that blockades never have been deemed to extend to public ships. Great Britain, almost perpetually at war, and numerically superior at sea to any other nation, never for a moment pretended that neutral ships-of-war could be affected by blockades. During several years of the war in Europe, the Government of the United States maintained its diplomatic intercourse with France exclusively by means of its public ships entering the French blockaded ports. In 1811, in the United States ship Hornet, I myself went into Cherbourg, then blockaded by a British squadron; was boarded as I went in by the blockading squadron, but merely for the purpose of ascertaining our national character.

To the list of neutral ships mentioned by your excellency as having gone to Buenos Ayres your excellency might have added the United States ship Cyane, in April, 1826, and his Britannic Majesty's packet regularly every month since the first establishment of the blockade.

It results, therefore, that in sending the corvette Boston to Buenos Ayres, I exercise an indisputable and customary right. At the same time, I fully recognize the relations of amity happily subsisting between the United States and Brazil, and am disposed to preserve them so far as may depend upon me.

When at this anchorage in February last, the Chargé d'Affaires of the United States at Buenos Ayres expressed a desire that I would visit Buenos Ayres; but I then declined, because then no object of a public nature existed to call me there. I did not consider the blockade as at all interfering to prevent my going to Buenos Ayres, but as long as I had no public duty to perform there, I deemed it proper to abstain from going there. Now, however, as your excellency must perceive, objects important to the interests of the United States require that I should communicate with Buenos Ayres; and these objects, your excellency must also perceive, I cannot, consistently with my duty, neglect.

As it is necessary to my views that Captain Hoffman should have a personal interview with our Chargé d'Affaires at Buenos Ayres, and as it is not prudent, at this exposed anchorage, that he should be separated from his vessel, I must decline your excellency's offer of one of the vessels under your command to convey my officer to Buenos Ayres, while I duly appreciate the kindness of the offer.

I will add that, upon my arrival here, on the 6th instant, I received communications from the Chargé d'Affaires of the United States at Buenos Ayres, urging strongly, and upon public grounds, the presence of a public vessel of the United States there.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

HIS IMPERIAL MAJESTY'S FRIGATE PIRANGA, *November* 11, 1827.

MOST EXCELLENT SIR: Although I might have been ignorant of some facts which your excellency recites as having occurred in the late war, I am now informed of them; yet I beg leave to make some remarks upon the same subject, impelled to do so by the station I occupy in the Rio de la Plata.

Your excellency knows perfectly well that, in the late war, monstrous transactions had taken place, such as are no longer received in the law of nations. He who was then chief of the French nation for many years, holding his will alone as legitimate right, forced other nations to resort to extraordinary measures to counteract disorganizing attacks. Your excellency, therefore, must see that examples drawn from that war cannot well apply to periods in which more regularity existed.

The English nation itself, from whom your excellency argues, has given a decision, and consequently pursues a different course in the present war between his Imperial Majesty and the Republic of Buenos Ayres. Some of the English authorities, as well in Rio Janeiro as in the La Plata, pretending to establish the same doctrine which your excellency lays down as certain, the question was referred to the Cabinet of London, and his Britannic Majesty decided that vessels of war could not enter blockaded ports, and such has continued to be the practice of the English.

Permit me, your excellency, to deny the argument of the Packet, because it proceeds from a special convention, and therefore cannot enter into the general rule. No one can forget that that establishment being entirely commercial, its continuance was indispensable for the adjustment of accounts and the liquidation of funds, from the different circumstances which the war and the blockade were about to impose on mercantile transactions. But it does not appear to me that Brazil, in similar cases, and by means of similar vessels, would deny the communication to any other Power. As to the case of the Cyane, though I respect much Captain Elliott, who commanded her, still I cannot admit, before the act be proven a proper one, that it should authorize others.

I cannot agree in opinion with your excellency in adducing arguments from the English because their maritime force exceeds that of other nations. The right of blockade emanates from sovereignty, and as this consists in independence, the small State is sovereign as well as the greater; the rights are equal; otherwise, we are to be considered as degenerated to a state of nature, out of society, where force alone has the right to govern. From this general rule, without making relative application, concerning which I would have much to say, your excellency will see that the comparison does not sustain them. Besides, in conflict with the arguments drawn from the principles of England, the decision of the English Government mentioned above will convince your excellency that there is uncertainty in the opinion affirmed.

I cannot believe that the just requisition of the President of the United States depends for its satisfaction by the Government of Buenos Ayres on a show of force, which could only be employed in case of obstinacy; and therefore I must hope that your excellency may order detention; and, that all may terminate according to your excellency's desires, I again offer any vessel to the orders of your excellency, as, in the same manner, I remain obedient in all things.

I renew my assurances of being, with the greatest consideration and respect, your excellency's most attentive servant,

BARON DO RIO DA PRATA.

Most Excellent Sr. JAMES BIDDLE,
Commandant of the Naval Forces of the United States on the Eastern Coast of South America.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, November* 12, 1827.

SIR: Your excellency's letter of yesterday's date I received this morning.

The usage of nations is not to apply a blockade to ships-of-war; and this usage is conformable to reason, since the legitimate and only object of a blockade is to exclude supplies; and your excellency well knows that a ship-of-war never carries supplies of any kind, except for her own use.

I beg leave to state, in addition to my letter of the 11th instant, that, in 1818, while in command of the United States sloop-of-war Ontario, I entered the port of Valparaiso, then blockaded by a Spanish squadron. The Spanish commodore notified to me the blockade, and requested I would acknowledge the notification of it; which I accordingly did in writing, and then entered the port.

In 1819 the United States frigate Macedonian, Captain Downes, entered the port of Callao, then blockaded by the Chili squadron, commanded by Lord Cochrane, who boarded the Macedonian as she went in.

In 1802 I was a junior officer in the American squadron then blockading the port of Tripoli. A Danish frigate came off the port, which our squadron boarded, and permitted to enter.

Independently of this general usage in regard to blockades, the ships-of-war of another neutral nation have, during the present blockade, passed up to Buenos Ayres. It matters not whether these ships went to Buenos Ayres in their own right, or by the relaxation of your belligerent rights, since your excellency knows that a belligerent is not permitted to apply different principles to different neutral nations, but is bound to conduct towards all alike. Submission to so injurious a distinction is inconsistent alike with national honor and the principles of strict neutrality.

Embargoes are analogous to blockades, and they do not extend to ships-of-war. On the 13th of November last his Imperial Majesty's Government notified to the foreign ships-of-war at Rio Janeiro that an embargo was laid on all the vessels in port. I was lying there with three ships; and the service for them admitting of delay, I deemed it proper, in courtesy to a friendly nation, to respect the embargo. Commodore Jones was lying there with two ships-of-war of the United States under his command; and, as the service in which he was engaged admitted not of delay, he declined, on that account, to respect the embargo, and accordingly put to sea. In 1818, while I was in command of the United States sloop-of-war Ontario, at Valparaiso, an embargo was laid by the Government; and Lord Cochrane, then commanding the naval forces of Chili, requested me to continue in port during the continuance of the embargo. I declined, however, and went to sea. In 1817 an embargo was laid at the port of Callao, and the Vice King of Peru requested Commodore Bowles, of his Britannic Majesty's frigate Amphion, to remain. He refused, however, and went to sea.

I have entered thus largely into the subject in the hope of satisfying your excellency that I have a perfect right to communicate with Buenos Ayres. The public objects requiring my communicating with Buenos Ayres I have already explained, not that I deemed it obligatory upon me to do so, but from sentiments of personal esteem for your excellency. It would give me great pleasure to conform in all things

to your excellency's wishes; but my public duty must be performed, and it only remains to me to acquaint your excellency that the Boston will proceed up the river to-morrow if the wind permits.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, November* 17, 1827.

SIR: The schooner "Joven Emelia," under the Buenos Ayrean flag, and bound from Rio Negro to Salado, was captured on the 17th ultimo by his Imperial Majesty's cruiser Independencia on Morté, and brought into this port. Mr. Ebenezer K. Battelle, a citizen of the United States, was a passenger on board the "Joven Emelia" at the time of her capture; and he had with him a small amount of property, as the accompanying documentary evidence will satisfactorily show. Mr. Battelle was at Rio Negro when the war commenced between his Imperial Majesty and the Government of Buenos Ayres. He was unable, for the want of opportunity, to leave the country; and had, at length, no other means of doing so than by embarking in the "Joven Emelia." Among the accompanying papers, your excellency will perceive certificates from some of his Imperial Majesty's officers, who were prisoners of war at Rio Negro, of Mr. Battelle's hospitality and kindness to them while prisoners. Mr. Battelle had among his papers an order upon the Government of Buenos Ayres for thirty dollars. He informs me that this was for money which, by a forced contribution levied upon all foreigners, he was compelled to pay. From Mr. Battelle's respectability of character, I presume that there can be no doubt that he was compelled to pay this money; and he informs me that he can prove it by persons now in Montevideo. All Mr. Battelle's clothing, bedding, &c., was lost on board the Independencia on Morté.

"The effects of neutrals," says Vattel, Law of Nations, book 3, chapter 7, "found in an enemy's ship, are to be restored to their owners, against whom there is no right of confiscation, but without any allowance for detainder, decay," &c.

I have the honor to request that your excellency will be pleased to give directions that this property of Mr. Battelle be restored to him.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

ON BOARD H. I. B. MAJESTY'S FRIGATE PIRANGA, *November* 18, 1827.

MOST EXCELLENT SIR: The letter which your excellency wrote me, under date of yesterday, contains a proposition of maritime rights that your excellency upholds as the opinion of Vattel.

Without doubt, Vattel, in his work, entitled Rights of Nations on Principles of the Law of Nature applied to the Conduct and Affairs of Nations, in the 3d vol., 3d book, 7th chap., and page 116, treating of neutral property shipped on board of enemies' vessels, expresses what your excellency refers to, and declares that there is no right to appeal for loss sustained on the occasion—that is, it is a risk to which the shipper is exposed when he embarks it on board of enemies' vessels; for example, if a shot should kill on board of her a passenger of a neutral nation. Your excellency gave me, under this principle, an opportunity of speaking of another, which was particularly connected in controversies of maritime right; and I embrace it, and implore your pardon if it should be too voluminous, but the subject requires it.

The enemy's flag to condemn the cargo, and the neutral's not to save, are principles still more ancient, and formed an example or rule before Vattel (who approved of the second, as I will say) cited in his above mentioned work, which were written by Grotius, Gentilis, and others. But, after Vattel had written, many treaties and ordinances established the doctrine to be good prize all property found at sea under an enemy's flag; and so numerous are the opinions given in favor of this doctrine that it would be irksome to quote them.

With regard to the flag not covering property at sea, Vattel himself, folio 116, above quoted, to whom your excellency refers, affirms it. But he is not the only author; the same doctrine your excellency will find in Valin, vol. 2, book 3, article 19, of prizes, page 233; Azuni, in his Universal System of Maritime Rights, published in Paris, and translated from Digeon, vol. 2, page 190; Chitty, London edition of 1812, chap. 4, page 118; Consulat de la mer Artigo, 273; Grotius de jure belli ac pacis; Locinius de jure maritimo; Cavalleiro de Abreu, in his Treatise on Prizes made at Sea, founding himself on treaties of Perineus and Utrecht; Lampredi on the Commerce of Neutrals, page 174; and others. Here, now, your excellency has this principle well authenticated by respectable authors, including those cited by your excellency. But, notwithstanding, I observe, in the letter which your excellency wrote me on the 3d of January, this year, complaining of detained vessels, you included in the list the brig Leonidas, which went to bring cargo of the enemy of his Imperial Majesty, and merely on this charge was a good prize, paying her freight; and Mr. Raguet communicated to the Brazilian Government on this subject that the United States never acknowledged the principle that the flag did not cover the cargo. Without doubt, Mr. Raguet did not remember at that moment that the United States had made a treaty with England, in which the 17th article was contrary to what he quoted.

I have trespassed thus far on your excellency, with the sole intention of explaining to your excellency that I never act without having the support of the best authors or treaties, and never from my own judgment.

In fine, I will say to your excellency that I am of Vattel's opinion in the case of which your excellency

treats; and that my principles, with respect to these two points, only allude to the nature of the property, and not to that of the vessel. Consequently, your excellency can have it made known to Mr. Battelle that he can receive the bales he claims, as I send orders for them to be delivered to him.

I return to your excellency the papers you sent me, and also others, with a memorial that Mr. Battelle had addressed to me a little prior to the receipt of your excellency's letter.

I do not enter into an examination of the forced or gratuitous contribution of Mr. Battelle; but it appears, without his having adopted the Republic of Buenos Ayres as his country, he could not have more outraged or violated the laws of neutrality; and Mr. Battelle's complaining to his own proper Government would atone for it. Let us waive this subject, which is very delicate, and let us judge of it as a matter of little moment.

I have the honor to be, with consideration and respect, your excellency's most attentive and obedient servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander of the United States Naval Forces on the Eastern Coast of South America.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, November* 20, 1827.

SIR: I am honored with your excellency's letter of the 18th instant, and I have made known to Mr. Battelle the orders which your excellency has been pleased to give for the restoration of his property.

Your excellency states that, in my letter of the 3d of January last, complaining of detained vessels, I had included the case of the brig Leonidas. Your excellency has been led into this error by quoting my letter from memory only, since, in my letter to your excellency, of January 3 last, no mention is made of the Leonidas.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, November* 21, 1827.

SIR: I have the honor to acquaint your excellency that James Willis, Ebenezer Clark, John George, John Canty, William Barry, and Charles Haydman, all of them American seamen, were captured, by his Imperial Majesty's frigate Dona Paula, in the month of April last; and that, after their capture, Captain Norton made an agreement with these seamen to enter the Brazil service for the term of six months, promising, on his part, to give them their pay and their discharge from the service at the expiration of the six months. Having served seven months, these seamen were recently sent down from the inner squadron, commanded by Captain Norton, and are now confined in the prison at Montevideo. During my former visit to this river, I had reason to believe that Captain Norton did not always act with good faith towards the American seamen who happened to be under his command. I have, however, implicit confidence in the justice of your excellency; and I pray your excellency to cause the necessary inquiries to be made into the circumstances of these men, after which I am sure your excellency will do what is right and proper on the occasion.

Your excellency well knows the deep interest it is my duty to take in the behalf of every American citizen unjustly deprived of his liberty by any foreign Power; and that a main object with me, in sending the corvette Boston to Buenos Ayres, was the hope of bringing away the distressed American seamen who otherwise might be forced, by their distresses, to enter the service of Buenos Ayres.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

ON BOARD H. I. B. MAJESTY'S FRIGATE PIRANGA, *November* 21, 1827.

MOST EXCELLENT SIR: I have just received your excellency's letter, dated to-day, in which your excellency demands the liberation of six prisoners of war.

No one knows better than your excellency that a prisoner of war cannot have any right to the protection of a neutral Power; he cannot have any other than that of force; and the using of it would make the neutral a belligerent. The act of taking up arms against a nation in amity with his own deprives him of the protection it was bound to afford him before the commission of a hostile act, and placed his own nation in a state of war if it should pretend to support such an aggression; it would, therefore, approve of the act in defending the aggressor.

It is also an incontrovertible principle of the right of nations and war that no prisoner ceases to be considered as such while the war exists, if he be not exchanged previously, or his liberation agreed upon.

In consideration of these two unquestionable principles, let us consider the circumstances in which the seamen demanded by your excellency are placed.

They were taken, on the 8th of April, on board a Buenos Ayrean brig-of-war, after having fought for some hours (owing to local difficulty) with some small vessels of the squadron under my command. To avoid going to prison, they offered to remain on board in the service of the squadron. I agreed to it, and rated them as seamen; and to make them more contented, I ordered them a gratification, declaring,

however, that they should only serve while the war lasted, being the time I had a right over them as prisoners.

At the expiration of six months they declared they did not wish to continue in the service and wanted their liberty. I cannot deny the right to their first request; and the contrary belongs only to barbarous nations, and is what is daily practiced in Buenos Ayres; however, with regard to liberty, they can have no right, rather let them remain prisoners of war as formerly.

It is evident, therefore, the little foundation the reclaimed have to request the protection of your excellency.

I will now treat the question on the grounds your excellency establishes.

Though Commandant Norton should accept the offer of the prisoners to serve, who could support with good reasons that he was obliged to retain in the service men whom he should afterwards suspect? And, if the act of not retaining them would give them a right to obtain their liberty, therefore, they would render themselves suspected, as a sure way of doing away with their being considered in class of prisoners.

I regret I cannot agree to what your excellency desires and demands, for the reasons set forth, the good foundation of which will satisfy the probity, wisdom, and vast knowledge of your excellency.

I have the honor to be, with much consideration and respect, your excellency's obedient servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander of the United States Naval Forces on the Eastern Coast of South America.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, November* 22, 1827.

SIR: I am honored with your excellency's letter relative to the six American seamen now in prison at Montevideo. My application for their release was founded upon the belief that, after these seamen had been made prisoners of war, Captain Norton had stipulated with them that, if they would enter the Brazil service for six months, he would, at the expiration of that period, give them a full discharge. I find, from your excellency's letter, that I had been misinformed, and that these seamen are not entitled to their discharge; nevertheless, I indulge the hope that, before I quit this anchorage, your excellency, from kindness to me and compassion towards these seamen, will cause them to be released.

During the present war the Government of Brazil has built two frigates in the United States, and the American seamen who navigated these frigates to Rio Janeiro being there discharged, many of them were destitute in Rio Janeiro, and on that account entered the Brazil Navy. On the other hand, many American vessels have arrived at Buenos Ayres, and the seamen composing the crews of these vessels have, in like manner, been forced by their necessities to enter the service of Buenos Ayres. Under these circumstances, and considering the character and the habits of seamen—considering, also, the artifices employed by the subordinate officers to induce them to enter a foreign service, I am persuaded it is not the disposition of your excellency to judge or treat these seamen with severity.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, November* 22, 1827.

SIR: William Nye, a citizen of the United States, was impressed on the night of the 19th instant, and taken on board his Imperial Majesty's frigate Piranga, at present at this anchorage.

As the United States does not and cannot permit its citizens to be impressed into any foreign service, I have the honor to request that your excellency will cause William Nye to be released and sent on board this ship.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

ON BOARD HIS IMPERIAL MAJESTY'S FRIGATE PIRANGA, *November* 22, 1827.

MOST EXCELLENT SIR: I received the official note of your excellency, under date of to-day, in which you demand the delivery, on board the frigate Macedonian, of William Nye, an American seaman, who was impressed on the 19th instant.

If he who informed your excellency of this first affair had had due care of informing himself, also, that William Nye had been placed at liberty as soon as he was known to be a stranger, your excellency would not have had the trouble of making your official demand, nor of having a reply.

It were a difficult thing for the officer who made the impressment, by night, on board of Brazilian vessels, to know that a seaman, whom he found there among others, was of this or of that nation, he speaking very well the language of the country, and did not even declare himself a stranger.

No offence is committed, in such cases, until the proper investigations are made; these were done, and the seaman set at liberty, as he ought to be, in quality of a stranger, whether he might belong to the United States or any other nation, because the right is equal to all; and so much is this my political

doctrine, that a Neapolitan, who was impressed at the same time, in whose favor no body wrote, having the same reasons and privileges, was put at liberty on the same occasion with Willliam Nye.

I have the honor to be, with much consideration and respect, your excellency's very attentive servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander of the United States Naval Forces on the Eastern Coast of South America.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, December* 3, 1827.

SIR: John Walker and Seabrit Sollers, two American seamen, arrived at Rio Negro in American vessels, and both of them were left there sick. Upon recovering, as there was no opportunity of returning direct to the United States, they went on board the "Joven Emelia," as their only means of leaving Rio Negro. The "Joven Emelia" was captured by his Imperial Majesty's cruiser Independencia on Morté; and, upon arriving here, Walker and Sollers were thrown into prison, where they still remain.

I have the honor to request that your excellency will cause these two citizens of the United States to be released.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

ON BOARD FRIGATE PRINCIPE IMPERIAL, *December* 4, 1827.

MOST EXCELLENT SIR: I did not reply immediately to the note of your excellency of the 3d of this month, because I wished to investigate the circumstances of John Walker and Seabrit Sollers, whom your excellency reclaims as citizens of the United States, coming as passengers on board the schooner "Joven Emelia" from Rio Negro da Patagonia for the Salado, as your excellency assured me (recomendaber) in your letter.

The schooner was a prize, made by the enemies of Brazil, and was recaptured by the brig Independencia on Morté of the squadron under my command. It is clear that the persons found on board of a prize of Brazil are prisoners of war, particularly not having the title of legitimate passengers. This neither of them had; and, with regard to Seabrit Sollers, he was even entered (matriculádo) on the roll of equipage as an Englishman, although he may now say another thing, which avails him nothing.

Notwithstanding what I have just said, I desire to serve your excellency, and shall set free the first, being an American citizen, because there is no certainty of his belonging to the vessel; and also order the liberation of those of other nations gratuitously (per se, of themselves) who came under similar circumstances, in order that partiality may not become a motive of well founded complaint.

I have the honor to be, with much consideration and respect, your excellency's most attentive servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander of the Naval Forces of the United States on the Eastern Coast of South America.

Extract of a letter from Commodore James Biddle to John M. Forbes, Esq., Chargé d'Affaires of the United States, Buenos Ayres, dated United States Frigate Macedonian, off Montevideo, November 12, 1827.

"It is an indisputable principle, that where the officers employed in enforcing a blockade are negligent in the performance of their duties, a blockade cannot be deemed to exist. I am of opinion that the Brazil officers have been so negligent as to raise, by that circumstance, the blockade proclaimed by the Brazil Government. My opinion is founded upon the fact, that, while very few vessels have been seized, a great many have arrived safely at Buenos Ayres. The very essence of a blockade is, that access to the blockaded port be rendered dangerous by the blockading force; and the multitude of arrivals proves the absence of any serious danger. I wish, therefore, you would transmit to me a certificate from the consular office, stating the number of vessels that have arrived at the different ports of Buenos Ayres, specifying the different ports, from a certain fixed period, the first of May last, for example, to the present day. Let there be no flaw in the certificate, and have the consular seal affixed to it, that I may use it as a document with the Brazil admiral. Perhaps it would be best not to insert the names of the vessels."

No. 27.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, December* 20, 1827.

SIR: I enclose a copy of my letter of the 13th instant to the Brazil admiral; also a copy of his answer. I did not deem it necessary or advisable to pursue the argument with the admiral after the receipt of his answer, and therefore I wrote him only a short note, a copy of which is enclosed.

Mr. Tudor, I understand, is appointed our Chargé d'Affaires at Rio Janeiro. As he will, I presume, have some discussion with the Government respecting this blockade, I shall send him some documentary

evidence upon the subject of the licenses granted by the Brazilian authorities to trade with the blockaded ports; and also a certified list of the number of vessels that have entered the blockaded ports, thus proving that the blockading force is inadequate or remiss.

I have the honor to be, very respectfully, your most obedient,

JAMES BIDDLE.

Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy, Washington.*

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, December* 13, 1827.

SIR: As property belonging to citizens of the United States is at present detained here, upon the allegation of attempting to violate the proclamation of blockade, the duties intrusted to me by my Government require that I should address your excellency upon the subject of it.

It is the established law of nations that, when war exists between any two States, all commercial intercourse between them is prohibited, and must cease. Yet it is a matter of notoriety that vessels with cargoes have cleared at the custom-house of Montevideo for the ports of the United Provinces of La Plata, and that vessels with cargoes from Buenos Ayres, first touching at Calonia, have been admitted to enter at the same custom-house. Of the extent to which this trade has been carried I am not informed; but I am informed, upon unquestionable authority, that the vessels the Bella Louisa, the Santa Ana, the Feliciana, the Hermosa Louisa, and the Buena Ventura, all of them under the Brazil flag, sailed from Montevideo for Santa Fé. The Buena Ventura was boarded up the river by the frigate Piranga, then under your excellency's immediate command, her papers exhibited to the boarding officer, and she permitted to proceed.

His Imperial Majesty's Government has an undoubted right to permit this commercial intercourse with its enemies, notwithstanding that it is incompatible with a state of war; but his Imperial Majesty is too just and too enlightened to expect, while he permits to his own subjects trade with his enemies, that he may deny it to neutrals. It would be extraordinary, indeed, if a belligerent is to be exempt from the evils of his own blockade, while all its evils are to be enforced against neutrals, thereby placing the neutral in a worse condition than the belligerent. These relaxations must alone render the blockade entirely null and illegal.

As a blockade is, in its operation, one of the severest of belligerent rights, the law of nations has clearly defined the measures necessary to constitute it. Among these are, that a force be employed fully adequate to prevent all communication with the interdicted ports, and that the officers appointed to this duty be vigilant in the performance of it. If the force be inadequate, or if the officers be negligent, a blockade cannot, in either case, be deemed to exist. This is the doctrine laid down by Sir William Scott; it is confirmed by Chitty, in his valuable treatise, London edition, 1820, and is indisputable.

The legality or the illegality of a blockade may, therefore, best be determined by a reference to its results. Now, your excellency well knows that a great number of vessels have entered, and continue to enter, the blockaded ports; and that this number so greatly exceeds the number of those which have been intercepted as to establish clearly that there is, in reality, but little risk in entering these ports. Unquestionably the facility of entering them is both the motive and the excuse for the frequent attempts that have been made by neutral vessels.

It is manifest, therefore, either that the force is inadequate, or that the officers are remiss in their duty; and that, consequently, a court of justice cannot condemn a neutral vessel, seized under any circumstances, for a breach of the proclamation of blockade.

I trust, then, your excellency will perceive that the ground of the defence of the seized property is such as to entitle and secure its acquittal in any court of justice; and that your excellency will prefer to release this property, rather than incur further responsibility for the damages of illegal seizure and detention.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency SR. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

ON BOARD THE FRIGATE THE IMPERIAL PRINCE, *December* 14, 1827.

MOST EXCELLENT SIR: I have received your excellency's letter dated yesterday. It abounds with such a variety of ideas that it is necessary, in order to be clear, to discuss each point separately. I will begin by the circumstance of a blockade. In order that it be acknowledged lawful, I will state what is conformable to treaties, and will avail myself of the opinion of the writers cited by your excellency in this and other letters; and will afterwards reply to matters of less importance, (although they are beyond my sphere,) only for a regard to your excellency, who has inserted them in your above mentioned letter of yesterday.

The right of blockade is fixed by one of the articles of the convention of 1780, to which all the maritime Powers, the United States included, did accede. It would be as needless as easy to cite the dates of all those treaties and conventions, as likewise the volumes and pages of Martin's collection, in which all of them are to be found. The article in question says: "In order to determine what characterizes a blockaded port, they agree in giving this denomination to that one where, by the disposition of the attacking Power, were to be found vessels in station, and close enough as to make evidently the entrance dangerous."

Here we have, then, a principle of positive right of nations—a point of public maritime right by convention, and signed by treaties, which forms a general law of nations; it is from it that the consequences will be drawn. Any vessel which met with danger in the blockade, and which, without being

capable to get in, is captured, she is a lawful good prize. It will be more evident by transcribing the last article of the same convention of 1780, saying, "That these principles are the rule in the proceedings and judgment on the legitimacy of prizes."

Your excellency well knows that these principles being agreed upon, the same constitute an unquestionable right, against which the opinion of writers avail nothing. But as your excellency adduces the authority of Sir W. Scott, let us not remit his doctrine to what your excellency refers; let us see all that he says with regard to blockades; and I will cite the same author, Chitty, as your excellency has done, with reference to his edition of London, 1812, page 134: "It would be the most material thing in the world if individuals were allowed to allege ignorance of blockade. *It is the duty of nations to notify it to their subjects, whose property they must protect.* A master of a neutral vessel never can, alleging ignorance of a blockade, go and explore whether it is in force."

Page 135. "A merchant ought not to send his vessel to the mouth of a river, saying, should she not meet with the blockading force let her go in; should she meet with it, and be warned off, let her proceed to another port. Who does not perceive at a glance the fraud which such a principle would not give rise to?"

Page 139. "After the notification of the blockade is made, (nations, which ought to have in mind the safety of their subjects, see the same author, page 134,) the fact of departing for a blockaded port, on a contingent destination, in order to get in, should the port be already open, or to proceed to another one if it is not, is sufficient to constitute offence. I presume that a formal notification is to be made when the blockade is taken off, and till then a port is considered blockaded; and from the moment in which a vessel goes away from a port with destination for the blockaded one, the offence and violation of blockade is complete, and the property exposed to be confiscated."

Page 141. "It would be impossible to sustain a blockade if a vessel could go close to the blockaded port; then she would station herself in a suitable latitude, in order to get in clandestinely, without possibility of impediment. I am of opinion that it would not be out of evidence, the principle of taking her on presumption 'de jure,' that she was going there with the intention of forcing the blockade; *and supposed there may be cases in which they may be innocent, it is a severity necessary and essential to the effectual exercise of this right of war.*"

Being thus put into practice, this doctrine of the two writers (and founded on treaties) which your excellency cites, whose opinions you call weighty and say to be indisputable, certainly your excellency would not have to use arguments resulting favorably to neutral vessels, as such results proceeded from the generosity with which his Imperial Majesty of Brazil treated them when met upon the blockaded station.

Your excellency then availed yourself of the arms of generosity to offend the generous; but you will not forget that the adopted custom of this Navy towards neutral vessels in the act of violating the blockade, being founded on mere favor, is very far from being a maritime right, so that it may be withdrawn, since, in such case, being a favor, its duration depends on the will of his Majesty the Emperor of Brazil, who grants it.

I cannot agree with your excellency that the vessels which got in are more numerous than those captured. Your excellency ought to include in this calculation those ordered off by the favor granted by his Imperial Majesty, which, without this grace, would unquestionably have been good prizes; which was facilitating to them an entrance; and many of these, after being advised of the blockade, have infringed the same, which would not have happened if they had been arrested. Being thus judged by the general right of nations, your excellency had no occasion for the arguments you have used, turning into offensive arms the favors received.

For the right of blockade in the said form it is not necessary to have recourse to that above mentioned epoch; we may refer to ages more remote, and there we will find it in practice. Vattel, the writer whom your excellency refers to in another letter, treats upon this matter, and says, vol. 3d, chap 7th, page 116, art. 117, Lyons edition, 1802: "If I lay siege to a place, or only form the blockade, I have a right to hinder any one from entering, and to treat as an enemy whoever attempt to enter the place, or carry anything to the besieged without my leave; for he opposes my enterprise; may contribute to the miscarriage of it; and thus cause me to fall into the evils of an unsuccessful war. King Demetrius hung up the master and pilot of a vessel carrying provisions to Athens."

Your excellency will find this very case referred to by Plutarcus, "in Demetrio," vol. 1, page 904, Frankfort edition. In the same Plutarcus your excellency will find, page 639 of the above mentioned edition, that Pompey, being at war with Mithridates, King of Pontus, he sent vessels to the Thracian Bosphorus, in order to intercept provisions, imposing the punishment of death upon any one who would be so bold as to sail for that Kingdom.

Here, then, your excellency will see that this right comes from antiquity, and always acknowledged by nations. Let us see, likewise, what says the professor of natural right and of nations of the University of Gottingen, G. F. De Martin, edition 1801, reprinted from the first oldest edition, article 320: "The positive right of nations, and likewise natural law, authorize a belligerent Power to prohibit all commerce with the blockaded place, and punish, by the confiscation of the vessel and cargo, and also by corporal pains, those who would be so bold as to infringe against this prohibition." This work has been so much appreciated that it has been translated into English and reprinted in London in 1802.

What has been the generosity with which his Majesty the Emperor of Brazil has treated the neutral Powers in this blockade your excellency will better know by the system of judging the prizes without reference to the laws peculiar to the nation which has enacted them. I shall transcribe here, in his own words, what the aforesaid professor of natural right and of nations says in his edition of Gottingen, 1801, section 322, page 474. "Enfin quoiqu'il soit reconnu en Europe, que le capteur n'a pas le droit de disposer de sa prise quelconque, avant qu'elle lui ait été adjudgée l'usage et les traités, attribuent la jurisdiction, dans les disputes qui s'elevent á cet egard entre le câpteur et les reclaments au seul souverain du capteur, lors même que celui-ci se seroit ou forcé de conduire sa prise dans le port d'une tierce puissance. Et bien que les Tribunaux d'Amiranté reconnoissent qu'il est d'aprés les traités et à leur defaut d'aprés le droit des gens general ou universel, et non d'aprés les loix particulieres du pays qu'ils doivent juger."

Should these regulations, on sure principles of maritime right, have been put into practice, and if the vessels which have had the audacity to tarnish the rights of the belligerent were not suffered to escape through favor with impunity, thus going, without fear, to the blockaded station; coming, likewise, to the port next to the blockaded ones, in order to wait for an opportunity and wind with which they may the easier evade the blockade; and going away from here, in sight of us, when the wind is favorable to them

and contrary to the course which would be in conformity to their feigned and deceitful clearances, to place themselves in such a point as to be able to evade the blockade during the night, although they receive some balls, the harm of which is taken in exchange for profit; should they, I repeat, have not this liberty, which has been allowed them by the generosity of his Majesty the Emperor of Brazil, your excellency would not have to turn, as I have said above, the condescension and favors received into offensive arms against him who has granted them, and who can, when he thinks proper, put an end to them, because they are gratuitous favors (em cauza) in cause the good principles of which are in opposition to the arguments.

How extraordinary has been the generosity of his Imperial Majesty in behalf of neutrals! But such is not the behavior of his appointed authorities, whose pretensions, beyond the limits of reason and justice, seem to multiply as the serpents from the blood of Medusa's head. Everything has its limits.

I have already said too much upon a principle unquestionable in good reason. I now reply to other subjects of your excellency's letter, which have little affinity or none with my concerns.

I did not seek to know, nor pretend to discover, whether cargoes proceeding from blockaded ports have been entered in the custom-house. But if it has been, and it was, for an abuse of any territorial authority, it would be very far from establishing a rule, from the principle that an error does not authorize another error. If the concession was on the part of the Government of his Imperial Majesty, it is then that your excellency's arguments might be of effect in establishing a general principle; but never for an abuse, if it is true there were any, that would entitle one to claims, but never to precedents.

It was also out of my jurisdiction to know from the President why he gave a license for the province of Santa Fé to a vessel I met with, nor annul such a license from an authority of the Empire independent of mine. But if that was in opposition to my instructions, it was incumbent on me, and was my duty, to give information of the case to the Government of his Imperial Majesty, in order to receive either analogous orders or to avoid the continuation of them; so I did. Should your excellency be well informed, you would know that such licenses are now abolished; it is for that reason that your argument is ill-timed, in spite of what you might say thereupon.

I know your excellency must be continually applied to by the captains of merchant vessels, so that it is only the consideration I entertain for the person of your excellency which could oblige me to write on such subjects, already too tiresome.

I have the honor to be, with the greatest respect, your excellency's most obedient servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander of the United States Naval Forces on the Eastern Coast of South America.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, December* 19, 1827.

Owing to the other avocations of the gentleman who undertook to translate the letter of his excellency the Baron of La Prata of the 14th instant, the undersigned did not receive the translation of it until last evening.

Without entering at this moment into further discussion upon the subject, the undersigned will observe that he cannot accede to the principles of blockade as asserted by his excellency the Baron of La Prata.

His excellency the Baron of La Plata quotes an authority to show that a blockade, once established, is deemed to exist until a formal notification of its repeal. The undersigned will only say that his Imperial Majesty's order of December, 1825, declared to be in a state of blockade "*all the ports belonging to the Government of the United Provinces of the River of Plata;*" that, at a subsequent period, the blockade was so modified as to be limited to the ports within the river of the Government of the United Provinces; and that no formal notification has ever been given of this modification of the blockade.

The undersigned renews to his excellency the Baron of Da Prata, the assurances of his great consideration and esteem, and hopes that his excellency may enjoy the festivities of the season.

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

No. 28.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, December* 26, 1827.

SIR: I enclose copies of letters between the Brazil admiral and myself relative to James Ring, a seaman, who entered on board a Brazil cruiser in violation of his contract and against the protest of the master of the American vessel to which he belonged. I allowed the admiral to have the last word, because it was evident that I could not by perseverance recover the seaman, and because, had I pursued the subject, it must have led to irritation. To avoid irritation as much as possible I consider, under existing circumstances, to be politic and advisable. James Ring is, as the admiral states, an Englishman.

I also enclose copies of some letters relative to the exportation of specie from the ports of Brazil.

I have the honor to be, very respectfully, your most obedient,

JAMES BIDDLE.

Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy, Washington.*

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, December* 20, 1827.

SIR: I have the honor to acquaint your excellency that the American brig Ospray fell in with his Imperial Majesty's corvette Liberal on the 11th instant; that the master was ordered on board; that on

going on board, one of the seamen of his boat, James Ring, entered to serve on board the Liberal; that the master demanded his restoration, which was refused; and that, in the place of restoring the said James Ring, the commander of the Liberal sent on board the Ospray Michael Richardson, a wounded seaman, who, upon the arrival of the Ospray at this port, was sent to the hospital.

I transmit, herewith, the shipping articles of the Ospray, by which your excellency will perceive that the crew have stipulated to perform the voyage and back again to the United States.

Comment upon conduct such as this of the commander of the Liberal is superfluous. I have the honor, therefore, to request that your excellency will be pleased to direct that the seaman, James Ring, be brought forthwith from the Liberal and be restored to the American vessel from which he was taken.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

ON BOARD THE FRIGATE THE IMPERIAL PRINCE, *December* 20, 1827.

MOST EXCELLENT SIR: I have just received the letter which your excellency addressed to me this day, and regret that they are continually incommoding your excellency with incorrect statements, concealing circumstances which, if they came to your excellency's knowledge, would be enough to make you depreciate their pretensions.

The case of the seaman James Ring differs greatly from what they have told your excellency, as I perceive from the manner in which your excellency expresses yourself, supposing that the commander of the corvette Liberal conducted himself wrong, on the occasion of the seaman's remaining on board the corvette; but, as I was soon informed of the occurrence, I shall just relate it to your excellency.

On the blockading ground of the port of Buenos Ayres there appeared the American merchant brig Ospray; the corvette chased her, and ordered the master to come on board with his papers; he came, brought the papers, and the commander of the Liberal, seeing that he was cleared for Buenos Ayres, endorsed the intimation of the blockade on his passport, and ordered him about his business. When the master of the Ospray left the ship he missed one of his men in the boat. He was searched for, and, on appearing, said "hence I will only go if they carry me by force; I want to remain in the service of the Brazilian Empire; and sooner will I lose my wages than go on board with a man who has treated me so cruelly. I am an Englishman, and ask for the protection of the flag under which I find myself."

Now, even had he been a citizen of the United States, and even criminal, he would have found the same shelter; and for the contrary case, it would be necessary that some treaty should stipulate it.

The commander of the Liberal was too good in giving, in the place of the English sailor, another who is a citizen of the United States, a circumstance which may make your excellency estimate how faithfully you were informed. He might have come with a wound, but his going to the hospital was a means to make his case appear aggravating; if he was under that necessity, he would not have gone out of the corvette, for he was not compelled to do so.

For a twenty-four hours' voyage to Montevideo the seaman could not have been wanted; (how many do not die on voyages?) and in this port the captain would find hundreds of them thus profiting the Englishman's wages because he violated his contract. Perhaps in the territory of the United States he would receive another punishment, though not elsewhere.

I have replied to your excellency as I would to any authority in the like case; but to one belonging to the United States there is more to say.

The political doctrine of the United States is not to deliver from their ships-of-war even deserters from the ships-of-war of other nations; notwithstanding that these, by a tacit right or usage, (I am not aware of a treaty on this subject,) reciprocally deliver them to each other. And such is the firmness of the Government of the United States on this point that it preferred in 1807 a naval combat, not being at war, to the delivery of reclaimed deserters.

I do feel much mortified when I receive a letter from your excellency, and see myself deprived of agreeing to what your excellency requires of me; but considering that the requisition proceeds from incorrect information, and that your excellency always guides your feelings by reason, I doubt not that your excellency will do justice to my indispensable refusal.

I return to your excellency the roll of equipage of the brig Ospray, and complain to your excellency of sending to me any paper whatever in evidence of what your excellency says—for me always the greatest evidence (document.)

I have the honor to be, with great consideration and respect, your excellency's most obedient servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander of the United States Naval Forces on the Eastern Coast of South America.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, December* 21, 1827.

SIR: I received to-day your excellency's letter dated yesterday, and I am greatly surprised that your excellency should be so misinformed with regard to the Government of the United States.

The treaty of 1822, between the United States and France, stipulates (article 6th) not only that deserters shall be mutually delivered up, but that, in case the deserters be not apprehended until after the departure of the vessel to which they belong, they may be imprisoned until an opportunity occurs to send them home: provided, however, that the imprisonment shall not continue more than three months. A similar stipulation is contained in the treaty of 1788 (article 9th) between the same nations. But in the absence of any treaty stipulation, the civil authority within the United States delivers up deserters

from foreign vessels whether of war or of commerce. Seamen from a vessel of war are always presumed to be deserters, and the evidence of an officer suffices for their apprehension. In the case of commercial vessels, if it appears by the shipping articles that the seamen had bound themselves to perform the voyage to the United States *and back*, they are always compelled to do so. In the United States we have seamen enough and good enough; but even was it otherwise, foreign seamen would not be encouraged or permitted by the civil authority of the United States to violate their contract.

The only exception to what I have stated that ever has taken place within the United States, is with regard to deserters from British ships-of-war; and the only cause of this exception was, that the British Government resorted to impressment to man its ships-of-war, and frequently impressed citizens of the United States. I can very safely put it to your excellency, whether an American seaman who had been impressed into the British service and made his escape to the soil of his country should be driven by the Government back to the British man-of-war. In the treaty of 1794, between the United States and Great Britain, (article 27th,) it is stipulated that all persons charged with murder or forgery, committed within the jurisdiction of either, who shall seek asylum in the country of the other, shall be delivered up to justice. Nothing is stipulated with regard to the delivery of deserters; and unquestionably the silence of the treaty is to be attributed to the extreme delicacy of the subject growing out of the impressment of American seamen into the British service. Your excellency refers to an outrage upon the sovereignty of the United States committed in 1807, and imputes it to the doctrine of the Goverment of the United States of not delivering up deserters from the ships-of-war of other nations. The proclamation of the President of the United States upon that occasion is now before me; and it is there expressly stated that the seamen in question had been previously ascertained to be native citizens of the United States. During my present cruise I have had a correspondence with Rear Admiral Sir Robert Otway upon the subject of deserters, and I volunteered to him the assurance that British subjects deserting from their own ships should never receive any countenance from me.

Yesterday morning, as your excellency may have observed from your own frigate, two launches belonging to your squadron were driven to leeward, but gained this ship, and remained alongside until evening, when the weather moderated. At dinner time I directed their crews to come on board to get their dinners. Four of them were American citizens; your excellency would do me great injustice, if you suppose that I would have afforded any protection whatever to these men, had they asked it of me. Your excellency has already assured me that no American seamen are now impressed into the Brazil service, and has promised me that none shall be detained beyond the term for which they enter. I desire no better security.

With regard to the seaman James King, I did not inquire to what country he belonged, because I did not consider such inquiry necessary. I only examined the shipping articles to ascertain if he had contracted to perform the voyage back to the United States. Such was the contract; and I must say, that no commander of a public vessel of the United States would have suffered to remain on board his ship any seaman belonging to a Brazil merchant vessel in violation of his contract, and contrary to the wish of his captain.

But your excellency has expressed the determination not to restore the man; I shall, therefore, say nothing further on the subject, but simply report the affair to the Government of the United States.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. Rodrigo Pinto Guedes, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

On board the Frigate the Imperial Prince, *December* 22, 1827.

Most Excellent Sir: I have received the letter which your excellency directed to me under yesterday's date, and observe what your excellency says relative to the case of the sailor James Ring; and, from my reply to your excellency, your excellency must have remained convinced of the rule which I took for the basis of my answer, as your excellency, to establish a contrary case, must recur to stipulated (convencionadas) exceptions, which could only be necessary to prevent the general rule to be followed.

I acknowledge to your excellency, frankly, that I was not acquainted with the preliminary convention to a treaty of peace, concluded on the 24th of June, 1822, between the United States and France; notwithstanding that, there being no similar one with the Brazilian Empire, this neither is obligated to the exception established by the 6th article.

But, even in the case of its being applicable, the delicacy of the subject clearly shows that the article only speaks of the subjects of the two nations; because it is incredible that any nation should consent that, under the safeguard of her flag, a foreigner be punished by authorities being neither of his nation nor of the one among which he is, and less would the latter give aid for the former doing so; and on this principle only, the English sailor, James Ring, if he were a deserter from a man-of-war, could be given up, this being the general practice, independent of treaties, and forms an implied law, (direito tacito.)

But notwithstanding there is no convention between our respective nations, there being neither a prohibitory one, and desiring to follow the sentiments which your excellency manifests in your letter, which give me the assurance that your excellency will be disposed to reciprocity, your excellency may count upon, as long as we both are at the head of our present commissions, my acting on the following principles: first, the deserters from the men-of-war of the United States coming on board of vessels of the squadron under my command, and being reclaimed, shall be given up, saving that being subjects of his Majesty the Emperor of Brazil, who have served out their time of contract; second, the sailors, deserters from merchantmen of the United States, who may come on board of vessels of the said squadron, being citizens of the United States, and duly (competente mente) reclaimed, shall be given up if their vessel is in Montevideo, or in sight of any of the vessels of the squadron.

The master of the brig Ospray did not proceed well; if he intended to lay complaints, he ought not to have agreed to the exchange of the English sailor for the one from the United States. Your excellency

very well knows that they would not have put him on board by force of arms; he carried him himself, in his own boat.

As your excellency has assured me that you will bring my refusal to the knowledge of the Government of the United States, I hope your excellency remains certain that the sentiments which always guide my actions never caused me apprehensions, even allowing that I was susceptible of such feelings.

I am much obliged to your excellency for the goodness you had with the launchmen of the squadron under my command, all in accordance with your excellency's generous and humane sentiments.

I have the honor to be, with much consideration and respect, your excellency's most obedient servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander of the United States Naval Forces on the Eastern Coast of South America.

No. 31.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, February* 25, 1828.

SIR: I enclose copies of my correspondence with the Brazilian admiral up to this date.

I have the honor to be, very respectfully, your most obedient,

JAMES BIDDLE.

Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy, Washington.*

[Translation.]

ON BOARD THE FRIGATE PRINCIPE IMPERIAL, *January* 24, 1828.

MOST EXCELLENT SIR: After the letter which I had the honor to address to your excellency on the 14th instant, and to receive your excellency's answer on the 15th, I have nothing to argue respecting the schooner Shillelah or any other question, be it with the supercargo or be it with the owner. I shall treat, in writing, for the purpose of better understanding each other, and of coming to an agreement or compromise. It is true that I did not answer your excellency's letter of the 15th instant, in order not to make our correspondence more angry on a subject which was following its judicial course; but as your excellency advanced some propositions I shall reply thereto.

Your excellency, after having conceded the necessity of the search of merchant vessels, be it for the purpose of ascertaining the property or whether there be contraband goods on board, gives them right for avoiding such search on account of the vexations which they have suffered in the river Plate. This circumstance does not excuse them even if it was proved, but, in case of being so, gives them the right of demanding satisfaction or indemnity through their consuls, who are competent authorities for any purpose in relation to merchant vessels; and if the subject has to be carried to the cognizance of the Governments, it passes into the hands of the diplomatic representatives, if there are any; but consuls are not to be considered as such according to the convention of 1815.

Military protections cause no good effect in time of peace, nor serve for any other purpose but to encourage speculators, the number whereof increases in the belief that they have a support; it not being given to their ambition to foresee that without principle of reason it will avail them nothing.

Passing to the principal matter, I shall begin with treating of the search in general, and what in relation thereto is said by the most accredited writers.

Azuni, in his System of the Principles of Maritime Law, (vol. 2, art. 4, of chap. 3, of Digeon, edition of Paris, sixth year of the Republic,) says: "The primitive and universal right, and also the conventional right of Europe, permits to belligerents to prohibit to neutrals the faculty to carry to the enemy goods of that kind denominated contraband of war, to possess themselves of the vessels of their enemies, and even to sequester those covered by a neutral flag; *and gives them likewise the faculty to employ all the means which they may judge to favor the exercise of the right above indicated.*" In the same place other authors are cited; and the citation from Vattel must be erroneous, or contained in an edition unknown to me. In that of Lyons, 1802, the matter is treated of in the 3d vol., 3d book, 7th chap., as Azuni says; but the article is the 114th and not the 44th, as it there reads.

Vattel says: "The transportation of goods contraband cannot be prevented without neutral ships found at sea being searched; there is thus a right to search them. Some nations, in former times, opposed this. *At present a neutral vessel which should object to being searched would, by this only circumstance, cause her condemnation as good prize.* In order to avoid inconveniences, vexations, and all abuses, the manner of making such search is stipulated by treaties of commerce and navigation."

Valin, also cited by Azuni, says, in the 2d vol., 9th Title of Prizes, 12th article, p. 250, of the edition of Rochelle, 1760, sec. 5: "Nothing can dispense the obligation to suffer themselves to be searched, (speaking of the captains of merchant vessels,) both on account of its being interesting to ascertain whether the vessel belongs to the enemy, or to ascertain whether, in friendly and neutral vessels, there be not goods of contraband or other effects belonging to the enemy." In the next following section he says: "Thence it follows that, in all cases, he (the merchant captain) must suffer the search of his vessel and papers." In same author, first cited, one reads, that of that opinion are also Lampredi, in his Treatise on the Commerce of Neutrals; the Chevalier Abreu, in his Treatise on Prizes; Cleinac, in his Marine Jurisdiction; and others.

The same rules are established in the ordinances of France, 1584 and 1681; of Spain, 1781; of Denmark, 1710; and, finally, (which for me would be sufficient,) by the 9th article of the Prize Regulations of the 7th of December, 1796, which is the law of the Brazilian Empire. Perhaps there is no marine ordinance without this disposition, which, after being fixed by the treaty of the Pyrennees in 1659, was adopted in every other. It is true that the abuse of good faith has sometimes caused a neutral flag to be affirmed by the firing of a gun; but, in the tribunals, prizes so made are never judged good to the captor-captains, who thereby lose their right, without the prize therefore being given free, if she is otherwise in the case of being condemned. This matter is scrupulously treated of in the Ordinance of France, March 17, 1696, declared and modified by that of the 18th of June, 1704; and particularly by the commentary of

the one of 1681. The use of the neutral flag is permitted to a distance from the chase which may prevent her escape; but, affirmed by the firing of a gun, it is a criminal abuse. But if by this abuse, which has been practiced in some wars, the merchant vessel can have no certainty of the identity of the flag which the man-of-war shows, so the chaser can have none of the one shown by the merchantman, and therefore can compel him to be searched.

If this rule exist in any part of the seas where the merchantman be found, the right of the belligerent is increased on a blockading ground, where, by a conventional right, it is sufficient for a merchantman to appear, to be good prize, when a sufficient time has passed for him to know of the blockade. And when this circumstance, of itself, is sufficient to put the merchantman in risk, this right cannot be doubted when it is corroborated by flight or resistance to search, which indicates bad intention.

Even without searching the conventional right of all maritime nations, which your excellency knows to exist, let us examine the matter. The right to give orders, and to punish those who violate the laws, implies that of promulgating them and causing them to be executed.

A power at war has an incontestable right to attack and occupy the territory of its enemy, and must, consequently, in all places where it occupies the same, be considered as temporarily sovereign; thence emanates the rule of universal reason, according to which, every time that a belligerent acquires the legislative and executive powers, either by his troops possessing themselves of the enemy's territory, or because they placed it in siege or blockade, it has the right to impede to strangers all commerce and all communication with the towns or places so besieged or blockaded, and to prohibit, be it by land or be it by sea, any kind of traffic; for, by a country under the dominion of a belligerent is to be understood not only the one which he occupied before the war, but the places whereof his arms maintain possession, for this gives him a right to impose laws and to exercise jurisdiction. The liberty of the sea does not comprehend liberty of ports, or adjacent waters that have proprietors; and the possession whereof, sustained, gives a right to the occupant.

In consideration of what I have thus laid down, founded on the opinion of the most esteemed public writers on ordinances, treaties, positive and universal law, I cannot agree with your excellency that the Government of the United States cannot agree to the dispositions of the Imperial Government, which are founded on the firmest principles.

I have the honor to be, with consideration and respect, your excellency's very attentive servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States on the Eastern Coast of South America.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, January* 25, 1828.

SIR: I have received your excellency's letter of the 24th instant. Although your excellency is of opinion that military protection in time of peace causes no good effect, the Government of the United States, when it ordered me to this coast, was of a different opinion; and my conduct will always be regulated by the opinions and instructions of my Government.

The various authorities cited by your excellency convince me that I was correct, in my letter of the 15th instant, in stating that "the right of a belligerent cruiser to search merchant vessels met with on the high seas is at present indisputable, though it has, at different periods, and by several nations, been disputed, and even resisted;" and that "this right is conceded, because, without it, the destination and ownership of the property could not be properly ascertained, nor whether there was contraband on board." In admitting this right to the belligerent cruiser, it does not follow that there is any obligation upon the merchant vessel voluntarily to deviate from her course in order that the cruiser may exercise this right, nor any penalty or imputation upon her for not doing so. The doctrine of your excellency is, that by endeavoring to avoid a cruiser, a merchant vessel thereby renders herself liable to confiscation; and I repeat, that his Imperial Majesty's Government deceives itself if it supposes that the Government of the United States will submit that such a doctrine be enforced against the property of its citizens.

In 1807 France decreed that every vessel, to whatever nation belonging, that should have submitted to be searched by a British cruiser, was lawful prize, and should be seized upon entering any port of France or her allies, or upon being met at sea by French ships-of-war or privateers. In consequence of this decree, it became the interest and was the practice of neutral vessels, bound to the ports of France or her allies, to avoid all cruisers at sea. But the Admiralty Courts of Great Britain never set up the pretension that a neutral vessel became liable to confiscation by endeavoring to avoid a cruiser at sea. The doctrine asserted by Sir William Scott was, that, "by the law of nations, as now understood, a deliberate and continued resistance to search, on the part of a neutral vessel to a lawful cruiser, is followed by the legal consequence of confiscation."—(Chitty, vol. 1, chapter 9.) And the same author, deducing principles from the decisions of Sir William Scott, continues as follows: "A rescue effected by the crew, after capture, when the captors are in actual possession, is considered a resistance within the application of the penalty. In the case of the Elsabe, it is laid down as settled that the resistance of the convoying ships is the resistance of the whole convoy; whence it follows that in such cases the whole convoy is subject to confiscation. But, from the case of the Pennsylvania, it appears that, if a neutral vessel has been captured, and the captors, whether from want of hands to navigate her, or for the sake of making other prizes, or from any other motive, allow the neutral commanders to resume the direction of the vessel, without any express agreement binding those commanders to bring her in for adjudication, in pursuance of the original capture, then the escape of the neutral will not be regarded as a rescue or resistance. On the same principle, it was said by the court that, in the case of the Saint Juan Baptista, that a *mere attempt to escape before any possession assumed by the captor does not draw with it the consequences of condemnation.* And the same case further establishes that, unless the neutral vessel have reasonable grounds to be satisfied that a war has actually broken out, even a direct resistance will not superinduce the penalty; for, without a war, there is no such thing as a neutral character, nor any foundation for the several duties which the law of nations imposes on that character. Nor has the penalty been deemed to attach in those instances where a disposition to resistance has at first been betrayed, but afterwards abandoned without being actually carried into operation."—(Chitty, vol. 1, chap. 9, pages 485, 486.)

As your excellency is responsible for the damages of illegal seizure and detention, it will be for your excellency to determine whether the schooner Shillelah shall undergo a trial before the tribunal of prizes.

The preliminary question will be, whether the blockade itself is lawful. On this subject will be produced, 1st, the order of his Imperial Majesty's Government, exacting from neutral vessels leaving this port bonds conditioned not to enter a blockaded port, thereby admitting that the force employed had not been able to maintain the blockade; 2d, a list of vessels under the Brazil flag, licensed by the Brazil authorities to trade with one of the blockaded ports, thus raising the blockade as to its own subjects while keeping it on as to neutrals; 3d, a list of vessels, both of commerce and of war, which have entered and departed the ports of Buenos Ayres, the number of which is so large as to prove that the danger from the blockading squadron is not such as the law of nations requires, in order to constitute a blockade.

In the trial of an American vessel, the Government of the United States is a party to the question of the legality of the blockade as well as that of his Imperial Majesty, and the decision of it, therefore, must be conformable to the established law of nations.

Should it happen that the tribunal decides the blockade to be lawful, then the investigation of the circumstances of the Shillelah, bound from one Brazil port to another Brazil port, will take place; and, although your excellency and I entertain different views of these circumstances, the legal investigation no doubt will disclose the truth. Should it happen that the tribunal pronounces unfavorable decision, it will be for the Government of the United States to determine its course, upon its own view of the question of the legality of the blockade, and of the particular facts in relation to this particular case. The Government of the United States is not willing to permit its neutral rights to be settled for it by either belligerent in the present war.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, January* 26, 1828.

SIR: The master and owner of the American brig Rio has reported to me that the sails of his vessel have been unbent and taken on shore; that the consul of the United States had applied to his excellency the President to know the cause of this proceeding, and that the President had replied it was done at your excellency's request.

I request, therefore, that your excellency will inform me why the sails of the Rio have been taken from her and landed.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

ON BOARD THE FRIGATE PRINCIPE IMPERIAL, *January* 26, 1828.

MOST EXCELLENT SIR: If the orders were given by the President that the brig Rio should be held in security till she gives bonds, to him ought reclamations to be directed.

I have the honor to be, with great consideration and respect, your excellency's most attentive servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States in South America.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, January* 27, 1828.

SIR: The President has informed the consul of the United States that he caused the sails of the American brig Rio to be unbent and landed in consequence of your excellency having acquainted him that you possessed satisfactory evidence (documents) that the Rio had been bought by the Government of Buenos Ayres. It is therefore to your excellency, and not to the President, that I must make reclamation.

It is quite evident that if your excellency possessed documents to show that the Rio was not American but Buenos Ayrean property, you would have taken possession of the vessel and at once produced your documents before the tribunal for prizes. The circumstance of your excellency not having pursued this latter course proves the insufficiency of your documents. The suspicions of your excellency cannot justify the harsh and irritating measure of taking the sails away from the Rio, especially as that measure was not necessary to secure her detention in port; nor ought your excellency, I think, to entertain any suspicion on this subject, after the offer made by the captain of the Rio to sell her to your excellency.

If your excellency is determined to persevere in withholding the sails from the Rio, under the pretext that she is Buenos Ayrean property, I shall recommend to the captain to abandon his property entirely, to return home, and seek reparation for all his losses and damages through the Government of the United States. The case of the Rio will then be analogous to that of the American brig Spark, at Rio Janeiro, in February last, and must be settled in the same manner.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

ON BOARD OF THE FRIGATE PRINCIPE IMPERIAL, *January* 27, 1828.

MOST EXCELLENT SIR: I yesterday answered your excellency in respect to the brig Rio; I have no more to say.

I have the honor to be, with great consideration and respect, your excellency's most attentive servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States on the Eastern Coast of South America.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, January* 23, 1828.

SIR: James Jervis, a citizen of the United States, is now detained on board his Imperial Majesty's frigate Principe Imperial, although his term of service expired on the 12th of this month.

I request that your excellency will discharge James Jervis, and send him on board this ship, as he is desirous of entering the service of his own country.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

ON BOARD THE FRIGATE PRINCIPE IMPERIAL, *January* 23, 1828.

MOST EXCELLENT SIR: Just in time does your excellency claim the sailor James Jervis; because yesterday, the 22d, his contract expired, and not on the 12th as your excellency supposes, probably because so he had sent word. This day his discharge is given him. As the entry on board this frigate is different from what the man said, I ordered the book of his first engagement to be sent for, and there found it as I have said.

Perceiving that your excellency wants him on board of the Macedonian, he shall not land, but he goes on board; his written discharge remaining for the purpose of the money coming from shore.

I have the honor to be, with much consideration and respect, your excellency's very attentive servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States on the Eastern Coast of South America.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, January* 25, 1828.

SIR: John Rodgers, an American seaman, now on board the Principe Imperial, entered the Brazil service at Rio Janeiro for twelve months, and his term of service expired on the 7th ultimo.

Edward Willet, also an American seaman, was *impressed* on board the frigate Piranga, and is now on board the Principe Imperial. I request your excellency will cause these two American seamen to be discharged and sent on board this ship.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

ON BOARD THE FRIGATE PRINCIPE IMPERIAL, *January* 25, 1828.

MOST EXCELLENT SIR: The seamen, Edward Willet and John Rodgers, whom your excellency reclaims in your letter of to-day, are in circumstances very different from which your excellency writes.

The first contracted to serve till the end of June of the present year, with the condition of not being sent to Rio de Janeiro, and that at the expiration of that time he should be paid and set on shore at Montevideo; the second, having served in the brig Independencia on Morté, finished his contract on the 20th of last December, and entered anew for a year.

As soon as those terms of service are complete they shall be set at liberty on shore.

I have the honor to be, with great consideration and respect, your excellency's most attentive servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander of the Naval Forces of the United States on the Eastern Coast of South America.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, January* 31, 1828.

SIR: John M. Forbes, Esq., Chargé d'Affaires of the United States to the Government of Buenos Ayres, is at present in Montevideo. He came here in the corvette Boston for the benefit of his health, and proposes to return to Buenos Ayres in the next British packet. I therefore request your excellency to transmit to me the necessary documents, in order that Mr. Forbes, together with Mr. Davison, his secretary, and his servant, may be received on board the packet.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

ON BOARD THE FRIGATE PRINCIPE IMPERIAL, *January* 31, 1828.

MOST EXCELLENT SIR: I send herewith the paper which your excellency requests in the letter you directed to me, under date of to-day, relative to the return of Mr. Forbes to Buenos Ayres in the English packet.

I have the honor to be, with great consideration and respect, your excellency's most attentive servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States on the Eastern Coast of South America.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, February* 6, 1828.

SIR: Eldridge Sweet, an American seaman, now on board the Principe Imperial, having served out the term for which he entered the Brazil service, I have to request that your excellency will direct him to be discharged.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata.*

[Translation.]

ON BOARD THE FRIGATE PRINCIPE IMPERIAL, *February* 6, 1828.

MOST EXCELLENT SIR: The seaman, Eldridge Sweet, whom your excellency reclaims as having fulfilled the time of his engagement, will not have completed it till the end of March, and then shall be discharged, if he does not wish to continue.

I have the honor to be, with great consideration and respect, your excellency's most attentive servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States on the Eastern Coast of South America.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, February* 24, 1828.

SIR: Mr. Nalbro Frazier, a citizen of the United States, and one of the mercantile firm of Zimmerman, Frazier & Co., of this place, went some months ago to Buenos Ayres, to adjust there the mercantile concerns of the firm. He is now desirous of returning to this place in the next British packet from Buenos Ayres, and I request your excellency will be pleased to send me the necessary passport. I wish to transmit the passport to Mr. Frazier, at Buenos Ayres, by the packet which is now daily expected.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sir. RODRIGO PINTO GUEDES, *Baron of La Plata.*

[Translation.]

ON BOARD THE FRIGATE PRINCIPE IMPERIAL, *February* 24, 1828.

MOST EXCELLENT SIR: I am sorry I cannot comply with the wish of your excellency; but, hereafter, no person can depart from Buenos Ayres in the packets for individual objects, nor go there in them, after the packet which is now expected has passed up.

I have the honor to be, with great consideration and respect, your excellency's very attentive servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States on the Eastern Coast of South America.

No. 32.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, March* 5, 1828.

SIR: The American ship James Birckhead arrived at this anchorage the night of the 24th ultimo, from *Rio Janeiro.* On the 25th the Brazil admiral took from the master the ship's register; and on the 26th the President of the Province ordered the ship to be moved into the harbor. The master of the James Birckhead communicated these circumstances to me, and expressed his unwillingness to enter the harbor, as he would thereby become subject to the regulation exacting bonds from foreign vessels previously to their being allowed to depart. The seizure of the register indicated a design of further molestation as soon as the ship should be in the harbor, where I could not interpose with effect; and, at the request of the master, therefore, on the 27th, I sent an officer, with men, on board the James Birckhead, weighed her anchor, and brought her to near to this ship and outside the Brazil men-of-war.

This occurrence gave rise to a correspondence, a copy of which is herewith enclosed. Yesterday, with the consent of the master, I got the James Birckhead under way, and conducted her into the harbor.

As this matter is now settled, I am sending the Boston to Rio Janeiro, with a letter to Mr. Wright. I inform Mr. Wright that, notwithstanding the Marquis of Aracaty's letter to him of the 16th of January, bonds continue to be exacted here, and that the Boston goes to Rio Janeiro expressly upon this subject. I request him to say to the minister that the bond regulation is still enforced; that I had dispatched the Boston to Rio solely for the purpose of offering to bring here the Government's order repealing it; and that if he (the minister) will furnish a duplicate of the order the Boston will, without delay, bring it to Montevideo. Of course the Government cannot refuse to put a duplicate on board the Boston; and Captain Hoffman has my orders to leave Rio for this place as soon as it is on board. The bond regulation is so exceptionable in its character, and so burdensome in its operation, that it is important to procure its repeal with as little delay as possible.

The American schooner Shillelah was condemned on the 27th ultimo in the Admiralty Court here, and the captured have appealed to the superior tribunal at Rio Janeiro.

I have the honor to be, very respectfully, your most obedient, JAMES BIDDLE.

Hon. SAMUEL L. SOUTHARD, *Secretary of the Navy.*

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, February* 29, 1828.

SIR: The master of the American ship James Birckhead informs me that your excellency has taken away his ship's register. The law of the United States requires the master of every American vessel to deposit his register with the consul of his nation; and, at any rate, your excellency has no right to detain so important and necessary a document.

I have, therefore, the honor to request that your excellency will transmit to me the register of the ship James Birckhead.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata

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[Translation.]

FRIGATE PRINCIPE IMPERIAL, *February* 29, 1828.

MOST EXCELLENT SIR: By the letter of to-day, just received, your excellency demands the register of the James Birckhead, a ship of the United States, which entered this port in the night of the 24–'5th of this month, and has not yet complied with the obligations a merchant vessel is under to the local authorities.

With the register the captain brought clearances under authority of the custom-house of Rio Janeiro for other than that of Montevideo, where he declared that he merely touched, (excala,) and I see it verified.

In consequence of such clearances, (despachos,) and of having stopped here, the ship ought to submit herself to the regulations of the custom-house. As this matter was competent to the authority to which the custom-house is subordinate, I therefore transmitted all the papers to the President, that the measures indispensable under such circumstances might be employed to ascertain either what might have induced those papers, or perhaps the want of others, the motives of which only ought to be examined and questioned before the authority which may legitimately decide; and so far, if they were still in my possession, without doubt, they should take the same direction they have already taken.

No authority of a neutral nation can impede the operations or measures of belligerents with regard to merchant vessels without infringement of neutrality; such proceedings have ever been considered as offending the flag or the nation it represents; on the contrary, they only turn on the mercantile interests, the canvassing of which is in the competency of consuls; or, in cases where they remain dissatisfied, they become diplomatic questions.

As I see your excellency takes direct part in this business, if your excellency continue to prevent the captain of the ship from complying with his obligations, leaving the situation where the custom-house may fulfil its duties to hinder the frauds of a vessel which came with clearances for this port, though it may be for merely touching, likewise preventing by that means the President from executing whatever orders of the Imperial Government which may have application to his local jurisdiction in the midst of the perfect peace which happily exists between the Brazilian Empire and the United States, it remains for me to assure your excellency that if such interference (euxevencia) continue, I will give information to the Imperial Government. Your excellency being responsible to the President of the Government of the United States for the act and for its consequences.

I have the honor to be, with great consideration and respect, your excellency's most obedient servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE, *&c., &c.*

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, February* 29, 1828.

SIR: I have received your excellency's letter of this day's date. The American ship James Birckhead arrived at this anchorage on the night of the 24th instant from Rio Janeiro. On the 25th your excellency took from the master the ship's register, and on the 26th the President, in consequence of information from your excellency, ordered the ship to be moved into the harbor. The master of the James Birckhead communicated to me the circumstances, and expressed his unwillingness to go into the harbor, as he would thereby become subject to the regulation exacting bonds—a regulation with which he could not comply without considerable expense. He also acquainted me that at Rio Janeiro the consul of the United States assured him that the bond regulation had been repealed, and that otherwise he would not have entered the river. Coming directly from Rio Janeiro, it was and is inconceivable that at the instant of his arrival here he could justly be liable to molestation, either from your excellency or the authorities of the port. I therefore sent officers and men to get the ship under way and anchor her beyond the jurisdiction of the authorities of the port.

On the 16th of January the Minister for Foreign Affairs of his Imperial Majesty's Government informed Mr. Wright, the American consul at Rio Janeiro, that orders had been transmitted to this place for the repeal of the bond regulation. A copy of the letter to this effect, from the Marquis of Aracaty to Mr. Wright, is now before me; yet the regulation continues to be enforced by the authorities here.

Although, for reasons which I have already had the honor to state to your excellency, I do not consider the blockade as lawful, yet I disclaim any intention of aiding or encouraging American vessels to enter any port which your excellency deems to be in a state of blockade. But since the enforcement here of the bond regulation by which the Government of Brazil undertakes to prescribe the conditions upon which other nations shall navigate the ocean, and interdicts neutral trade to ports not blockaded, I have boarded the American vessels coming in, notified to them the regulation, and offered my protection in case they anchored under the guns of the ship.

When the sails of the American brig Rio were unbent and landed, the consul of the United States demanded from the President the cause of it, and the President replied that it was in consequence of information from your excellency that the Rio had been bought by the Government of Buenos Ayres. Upon my application to your excellency you refused to give me any explanation whatever, and the Rio is still detained. Some days ago I sent an officer of this ship to acquaint your excellency with the misconduct of an officer under your command in charge of the American schooner Shillelah, and for redress for the misconduct of one of your own officers. Your excellency referred me to the President. These circumstances seem to indicate a disposition on the part of your excellency not to treat my applications with the respect to which I conceive them entitled, and give me reason to infer that I shall obtain from your excellency neither satisfaction nor explanation for injuries committed upon American citizens or American property. Your excellency must not expect that I will remain passive if injuries are committed and explanations refused or evaded.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

FRIGATE PRINCIPE IMPERIAL, *March* 1, 1828.

MOST EXCELLENT SIR: Your excellency has had most thorough explanations on those subjects concerning which I ought to give them; and about those which do not belong to me, questions are unavailing, because the answers should come from those who are responsible.

What your excellency informs me the President might have said through the consul of the United States in Montevideo is of little import; he cannot prove it. I notified him that the English ship Melpomene was in readiness for Buenos Ayres, a communication that had been made to me by a person worthy of credit; and that the brig Rio came to be sold, as appeared from the letter of instruction (cauta d'orders) found on board the schooner Shillelah, that she (the brig) probably would have the same distinction which she (the schooner) had attempted, because the captain of the Rio was interested in the schooner. That I had been informed the brig got under way in the night to avoid giving bonds, but was prevented from escaping by change of wind. I mentioned the making sail to run out in the night, according to the information of persons in the harbor, by way of caution. I did not say, nor could I say, that the brig was sold at Buenos Ayres, when, by the letter of instructions by the Shillelah, it appeared that she came to be sold, and even had been offered to me, but it was not convenient for me to buy her. It was the President who gave the orders; to him all communications relating to this matter ought to be addressed; but my intimations to the President are not orders, nor are his mine.

I was informed by five witnesses that the mate (piloto) of the Shillelah drew the bed of the sergeant, who commanded the detachment of soldiers on board, from the place where it had been from the first; and that when he attempted to put it back in its place the mate opposed him even with threats. The sergeant, being a man of great integrity, was put there when your excellency sent me to say that they had burnt some water casks. The investigation of this business did not result to the credit of the mate; but as there had been complaints before from the prizes, I wrote to the President, committing to him (as in fact appertaining to him) all that concerned the police and security of the prizes; charge of the cargoes only remaining with me, which should be confided to a prize-master and his subordinate to relieve him. Hence your excellency should direct to the President and not to me; and this your excellency may understand for the future.

No merchant vessel ought to be in the waters of a nation without submitting herself to the regulations of the custom-houses; because, without regarding it as a measure adopted by all nations to prevent fraud, it is always an attack on their authority.

Would it be permitted, even in time of peace, that a merchant vessel should anchor near one of the

ports of the United States, or even on the coast, without entering and subjecting herself to the custom-house regulations?

From what your excellency says I feel assured that the order to require bonds is about to be repealed. I, also, have had some indications of it. The counter order must arrive before long, perhaps by the packet, or by the vessels of war I expect.

In this affair the captain of the James Birckhead would do better to allow the custom-house officers to perform their duty; he has conducted in a manner so unusual and offensive that it is not to be expected that it would meet the approbation of the President and the Government of the United States, should the case reach them officially.

It cannot be shown that citizens of the United States, or of other nations, have suffered injuries. If there have been cases of private individuals there are means of justice to sift them, and discover on which side is the right; any other expedients are arbitrary; and, on that account, their practice being criminal, they do not suit constitutional nations, such as ours. We are not in the state of war to decide such questions by force; but if, unhappily, it should so happen, as I shall not be myself the person to break and abuse the good harmony, my sorrow will not be so great, although I shall always regret it.

I answer thus the letter of your excellency more out of particular attention to your excellency than a sense of duty, since these are not objects which belong to me to contest, as I have already shown; only I will not treat of the invalidity of the blockade, that being a matter on which we have already written many times. Well it will be for the speculators that its invalidity should be verified.

I have the honor to be, with great consideration and respect, your excellency's most obedient servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States on the Eastern Coast of South America.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, March* 1, 1828.

SIR: I have received your excellency's letter dated to-day. The ship James Birckhead is at present in charge of an officer from this ship, and no violation of the revenue laws of Brazil can possibly take place. If she continues here without subjecting herself to the regulations of the port it is because the master has been deprived of his papers.

If the register of the James Birckhead be delivered to the consul of the United States, with whom the laws of the United States require it should be deposited, and if assurances be given that bonds will not be exacted when she is about to sail, I will immediately get the ship under way and conduct her into the harbor. Should these propositions not be accepted, your excellency must be responsible for the consequences of having forcibly and illegally taken from an American vessel a document without which she cannot, with security, navigate the ocean.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

FRIGATE PRINCIPE IMPERIAL, *March* 1, 1828.

MOST EXCELLENT SIR: In answer to your excellency's letter of to-day, it becomes me to say that, be the ship James Birckhead in the charge of whomsoever she may, she is not the less, on that account, a merchant vessel, which came with clearances for this port; and for that reason her papers are lodged in the hands of the authority that ought to operate on her, and to whom the delivery of the papers cannot be refused without violence to good order.

No secondary authority can hinder a compliance with the orders of Government. As for the condition that the ship be exempt from bonds before the order establishing them be abrogated, it is inadmissible, and discovers an open opposition to compliance with it while it is still in force. Besides, that condition ought not to be proposed to me, but to those charged with the execution of the order relating to bonds.

As your excellency has a copy of the affirmative note of the Minister and Secretary of State of Foreign Affairs of the Brazilian Empire to the consul of the United States at Rio Janeiro, it cannot be long delayed; but until it does arrive, if the ship does not submit to the measures the custom-house ought to pursue, the offence to the local authorities is confirmed and supported by your excellency, who will remain responsible for it.

I have the honor to be, with great consideration and respect, your excellency's most attentive servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States on the Eastern Coast of South America.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, March* 2, 1828.

SIR: I have the honor to state to your excellency that the register of a vessel is not a paper which appertains to the custom-house, and cannot rightfully be taken away.

I do not openly oppose a compliance with the order requiring bonds; I only detain the ship at

the anchorage, without the jurisdiction of the local authorities, and where, consequently, she is not subject to his jurisdiction. So says the President in his letter to the consul of the United States.

Your excellency has deprived the James Birckhead of a document indispensable to her security at sea. In consequence thereof, if, when my officers and men are withdrawn, she dares not venture to sea, but seeks safety in some neighboring port, the fault will be with your excellency.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

FRIGATE PRINCIPE IMPERIAL, *March* 2, 1828.

MOST EXCELLENT SIR: As your excellency informs me that the President wrote to the consul of the United States, I will again treat of the subject under this point of view.

When I saw the papers of the ship James Birckhead, finding that they should be examined by the President, I told the captain that I had given them that direction, (the register is the most essential that should be presented to the local authorities.) I asked the captain if he would go with the officer that carried them; he said yes, and went on shore in the same boat with him.

To avoid another affair like that of the brig Rio, I wrote to the President, delivering the papers; and adding that I neither did nor would express my opinion. The President returned me the papers, saying that, as the ship had not gone in, (that is, where usually all go the convenience of the custom-house,) and with respect to the bond she ought to give, as she was outside, the administrator of the custom-house could not perform his duties of sealing the hatches and watching her; to me, who had the force, it belonged to provide.

I replied to him that I was authorized to employ force against neutral merchant vessels only when they did not permit themselves to be boarded, and when, under detention as prizes, they refused to submit; and that, for neutral authorities, reason was the only force that could be employed. Seeing, then, that he wished to absolve himself from his duties, and to make me responsible for them, I returned the papers to him and left the affair at his responsibility; because he returned them with the futile pretext of their having been sent by me, for the reason, that, as the knowledge of the circumstances were properly for him, so, also, was the decision.

Here, then, is explained to your excellency why I was, and shall be, unwilling to enter more into the question, or into any other that, by its nature, belongs to the President.

If the ship is now a greater distance, it is because she was conveyed, by military protection, from her first anchorage, which the harbor of Montevideo offers to larger vessels, where your excellency and I am, and on the coast, which ought to be subject to the police of the country in the branch appertaining to it.

If the President judges the ship to be without his jurisdiction, in his hands are the papers; he may surrender them; he is not under my orders; our commands are independent of each other.

I have the honor to be, with great consideration and respect, your excellency's most attentive servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States on the Eastern Coast of South America.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, November* 2, 1828.

SIR: In reply to your excellency's letter of to-day, I state that, upon your excellency's declining the propositions contained in my letter of the 1st instant, I requested the consul of the United States to offer the same propositions to the President; and, as these propositions appear to me too reasonable not to be accepted, I trust the difficulty in regard to the James Birckhead will in that manner be decided. I now only await the decision of the President; and, in the meanwhile, if it is the wish of your excellency, I will move the ships further out so as to be one league from the shore.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Sr. RODRIGO PINTO GUEDES, *Baron of La Plata,*
Admiral Commanding the Naval Forces of his Imperial Majesty at La Plata.

[Translation.]

FRIGATE PRINCIPE IMPERIAL, *March* 3, 1828.

MOST EXCELLENT SIR: It is not my province to designate the situations vessels of war of friendly nations shall take in a port of the Empire; they have a right to choose one convenient to them, and from me they shall have only attentions and assistance if necessary, and although this is a general rule, it is so in an especial manner with regard to your excellency from the consideration in which I hold you.

But if your excellency treats of the distance of a league being the sea, and beyond the territorial jurisdiction, besides the diversity of opinions on such a subject as to the degree of distance from the coasts, (which I do not cite because they have a bearing on the question,) it is not to be understood in relation to harbors; and, in the present case, the ship James Birckhead having been further in and taken

thence under military protection, the fact would not be affected by her going then or now going to a greater distance.

I have the honor to be, with great consideration and respect, your excellency's very attentive servant,

BARON DO RIO DA PRATA.

His Excellency JAMES BIDDLE,
Commander-in-chief of the Naval Forces of the United States on the Eastern Coast of South America.

The following copy of a letter from the Admiral to the President was enclosed in the preceding.

FRIGATE PRINCIPE IMPERIAL, *March* 2, 1828.

Your excellency having informed the consul of the United States that I had stated to you that the brig Rio was bought by the Government of Buenos Ayres, which your excellency neither can prove nor has even learnt from me, (perhaps your excellency confounds the brig with the English ship Melpomene,) and having afterwards written a letter to the said consul declaring the ship James Birckhead without your jurisdiction, notwithstanding she has been and is in this port, as if for friendly nations I had other force than that of reason, as already I have written to your excellency in reply to one of your letters, your excellency counted as void all I had written to you in similar cases, only because in fact I sent you the papers as falling under your competency to be examined and decided upon as might most conduce to the service of his Imperial Majesty, your excellency may feel convinced that no other matter relating to your excellency's duties shall pass through my hands. Our authorities being distinct, the one from the other, each ought to proceed according to his own opinion.

CONSULATE OF THE UNITED STATES, *Montevideo, February* 26, 1828.

SIR: I have been informed by the master of the ship James Birckhead, of Baltimore, which arrived off this port yesterday from Rio de Janeiro, that the papers of his vessel were, soon after his arrival, taken possession of by his excellency Admiral the Baron do Rio da Prata, and were by him sent to your excellency.

It appears that this vessel was duly and legally cleared from the port of Baltimore, in the United States, and subsequently from Rio de Janeiro, and I cannot conceive any motive for the seizure of her papers while lying without the jurisdiction of this port. As the vessel is now in a very exposed situation, liable to be driven to sea by stress of weather, and to other accidents which, under her present circumstances, would subject her to very serious embarrassments, I request that your excellency will be pleased to cause the papers to be restored to the master or delivered over to me, unless sufficient reasons can be assigned for their further detention.

I am, sir, with great consideration and respect, your excellency's most obedient servant,

JAMES BOND.

His Excellency Don THOMAS GARCIA DE ZUÑIGA, *President of the Province, &c., &c.*

[Translation.]

MONTEVIDEO, *February* 28, 1828.

MOST ILLUSTRIOUS SIR: The undersigned, President of the Cisplatine Province, in answer to the note of your worship dated the 26th of the current month, in which you reclaim the papers of the American ship James Birckhead remitted to me by his excellency the admiral, commander-in-chief of the squadron stationed in the Rio da Prata, has to observe to his worship the consul that the said ship having been cleared from Rio de Janeiro for Valparaiso, with permission to touch at this port, on information that she had not yet entered the harbor as she ought, I referred the papers to his excellency the admiral aforesaid, not judging her to be under my jurisdiction.

But the admiral remitted the papers to me again, making the responsibility rest on me, in consequence of which I intimated to the captain of said ship, through the captain of this port, that he should come into the harbor, which intimation he did not observe, contending that he would not obey it as long as remained unclouded any agreement I might have to make with the commodore of his nation, which, in truth, has not been made. I see here an American ship, the Birckhead, with a clearance for this port and Valparaiso; she brings despatches from the custom-house to this, in which it is recommended to enforce in relation to this vessel the formalities established by the laws; I think, therefore, that this ship ought to have acceded to the intimation given through the captain of the port.

I hope your worship, taking into consideration my exposition, will take the necessary measures to keep uninterrupted the good harmony which happily exists between the two nations, and which, at the cost of the great sacrifices, I shall always preserve in the fulfilment of the Sovereign's determinations, which alone govern my principles.

God preserve your worship.

THOMAS GARCIA DE ZUÑIGA.

His Excellency JAMES BOND.

CONSULATE OF THE UNITED STATES, *Montevideo, March* 1, 1828.

MOST EXCELLENT SIR: I have the honor to acknowledge the receipt of your excellency's note of yesterday, in answer to mine of the 26th ultimo, respecting the seizure and detention of the papers of the ship James Birckhead.

I regret to say that your excellency's note does not furnish either a satisfactory explanation or a sufficient argument in justification of the proceeding.

The reason which appears to be assigned is, that as the vessel was cleared for this port she ought to enter it. A clearance for any particular port does not imply a positive obligation to proceed thither; nor would the master of the vessel incur any penalty by going to another should he deem it expedient to do so. In the present instance the vessel was cleared for Valparaiso, with permission to go to Montevideo; and, as the captain was informed, on the authority of an official note received on the 16th of January last, by the consul of the United States at Rio de Janeiro, from his Imperial Majesty's Minister for Foreign Affairs, that orders had been sent to this place to suspend the execution of the Imperial Order of the 6th of November exacting bonds from neutral vessels leaving this port, he intended to avail himself of this license, and endeavor to dispose of his cargo at this port without proceeding further; and so confident was he that the restrictions were removed, that it was only owing to the circumstance of his arriving in the night that he did not come directly in. Finding, however, that the regulation was still in force, he declined subjecting himself to its operation, and very properly refused to comply with the orders of the captain of the port while he was, as your excellency admits, without its jurisdiction.

I am authorized to declare, on the part of the captain, that if your excellency will return the papers and give an assurance that the vessel will be permitted to leave the port without giving bonds, she will be brought into the harbor, and, as soon as the cargo can be disposed of, will return to Rio de Janeiro.

I beg your excellency to accept the assurance of my high consideration and respect.

JAMES BOND.

His Excellency Don THOMAS GARCIA DE ZUÑIGA, *President of the Province, &c., &c.*

[Translation.]

MONTEVIDEO, *March* 3, 1828.

MOST ILLUSTRIOUS SIR: When I received the note of your worship, dated yesterday, I had already remitted the papers of the ship James Birckhead to his excellency the Commodore of the United States, James Biddle, Esq., who had required them of me, being myself desirous of preserving the best harmony with the constituted authorities of the United States, in spite of the responsibility which falls on me by delivering up the said papers.

Without the ship's coming into the harbor, with all confidence in the rectitude of the principles of the same, excellent sir, and of your worship, I have acceded to your request, certain that neither he nor your worship will permit the authority of this Presidency to be troubled, and that you will cause the said ship to come into this harbor, where no prejudice can arise to her.

I have the honor to renew my assurance to your worship of the high consideration and respect with which I am your worship's most attentive servant,

THOMAS GARCIA DE ZUÑIGA.

His Excellency JAMES BOND.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, March* 1, 1828.

SIR: His excellency Admiral Rodrigo Guedes, Baron of La Plata, commander-in-chief of the naval forces of his Imperial Majesty at La Plata, &c., &c., &c., took from the master the register of the American ship James Birckhead, now at this anchorage; and, upon my application to him for it, he states that he has transmitted it to your excellency. I have, therefore, the honor to request that your excellency will be pleased to send me this register.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Don THOMAS GARCIA DE ZUÑIGA, *President of the Province, &c., &c., &c., Montevideo.*

[Translation.]

MONTEVIDEO, *March* 2, 1828.

MOST ILLUSTRIOUS AND MOST EXCELLENT SIR: I have the honor to acknowledge the receipt of the respectable communication of your excellency dated yesterday, in which your excellency requests the papers of the American ship James Birckhead, which were remitted to me by his excellency the admiral, Baron of the river Plate; and notwithstanding this Government is in communication with Mr. James Bond, the consul of your nation, of which I consider your excellency already informed, with all the high consideration and respect which the dignity of your excellency merits of me, you oblige me, full of all confidence, to satisfy your desires, having the honor to enclose your excellency said papers, certain that your excellency, on your part, convinced of the just reasons which I have already shown, will not permit the decorum of this Government to be compromitted, and the Sovereign's determinations to be without effect.

I flatter myself with having this occasion to manifest to your excellency the estimation and respect with which I am your excellency's very attentive servant,

THOMAS GARCIA DE ZUÑIGA.

Most Excellent and Most Illustrious Sr. JAMES BIDDLE.

UNITED STATES FRIGATE MACEDONIAN, *off Montevideo, March* 4, 1828.

SIR: I am honored to-day with your excellency's letter of the 2d instant, remitting to me the register and other papers of the American ship James Birckhead. The register I have transmitted to the consul of the United States, with whom the laws of the United States require it should be deposited.

As soon as I was informed by the admiral that to your excellency, and not to himself, reclamations were to be made in the case of the James Birckhead, I requested the consul of the United States to assure your excellency that, if the ship's register was returned, and assurances given that bonds would not be exacted when the ship was about to sail, I would at once send the James Birckhead into the harbor. Upon the subject of the bonds your excellency, in writing to the consul of the United States, is silent. But the admiral informs me that, although he is at present not authorized to dispense with the bonds, he is certain, from intimations already received from his Imperial Majesty's Government, that repealing orders will come in the British packet, or the ships-of-war he expects soon to arrive from Rio Janeiro.

I have before me a copy of a letter from the Marquis of Aracaty to Mr. Wright, the consul of the United States at Rio Janeiro, under date of the 16th of January last, in which his excellency assures Mr. Wright that orders had been despatched to Montevideo for the repeal of the bond regulation.

Convinced, under these circumstances, that orders for the repeal of the bond regulation must be received before the James Birckhead can be ready to sail, and relying upon the assurance contained in your excellency's letter to the consul that no prejudice shall arise to the ship, I have ordered her to be conducted into the harbor, and she will weigh as soon as the wind permits.

I have the honor to be, with great consideration and respect, your excellency's most obedient, humble servant,

JAMES BIDDLE.

His Excellency Don THOMAS GARCIA DE ZUÑIGA, *President of the Province, &c., &c., &c., Montevideo.*

20TH CONGRESS.] No. 500. [1ST SESSION.

ON CLAIMS FOR INDEMNITY FOR SPOLIATIONS BY FRANCE PRIOR TO 1800.

COMMUNICATED TO THE SENATE MAY 24, 1828.

Mr. CHAMBERS, from the Select Committee, to whom were referred the several petitions and memorials of those persons who have lost property by French spoliations prior to the year 1800, praying for indemnity from the United States, made the following report:

The petitioners claim redress from the Government for losses sustained by the capture and condemnation of their vessels and cargoes by the French Government prior to the convention of 1800, and for which they allege the United States, by that convention, received consideration.

The petitioners form a portion of a class of individuals whose claims are entitled to the most deliberate consideration, as well because of the large amount involved as of the magnitude and importance of the principles upon which their pretensions are founded. The committee are not in possession of information which enables them to ascertain the extent of the claims with accuracy, but find that it has been variously estimated on different occasions, by those who had acquired some knowledge of the subject, to be from eight to fifteen millions of dollars.

The amount involved, large as it may be, is not, however, more calculated to invite the serious consideration of the Government than the very intimate connexion this subject has with the most important, and, perhaps, the most delicate events in the history of the nation. It is an incident to the investigation of these claims, not perhaps of fortunate influence to their final adjustment, that they date their existence from, if they do not owe their being to, that period in which the rights of the nation, however well understood, or the just demands of our citizens, however well urged, could not be enforced against the other nations of the world by the same efficient means which, happily, we now possess. Emerging from a long and expensive war, and from a state of colonial dependence, without the means of discharging even the obligations which secured the faithful services of her soldiers, without a naval force, and without a prospect of resources to provide the materials for another conflict, the United States, at the close of the war of independence, and for some years after, could find less inducement to be withdrawn from a peaceful attitude than at any other period during her existence as a nation.

But whatever recollections may be connected with these claims, they are now presented to the justice of the Government; and neither their amount on the one hand, nor the delicacy of reverting to scenes of national infancy and weakness on the other, can excuse us from the duty of a full and candid examination of their character, and an equitable decision upon their merits.

In the performance of this duty the committee will introduce no other facts than such as are believed necessary to make intelligible the views they have presented. The voluminous documents transmitted to the Senate with the message of the President of the United States of the 20th May, 1826, containing a history of the transactions connected with the subject, cannot be embodied in a report. To the information contained in these documents, as also to the facts set forth in a report of a committee of the Senate of 8th February, 1827, the committee refer in general terms, confining themselves to the introduction of such facts as are believed necessary to an understanding of the opinions which the committee have adopted.

The operation of the treaties of 1778 between the United States and France being at the foundation of most of the questions involved in this subject, the committee will briefly advert to the facts connected with those treaties.

The co-operation of some of the established Governments of Europe, in the early stages of the war of

independence, was an object of the most anxious solicitude to the sages who directed the councils of this then infant nation, and pursued by them with a perseverance exceeded only by the dangers which must have ensued from disappointment. The injury threatened to our enemy by the loss of these States was too great to allow nations, habitually her rivals, to continue unconcerned spectators of the contest of which the colonies were the prize. The hopes of our people were directed more particularly to France, whose real interests, united with long-cherished prejudices, all led her to aid us in a struggle for national existence. France at that time was in a state of profound peace with England, and the mutual obligations of existing treaties imposed serious restraints on her disposition to assist us; and to induce her to gratify our appeal in its whole extent required the tender of some motive more powerful than those treaty obligations.

She had favorably received our first overtures to her aid; had opened her ports to our commerce; had offered every facility to uninterrupted intercourse with her people and the other friendly nations; and had openly proceeded to encourage our efforts by every means consistent with her treaties with the enemy, and had furnished, through her secret agents, succors of money and stores in the most dark and doubtful period of the war. But it was of the last importance to the interests of this nation that a more decisive and effective step should be taken by the French Government.

The common principles of policy which guide all nations, taught France to await the development of the moral, political, and physical resources of a people who had so lately claimed the right and the power of self-government.

No sooner had the patriotic fervor of our citizens effected some of those great achievements which crowd the history of our revolutionary conflict than the restraints which policy had imposed upon the Government of France yielded to the large and liberal offers presented by the American nation.

Our envoys were authorized to concede the most important and valuable commercial advantages, to commit the American Government to furnish means in provisions to the amount of $2,000,000, and in naval force to the amount of six frigates, manned and fitted for service, and any other assistance in their power to prosecute a war against the British West India possessions for the benefit of France, to whom, in the event of conquest, they were to belong.

The 11th and 12th articles of the treaty of alliance of 6th February, 1778, are in the following words:

"ARTICLE 11. The two parties guarantee, mutually, from the present time and forever, against all other Powers, to wit: the United States to his most Christian Majesty the present possessions of the Crown of France in America, as well as those which it may acquire by the future treaty of peace; and his most Christian Majesty guarantees, on his part, to the United States their liberty, sovereignty, and independence, absolute and unlimited, as well in matters of government as commerce, and also their possessions, and the additions or conquests their confederation may obtain during the war from any of the dominions now or heretofore possessed by Great Britain in North America, conformable to the fifth and sixth articles above written, the whole, as their possessions, shall be fixed and assured to said States at the moment of the cessation of their present war with England.

"ARTICLE 12. In order to fix more precisely the sense and application of the preceding article, the contracting parties declare that, in case of a rupture between France and England, the reciprocal guarantee declared in the said article shall have its full force and effect the moment such war shall break out, and if such rupture shall not take place, the mutual obligations of said guarantee shall not commence until the moment of the cessation of the present war between the United States and England shall have ascertained their possessions."

The treaty of amity and commerce of the same date contains, amongst others, the following provisions:

"ARTICLE 17. It shall be lawful for the ships-of-war of either party, and privateers, freely to carry whithersoever they please the ships and goods taken from their enemies, without being obliged to pay any duty to the officers of the admiralty or any other judges; nor shall such prizes be arrested or seized when they come to or enter the ports of either party; nor shall the searchers or other officers of those places search the same, or make examination of the lawfulness of such prizes; but they may hoist sail at any time, and depart and carry their prizes to the places expressed in their commissions, which the commanders of such ships-of-war shall be obliged to show. On the contrary, no shelter or refuge shall be given in their ports to such as shall have made prize of the subjects, people, or property of either of the parties; but if such shall come in, being forced by stress of weather, or the danger of the sea, all proper means shall be vigorously used that they go out and retire from thence as soon as possible."

"ARTICLE 22. It shall not be lawful for any foreign privateers, not belonging to subjects of the most Christian King, nor citizens of the said United States, who have commissions from any other Prince or State in enmity with either nation to fit their ships in the ports of either the one or the other of the aforesaid parties, to sell what they have taken, or in any other manner whatsoever to exchange their ships, merchandises, or any other lading; neither shall they be allowed even to purchase victuals, except such as shall be necessary for their going to the next port of that Prince or State from which they have commissions."

The committee do not deem it necessary here to introduce the other provisions of these treaties. Their influence, and the faithful observance of her plighted engagements on the part of France, are facts as familiar to all as is the fact that "the essential and direct end of the alliance, to maintain effectually the liberty, sovereignty, and independence, absolute and unlimited, of the United States," was gloriously and triumphantly accomplished.

After the peace of 1783 the rapid advance of the American nation to wealth and power soon placed it in a situation no longer to feel the want of guarantees for its independence from any other arm than that of its citizen soldiers. In the multiplied pursuits and interests of its citizens, the inconveniences arising from the partiality which characterized the treaties with France became obvious. It was not, however, until the occurrence of a war in which France was a party and the United States neutral that these treaties began to produce effects which promised to France the greatest advantage and were the most offensive to the United States.

The committee do not assume the duty of deciding whether the war which succeeded the French revolution was offensive or defensive on the part of France. It is known that this question agitated the councils and divided the opinions of the great statesmen of this country at that period. It is not now to be doubted, however, that from the early stages of the French revolution the most flagrant acts of hostility were systematically, though sometimes secretly, perpetrated against the people of that nation by the neighboring Powers, in which England was most enthusiastically engaged, impelled by the

recollection of ancient animosities, as also by alarm at the dangers which threatened the settled Governments of Europe from the political doctrines which that revolution proposed to sanction.

England was at first secretly, and afterwards openly, a party to the league of 1791, which contemplated an invasion of France and a partition of a portion of her territory. Arms and supplies were furnished by her to the emigrants who were in open hostility to France; a ministerial order directed the detention of French and neutral vessels in British ports bound to France; the British Parliament prohibited the exportation of provisions to France, and authorized aliens to be sent out of the country; French vessels endeavoring to escape from ports taken possession of by their enemies were seized and sent into England and detained; and, lastly, the French minister received a peremptory order to quit the British Kingdom.

During these transactions, it was not alleged that England had been provoked by a war against her in name or in fact. France, excited by a furious revolutionary spirit, goaded by oppression and insult from abroad, and by all the worst passions which are elicited in civil convulsions, declared and entered upon the war with a temper unrestrained by the laws which the common consent of nations has enacted to lessen its mischiefs and protect those who are not parties to it.

This exasperated feeling on the part of France was cultivated and increased by the occurrences which succeeded her declaration of war on the 1st of February, 1793. The maritime superiority of her enemies enabled them to inflict upon her the most distressing injuries, and sometimes of a character to countenance the application to them of the language used in one of the French decrees, in which they were declared to be "means disapproved by the laws of humanity and by those of war." The course of policy which prevailed in the United States did not dissipate the irritation which existed in France.

By the 17th article of the treaty of commerce it will have been seen that French armed ships and privateers, with their prizes, were to receive shelter and protection in our ports, and that our officers were not to seize or search them, or make examination concerning the lawfulness of their capture; while no shelter or refuge was to be given to her enemy's ships, but they were to be made to leave our ports as soon as possible, when forced in by stress of weather or dangers of the sea.

The consular convention of 14th November, 1788, had given to French consuls jurisdiction in specified civil cases, as also authority to arrest marine deserters.

In virtue of these stipulations French prizes found safe refuge in our ports; they were brought in, condemned, and sold here; commissions were issued, or at least delivered, by French consuls to privateers, and letters of marque, which were here fitted out and armed. These important interests were effected with the greater facility from the strong sympathy of a large portion of the American people, arising from a recollection of the efficient aid derived from France in the prosecution of our revolutionary struggle, and from the actual sufferings and injuries then experienced by the people of that country. A civil war raging in her bosom, the horrors of a famine in prospect, an actual and almost total failure of her crops, and a powerful league of the nations of Europe against her, openly avowing their determination to starve her into submission, did not fail to revive and bring into the liveliest operation every remains of generous feeling which their associations and a community of dangers and services had awakened in America.

The advantages to France from the treaty provisions alluded to, in the state of things which has been described, did not escape the observation of England, and complaint and remonstrance unceasingly announced to our Government the dissatisfaction with which she witnessed the progress of their operation. Another subject, of very serious consideration, could not fail to present itself to the notice of our Government. The exposed condition of the French colonial possessions to which the treaty guarantee had reference, and the possible or probable demand for the fulfilment of that guarantee, might embarrass the nation to an extent which it was difficult to anticipate. Whether, by the fair import of the treaty and the true character of the war, the obligation was imposed on the American nation, in conformity to established principles of international law, to furnish the aids contemplated in the treaty, or whether the *casus fœderis* did not exist, the committee do not feel themselves called upon to decide. Whatever might be the decision of an impartial Government or statesman, it will at once occur that France, in the excited condition of her councils, could find motives as well as arguments to convince herself; and that the only alternative would be to concur with France, and be at war with her enemies, or to differ with France, and be at war with her.

It was the opinion of those who directed the policy of this country that a proclamation of perfect neutrality, to be enforced as far as possible, would lessen the difficulties which were presented. The attempt to enforce a neutral policy did not satisfy the expectations of France. She had before enjoyed, in fact, as she had claimed of right, the benefits of the treaty stipulations which did not belong to her enemy; and the profession of neutrality was soon followed by measures which deprived her citizens of advantages too important to be abandoned without complaint.

The negotiation with England, and the conclusion of the treaty of 19th November, 1794, were additional causes of displeasure to France. She contended that the United States had thereby surrendered to England the right to capture our ships prosecuting a voyage to or from France, or her possessions, and sanctioned not only by the provisions of our treaties of 1778, but by the acknowledged laws of nations; that the articles of contraband were enlarged and extended beyond the list acknowledged by the existing practice of nations; and that facilities were granted in our ports and waters to British armed ships and their prizes, in direct violation of our ancient treaties with her, and calculated to operate injuriously to her upon the war then existing. The actual change required by the United States in the practice before pursued by French citizens in relation to rights claimed and exercised by them, as secured by the treaties of 1778, and referring to the provisions of the treaty of 1794, with England, for the foundation on which it was made, most certainly resulted in the great injury and loss to the owners of their private armed ships, and lessened materially the extent of their hostile maritime operations against their enemy. One instance, found in a report of the Secretary of State to the President, will illustrate the position that such change was made. That report says: "The 24th article of the British treaty having explicitly forbidden the arming of privateers and the selling of their prizes in the ports of the United States, the Secretary of the Treasury prepared, as a matter of course, circular letters to the Collectors, to conform to the restrictions contained in that article as the law of the land. This was the more necessary, as, formerly, the Collectors had been instructed to admit to an entry and sale the prizes brought into our ports."

The committee repeat, it is not their purpose, and is not conceived to be their duty, to approve or censure the policy pursued by the United States. It is a part of the history of that period that great division of opinion on these subjects prevailed amongst the best and wisest men in the nation. To the

merits of the claims now presented, it is not important on which side of that agitated question truth was to be found, as the committee will hereafter have occasion to show.

France, whether justified or not by the conduct of the United States, did, in fact, assume, as the foundation of her proceedings, that we had violated our treaty stipulations, and, in effect, if not in form, had made ourselves auxiliaries to the war carried on against her. Decrees and orders of the most violent and destructive character, in acknowledged opposition to her treaties, and, in truth, in opposition to the laws and usages of civilized warfare, were, from time to time, enacted against our commerce, and enforced under circumstances which put at defiance all hope of escape from their ruinous provisions. Repeated remonstrances produced either no effect whatever or a temporary suspension, which only served to invite our merchants to the ocean, when new decrees, passed without notice and of immediate operation, swept away the property of its unsuspecting owners. Attempts at negotiations with the French Government having proved abortive, the United States, by various legislative acts, made provision for the protection of our commerce, and to repel the aggressions and injuries of which our citizens complained. Naval armaments were directed; appropriations were made to put the ports and harbors in a state of defence, and to raise a military force. The strongest measures adopted by the American Government are to be found in the acts of Congress declaring that the United States were of right freed from the stipulations of her treaties with France, and that the same should not be thenceforth regarded as obligatory on the Government or citizens of the United States; and authorizing the commanders of United States vessels or private ships, armed and commissioned, to capture *armed* French ships on the high seas.

Under these acts of Congress, and the Executive instructions made in pursuance to their provisions, it is known that eighty-four French vessels were captured, of which one was sunk; eleven were restored because not armed; sixty-eight (valued at not less than $600,000) were condemned, one-half to the captors and the other to the United States, and four public ships were either delivered up to the French or paid for under the convention of 1800. During the period of these hostile operations, the French Government uniformly declared its unwillingness to change the relations of peace which had existed, nor did they at any time admit those relations to have been changed. There was no period during which they did not receive and accredit a representative from the United States. After the recall of Mr. Monroe, when the excitement produced in France by circumstances connected with the British treaty was at its extreme, the French Government refused to receive Mr. Pinckney, who was sent out as his successor, and for a time withdrew their envoy from this country. At the same time, however, Mr. Skipwith was resident in Paris, the acknowledged consul general of the United States, and it is believed that, during nearly the whole period of our difficulties, an officer of the same grade also represented the French Government near the United States. The relations which existed between the two nations, in the interval between the passage of the several acts of Congress before referred to and the convention of 1800 were very peculiar, but, in the opinion of the committee, cannot be considered as placing the two nations in the attitude of a war, which would destroy the obligations of previously existing treaties. This opinion, however, is by no means a material link in the chain of facts and arguments by which the conclusion adopted by the committee is sustained. A very large proportion of the spoliations committed by France were prior to the acts of Congress of 1798; the several decrees of July 2, 1796, November 27, 1796, February 1, 1797, March 2, 1797, November 13, 1797, and January 18, 1798, had destroyed our commerce, and left little or nothing to be thereafter lost.

The injuries growing out of these decrees were inflicted during a period when the operation of the treaties was not matter of question. But again it may be remarked, that the violations of our neutral and maritime rights not only gave to the citizens of the United States just claim to redress by virtue of treaty stipulations, but they were such as to justify the United States to demand of the French Government ample remuneration, upon the acknowledged principles of international law, the plainest provisions of which were outraged by the decrees of France and the conduct of her authorized agents and citizens. Putting aside, therefore, the consideration of conventional engagements between the two nations, the right of our citizens to indemnity was absolute, and the Government which was instituted for their protection, and emphatically for their protection against the wrongs committed by foreign Governments, was the legitimate organ through which the indemnity was to be sought. This duty was too obvious and imperative to be neglected. A disposition on the part of France to terminate their differences with us was promptly met by a renewed mission, clothed with ample power. The discussions which occupied the ministers on this occasion were full of interest to both nations, and to none as interesting as to those numerous sufferers whose claims are now under consideration. The protection of the claimants who now present themselves to the Senate was the very first object of the American Government. The instructions to her envoys commence with a reference to this leading topic:

"GENTLEMEN: You have been witnesses of the enduring patience of the United States under the unexampled aggressions and hostilities authorized and sanctioned by the French Republic against the commerce and citizens of the United States. And you are well informed of the measures adopted by our Government to put a stop to these evils, to obtain redress for the injured, and real peace and security to our country. And you know that, instead of relief, instead of justice, instead of indemity for past wrongs, our very moderate demands have been immediately followed by new aggressions and more extended depredations."

The first in order as in importance amongst the objects of their attention, is then noticed by their instructions, thus:

"*First.* At the opening of the negotiation you will inform the French ministers that the United States expect from France, as an indispensable condition of the treaty, a stipulation to make to the citizens of the United States full compensation for all losses and damages which they shall have sustained by reason of irregular or illegal captures or condemnations of their vessels and other property, under color of authority or commissions from the French Republic or its agents."

The American envoys found no difficulty in obtaining from the French ministers an acquiescence in the principle of compensating the claims of our citizens, but they too had claims alleged to be founded on contract, treaty, and the laws of nations; and their earliest proposition suggested "that the first object of the negotiation ought to be the determination of the regulations and the steps to be followed for the estimation and indemnification of injuries for which either nation may make claim for itself, or for any of its citizens. And that the second object is to assure the execution of treaties of friendship and commerce made between the two nations, and the accomplishment of the views of reciprocal advantages which suggested them."

In the progress of the discussions, the anxiety of the American Government to avoid the onerous

stipulations of the ancient treaties, and the unwillingness of France to yield the already important and daily increasing advantages secured to her by their provisions, opposed the most alarming difficulties to an adjustment. Large pecuniary advances proposed by the American envoys were insufficient to induce France to relinquish the benefits which she claimed by an adherence to the treaties of 1778 and 1788. It was then the American Government found in the claims of her citizens the means of effecting a result to which her pecuniary offers were inadequate, and to relieve herself from obligations of which it may be said it was as impossible to estimate their extent as it was dangerous to the peace and interest of the nation to allow their continuance.

It was declared by the French minister to be "their intention to reserve to France the right of choice between the restoration of her privileges (by the treaties) and the payments of indemnities which may be brought against her, so that they have never supposed that she would enjoy privileges without payment of indemnities, or could pay indemnities without the enjoyment of privileges," "since France regards those privileges as an advantage peculiar to her, and for the abandonment of which *she may stipulate as she deems proper*."

The American envoys, conforming to the views of their Government, whose just right to make the claims of its citizens conducive to the accomplishment of great objects of national interest is conceded, properly availed themselves of the only motive sufficiently operative to withdraw France from the determined perseverance with which she adhered to the treaties.

They proposed as the basis of the convention—

"1st. The former treaties shall be renewed and confirmed.

"2d. The obligations of the guarantee shall be specified and limited, as in the first paragraph of their 3d proposition of the 20th of August, [which is] 3d. The mutual guarantee in the treaty of alliance shall be so specified and limited that its future obligation shall be on the part of France, when the United States shall be attacked, to furnish and deliver at her own ports military stores to the amount of one million of francs; and, on the part of the United States, when the French possessions in America, in any future war, shall be attacked, to furnish and deliver, at their own ports, a like amount in provisions.

"3d. There shall be mutual indemnities, and a mutual restoration of captured property not yet definitively condemned according to their 5th and 6th propositions of that date.

"4th. If, at the exchange of ratifications, the United States shall propose a mutual relinquishment of indemnities, the French Republic will agree to the same; and in such case the former treaties shall not be deemed obligatory, except that, under the 17th and 22d articles of that of commerce, the parties shall continue forever to have for their public ships-of-war, privateers, and prizes, such privileges in the ports of each other as the most favored nation shall enjoy."

The answer to these propositions will fully evince the influence of the claims of American citizens in effecting what the offer of a very large amount of money had not been sufficient to accomplish. The French ministers say:

"They accede to the proposition of the first article.

"The second cannot be admitted, unless the 4th article give to the French Republic the assurance that, if she propose to the United States the reciprocal relinquishment of indemnities, this proposition will be accepted, notwithstanding the relinquishment of the right of guarantee, setting aside the treaty of alliance and the privileges resulting from the 17th and the 22d articles of the treaty of commerce. If the 4th article do not contain this stipulation, neither can this 4th article nor the 2d article be admitted.

"The third seems to require some explanation.

"The French ministers are of opinion—

"1st. That the regulation of indemnities for prizes captured, and which shall have been condemned at the time of the signing of the treaty, shall apply to individuals.

"2d. That the vessels or national ships taken shall be respectively restored or paid for.

"3d. That prizes captured from individuals and not tried at the time of the signature of the treaty shall be tried according to the provisions of the treaty of 1778, by the most exact interpretation thereof that can be properly given.

"The 4th article is inadmissible, as has been before observed, unless it offer to France the same right as the United States, and unless it maintain the ancient treaties with the exception of the obligation of guarantee and of privileges.

"To fulfil this object, and to confirm the 2d article, the 4th article must be expressed in these terms, or others of equal force: 'If, at the exchange of ratifications, the United States offer to the French Republic, or if the French Republic offer to the United States, the reciprocal relinquishment of indemnities, the proposition shall be accepted; and in this case the obligation of guarantee arising out of the 11th article of the treaty of alliance, and the privileges resulting from the 17th and 22d articles of the treaty of commerce, shall be reduced to the privileges which the most favored nation may enjoy.'"

The envoys approach the subject of a relinquishment of American claims with a caution suggested by their value and amount, as well as by the peculiar solicitude for their adjustment indicated in their instructions; and, as if unwilling to assume the responsibility of a positive abandonment of them, even on the terms of a surrender by France of reciprocal claims of her citizens and the obnoxious treaty obligations, they propose an arrangement which shall reserve that most important question for the deliberate decision of those who, by the Constitution, are intrusted, in the last resort, with the authority to regulate the terms of our national relations.

The convention ultimately formed, in connexion with the facts occurring in the progress of its ratification, will be found to have produced the precise state of things contemplated by the 4th proposition of the envoys. The second article of the convention, concluded September 30, 1800, for the avowed purpose of recognizing, reserving, and postponing the mutual claims for indemnities and ancient treaty obligations, declared as follows:

"ARTICLE 2. The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of February 6, 1778, the treaty of amity and commerce of the same date, and the convention of November 14, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon those points the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows."

The convention, with this article included, was ratified by the French Government, and by that act the claim to indemnities was certainly admitted, and a pledge given to negotiate at a future period, and provide for their payment.

The Senate of the United States, when the convention was submitted to them, ratified it, after first expunging the second article, and inserting an article limiting its duration to eight years.

When this ratification was presented to the French Government, the modifications made by the American Senate were reluctantly assented to, with the express declaration and provision that, by the retrenchment of the second article, the two States renounce the respective pretensions which are the object of the said article.

Mr. Jefferson had become the President of the United States in the interval between the ratification by the American Senate and the last ratification by France, and the ratification by the First Consul of France not being pure and simple, in the ordinary form, he thought it his duty, to avoid misconception, to ask a second advice and consent of the Senate.

That Mr. Jefferson believed the French ratification, in the mode returned, entirely consistent with the altered state of the convention, will appear from a communication of Mr. Madison, Secretary of State, to Mr. Livingston, then envoy to France, under date of December 18, 1801, in which he says: "I am authorized to say that the President does not regard the declaratory clause as more than a legitimate inference from the rejection by the Senate of the second article."

The Senate resolved that they considered the said convention as *fully* ratified, and the President thereupon promulgated it in usual form.

The American claimants were from that period deprived, by the act of their Government, from all right to indemnity from France. They do not complain of the measure of their Government in applying their claims to the discharge and satisfaction of reciprocal claims due to the citizens of France, or to purchase an exemption from onerous and offensive obligations due by the ancient treaties from the American to the French Government. They admit the authority and applaud the prudence which was exercised so advantageously for the general interest of the whole nation by the expenditure of means or property of a portion of its citizens. But they allege that the national faith, and the principles of national law, entitle them to expect remuneration for property thus disposed of, and for the recovery or indemnity whereof they would have had an acknowledged right against France, but for the satisfaction made therefor by France to the American Government, and the relinquishment consequent upon that satisfaction.

It is believed no principle can be more plain than that a Government taking possession of private property, and appropriating it to public service, is bound to compensate the owner. The Constitution of the United States has not, however, allowed this obligation to rest upon the authority of international law, but has sanctioned, by an express provision, the most sacred regard to the inviolability of private property. Its language is: "Nor shall private property be taken to public use without just compensation."

The committee have before intimated an opinion that the merits of these claimants are not dependent upon the considerations of policy or propriety which may have been observed or violated by the United States in their intercourse with France during the period of the aggressions complained of. The committee have assumed, on the authority of the concurring concessions of both the Governments, that the edicts of France, and the manner of their execution, were in direct hostility to the plain and admitted provisions both of the treaties and the laws of nations. If, then, these unauthorized captures of the property of our citizens were made without the palliation which might be furnished by the existence of just cause of complaint against the American Government, the conduct of France is, by so much the more, palpably culpable, and the unprovoked character of the aggression should remove all objection to the claim for indemnity. If, on the other hand, the United States, by a course of policy arising out of a cherished hostility to France, or a partiality to her enemy, or from any other cause, had given to the French Government just occasion of complaint or for reprisals, it would seem to result that the American Government should not now oppose a declaration of its own unwise policy to the claims of its unoffending citizens, whose property has been the victim of its own errors, and especially when, after the acknowledged impolicy of the Government by which the loss had been made to fall upon its innocent citizens, that Government had derived, from the property lost, the means of discharging itself, not only of the consequences of these errors, but also of other most important obligations.

The great difficulty with which the committee feel themselves pressed is to present to the Senate a fair and satisfactory estimate of the amount of loss sustained by our citizens, and the amount of gain to the Government.

In obeying the constitutional injunction to make *just compensation*, the committee do not believe the Government ought to grant, or the claimants to expect, a sum equal to the actual value of the property lost. The standard by which to arrive at a more accurate estimate of the just compensation, would seem to be formed from the probable benefit arising to the claimants, if their rights had remained to them unappropriated by the Government, and by the probable amount which the Government would have been required to expend, to effect the objects gained by the application of the claims. The difficulty of coming to a precise result in the investigation of either of these topics will be at once evident. The actual condition of the Government of France when the injuries were committed, and the changes it has since undergone, will not escape consideration. It is very certain that, in the revolutionary state of the country, and the frequent change of its rulers, the prospect of recovery was postponed to a distant period. The expectation of delay was itself a matter calculated to lessen the value of the claims.

That the claims were of value cannot with reason be denied. They were admitted by France, and whatever changes her Government might experience in its form, or in the title or powers or persons of its rulers, the obligations to discharge them remained, and pursued the Government through all such changes. They were considered valuable by both the Governments at the time they were released. France ultimately, though reluctantly, consented to receive them in discharge of claims due to her citizens, which she regarded as very important, and of the privileges of her ancient treaties, which she regarded as still more important than the claims of her citizens. The United States purchased with them the reduction of the rights of France in relation to privateers and prizes to those of the most favored nation, and an exemption from the guarantee, for the first of which she had offered three millions of francs, and for the last five.

It could not but occur, however, that France, whenever she should be willing to decide upon and discharge these claims, would assume to herself the privilege of estimating their amount, as also the circumstances connected with their origin and progress, and the consequent uncertainty of the principles of their adjustment, and of the degree of reduction to which they were subject, would necessarily have lessened their value. Various other considerations, which the committee will not pursue, could be sug-

gested, to enlarge upon this particular view of the subject. The committee are not prepared to adopt the rule which obtains in the pecuniary transactions of individuals, by which the voluntary agent or trustee who compromises the claim of another, and receives less than the full amount, is made responsible for the whole.

The principle which lies at the foundation of this rule fails in its application to Governments. There can be no apprehension of impure motive, or of fraud, or connivance in the conduct of a Government over the claim of its citizens against foreign Governments. Its action commences at the period when individual effort has proved fruitless, and must be regulated by reference, not to the interests or the rights of the injured citizens alone, but of the whole community. A majority of the committee, after much deliberation on this most difficult branch of the subject, have concurred in adopting as the basis by which to arrive at a given sum the proposition suggested in the instructions to our envoys, dated 15th July, 1797, and which authorized them to stipulate for specific succors, to an amount not exceeding two hundred thousand dollars per annum, in place of a general guarantee. A difficulty, it is certain, yet remains to ascertain the gross sum which will be an exact equivalent for an annual subsidy of that amount, and the committee believe that any sum in gross should be adopted as a tender on the part of the Government, and voluntary acceptance on the part of the claimants. They recommend that, in the offer which shall be made to the claimants, the condition shall be annexed, providing for full notice to the claimants, and requiring from all who shall accept the terms, and become distributees of the fund, a full discharge to the United States.

The character and condition of the claims, after the lapse of so many years, will necessarily require the agency of a commission to arrange and establish their validity and amount, and apportion the distribution for which, at a future period, provision in detail will be necessary. In the meantime, and with a view to bring before the Senate the general merits of the claims, the committee beg leave to report the following resolutions:

Resolved, That, at the conclusion of the convention between the United States and France, in 1800, there were large and just claims due from the French Government to citizens of the United States for spoliations on their commerce.

Resolved, That, by the terms of said convention, the United States relinquished the said claims, and released the French Government from the payment thereof.

Resolved, That it is proper and expedient for the United States to make just compensation to those to whom said claims are due.